



**COMMENT RESPONSE DOCUMENT (CRD)
TO NOTICE OF PROPOSED AMENDMENT (NPA) 2009-02A**

**for an Agency Opinion on a Commission Regulation establishing the Implementing
Rules for air operations of Community operators**

and

**draft Decision of the Executive Director of the European Aviation Safety Agency on
Acceptable Means of Compliance and Guidance Material related to the Implementing
Rules for air operations of Community operators**

“Explanatory Note and Appendices”

CRD c.1 – Comments received on NPA 2009-02a

I. Comments received on NPA 2009-02a

(General Comments)

-

comment 2

comment by: *Dave Sawdon*

It is essential for the continued survival of the large number of small flying training businesses operating in Europe that no additional burdens are introduced.

The industry which provides training for Private pilots operates on an extremely low margin and in direct competition with other parts of the world which have much lower regulatory and taxation overheads. Many of these training businesses are owned and operated by a single person. Any additional certification or administrative requirements will undoubtedly cause these businesses to stop operating and the character of "grass roots" general aviation will be destroyed.

The solution is not to erect barriers (so that training can only be accomplished within the EU) but to erect a supportive regulatory framework which enables flying training to continue and to be able to compete with other parts of the World.

The need for ANY additional burdens on small flying training organisations must be fully justified before introduction. This justification must be based solely on solving a proven safety problem. As far as I am aware there is no evidence of a problem to be solved and therefore there is no justification for introducing requirements on the training industry. Because of this all flying training organisations need to be excluded from certification or other administrative requirements.

comment 11

comment by: *Air Southwest*

The structure of the document is to a certain extent, logical and the subpart; section and paragraph numbering sequence appears to work very well. However, a general comment must be made that by combining the regulations for aeroplanes (sub divided where applicable to complex motor powered aeroplanes); helicopters; sailplanes and balloons, has introduced a complexity into regulation documentation that has previously not existed. It appears cumbersome and rather unwieldy to put all of, for instance, Part Ops, under one cover. The original concept of the JARs being individual documents, made reference easy, amendment simple and led to a marked increase in general level of regulatory knowledge. It is felt that the complexity of the manner in which Regulation (EC) 216/2008 is translated into working requirements and the subsequent single entity publication is considered a retrograde step.

Without disrespect to commercial balloon operations, Part Ops seems to be divided roughly 50-50 between aeroplanes and helicopters. Some of the aeroplane requirements, especially the AMC and GM for low vis ops, and likewise some of the helicopter requirements are so specific and complex that it would appear logical to have two separate documents (one for requirements specific to helicopters and another for aeroplanes).

The assumption is that the document is written for the regulation, assistance,

guidance and advice of operators (a generic term implying owner/operators as well as commercial operators), not for the convenience of the legislators.

It was stated in the EASA presentation on this NPA that some of the JAR/EU OPS requirements had been 'downgraded' to AMC or GM. Whilst some of the 'downgrading' was probably necessary, some of the 'removals' appear to make the basic requirements ambiguous or only succeed in making the reader look in 2 or even 3 sections to get the required information. An example is OPS.CAT.417.A (page 74) which covers equipment to wipe the windshield, but the reader has to go to AMC OPS.CAT.417.A on page 335 to find out that windshield wipers are the means used to wipe the windshield! Another poor example is the requirement for drugs to be administered only by qualified personnel (OPS.CAT.457.A(b) page 79) but the reader has to go to page 344 to find out who qualified personnel are! However, because the statement that qualified personnel are doctors, nurses or personnel with similar qualifications, is quoted as AMC this implies that there may be other acceptable means of compliance.

As the common language of aviation throughout the world is English (albeit americanised) it is logical to expect the English version of the document(s) to be grammatically correct (if only for the purpose of legal interpretation in Court). There are, however, some glaring errors in English grammar in the English version of the document(s). There are some sections of the document(s) which appear to have been drafted originally in a language other than English and then translated, with errors, into English.

comment 12

comment by: *Air Southwest*

Acceptable Means of Compliance (AMC)

The proposed philosophy associated with AMCs is illogical and almost certainly confusing. The original idea of AMC was to offer the Operator a 'method' of doing something which, if the Operator did it that way, it would automatically be compliant. However, it was not mandatory and providing the Operator adopted procedures that were 'an equivalent safety case' then by approval of the Operations Manual those procedures were acceptable means of compliance.

What is proposed now removes that flexibility and also removes any 'traditional' procedures which should have 'grandfather' rights. There appears to be no guarantee that even if the process to get another AMC approved is followed, that the proposed procedure will actually be approved. Likewise it has been explained that the alternative AMC process can take ages to pass through the bureaucracy during which the Operations Manual may well be non compliant if not in accordance with the published AMC (which is virtually mandatory!).

comment 15

comment by: *CAA of the Republic of Macedonia*

In accordance with the provisions of Article 52(2) of Regulation (EC) No. 216/2008, after we review the content of the above mentioned Notice of Proposed Amendments (NPA) 2009-01 and 2009-02, we would like to inform you that the content of the above mentioned Notice of Proposed Amendments (NPA) 2009-01 and 2009-02 is acceptable for the CAA of the Republic of

Macedonia and we do not have any comments.

comment 20 comment by: *ECA - European Cockpit Association*

Comment: <![endif]-->Add editorial markings to IR paragraphs to inform that AMC/CS/GM is available. For clarity and in order to have a whole picture of the requirements, it is highly desirable to have these crossreferences.

comment 57 comment by: *EHO*

General

It has been extremely difficult to analyse and assess this proposal. Although paragraph V makes the statement:

"Therefore, it was decided that the evaluation of the impact of the proposed new rules should only be made where the NPA either deviated from EUOPS/JARs, or went beyond their scope."

It can be seen that almost every rule of JAR-OPS 3 (for example) has had some form of revision. Even though a number of these were minor in nature, they were not shown as changes, or justified. The following text and the original provides some insight into the problem:

Original text

"ACJ OPS 3.540(b)

5. Operation in accordance with JAR-OPS 3.540(b) does not permit excursions into a hostile environment per se and is specifically concerned with the absence of space to abort the take-off or landing when the take-off and landing space are limited; or when operating in the HV diagram."

Revised text

"GM OPS.SPA.005.SFL(d) Applicability

5. Operation in accordance with OPS.SPA.005.SFL (d) does not permit excursions into a hostile environment such as and is specifically concerned with the absence of space to abort the take-off or landing when the take-off and landing space are limited; or when operating in the HV diagram."

In fact the changes made to this text turned a clear phrase into a nonsense one but the main point is that the total effect on the amount of work required to assess the proposal has been huge (and it will not be clear for some time that there are not errors still to be exposed).

While this can be seen as a fairly trivial example it was not signalled and illustrates that every single word of every rule and guidance has had to be examined.

In order to provide a tool that can establish both errors of commission and omission, it has been necessary to provide a 'conformance matrix' (in this case, conformance with JAR-OPS 3). Use of this matrix established the extent of the changes to the text - some necessary but a large amount not. The changes to the text was not the work of operational experts nor have the changes necessarily been subject to peer review (except perhaps internal). There have been several drafts but none (and some included major changes both to the

structure and contents) included indications of changes or justification for those changes.

If an analysis tool had been provided by the drafting team, the task of the reviewers of the text would have been eased considerably; although a tool based upon JAR-OPS 3 was used, there are few enough differences between the version of JARs and EU-OPS that applicable versions could have been established with some ease.

It was is stated in paragraph 55 of the Explanatory Note that:

"The differences that can be found between the proposed requirements in this NPA and the requirements of EUOPS/JAROPS can be generally explained through the different legal value of the requirements in the JAA and EASA systems. As already referred above, the JARs aimed at harmonising some elements of national executive rules (adopted at the level of regulators): they presumed therefore the existence of an appropriate legal basis (aviation basic act) and of a set of rules, which they would modify partially.

and...

"This represents a significant difference with the JAA system, where JARs were written by regulators to produce executive acts they would adopt nationally (subject eventually to national variants) and to which they would be able to grant exemptions in accordance with their own national procedures."

The original intent for the operational JARs was they they would become the European Rules - only later when (some) States did not adopt the requirements 'as is' was there a necessity to provide (national) legal devices for their enforcement. This did not apply to the Certification JARs which were harmonised across the world and were applied consistently by all States (JAA and others, without necessity for National Adoption).

Although regulators were involved in the provision of the operational JARs, they were not "written by regulators to produce executive acts they would adopt nationally" but by groups of operational experts, each of which included all stake-holders and, primarily, for the purpose of ICAO compliance and the provision of rules to address safety issues. Their provision was also in accordance with a system of peer review and approval which included legal overview of the principles and application.

Through the life of JAR-OPS, there could be no *ad hoc* 'adjustment' of text (however trivial) as has been seen in the transposition of rules from JAR to EASA, without justification or due process. Any changes were subject to operational, organisational and legal oversight.

Although it is clear that the JAR 11 system will prevail when any changes are made to the regulation after adoption, that does not appear to have been the case during the transposition exercise.

comment

71

comment by: EHOc

General

The transposition of JAR-OPS and, specifically, the downgrading of rule material to advisory, has confounded the previously clear hierarchical structure. While this made sense for those rules with long and prescriptive Appendices, it does not automatically translate to those rules which were already objective or consisted of prescriptive requirements

without scope for alternatives.

We have a number of examples of objective requirements contained in methods of compliance with the consequence that original methods of compliance have been further downgraded to guidance material. This is a consequence of a hurried process and, perhaps, a lack of operational experience.

An example of this can be seen in AMC OPS.CAT.170 - Minimum terrain clearance altitudes, which now contains objective requirements, with GM OPS.CAT.170 containing the methods of compliance (formerly an AMC).

Another example is AMC1 OPS.CAT.205 - Fuel and oil supply (which was formerly entitled, and might be restored as, Fuel Policy), where the objective requirements are specified in an AMC with further AMCs alongside for aeroplanes and helicopters etc. The consequence is that not all the set of 'AMCs' are alternative methods of compliance (and some not even methods of compliance) which has resulted in a breakdown of the hierarchical structure.

The wholesale downgrading of previous rule material has also led to a situation where there are now a number of AMCs without clear objective 'ownership'. For every AMC, it should be clear what the objective is - without that, it will be extremely difficult to provide alternative methods of compliance.

The wholesale demotion of rule to advisory material has not been handled well; there is now a necessity to review all of the text (including the structure) to ensure that the move to performance based regulation has been correctly addressed. At the very least there should be: (a) no objective requirement in advisory material; and (b) all methods of compliance must have an 'objective hook' in the IRs.

The following principles might be considered:

The policy of moving a rule to advisory material can only work if the prescriptive text is replaced by a rule stub which states the objective (because the rule cannot be removed in its entirety and replaced with advisory material). For a number of years ICAO and compliant States have attempted to make rules more objective (performance based) because it permits more imaginative methods of compliance. This is a forward looking policy because it puts the responsibility for compliance with the party that has the most influence - i.e. the operator. However, unless there is only a single rule 'to fly safely', the objectives (IRs) have to be set at a level of granularity that provides a reasonable comprehension of what is expected.

The essence of regulation is "division of a single objective of 'safe operation' into its respective sub-objectives" each of which addresses a (common) hazard and provides adequate control.

Setting of goals is not easy as it requires a comprehensive understanding of what is required - i.e. what a method of compliance might be. When an objective rule is coupled with an AMC, it forms 'one' complete solution (but not the only one) at a specified level of granularity.

If an objective (an IR) is not set, the provision of a method of compliance will have no meaning (unless representing a rule provided in methods of compliance) and, more importantly, the provision of alternative methods of compliance will not be possible - i.e. compliance with what?

Some discussion points:

1. Can a rule objective be set that does not require any specified methods of

compliance? Yes, when that objective stands alone and does not need further expansion (or when it is, of necessity, prescriptive):

2. Does this mean that complex rules need to have their objectives subdivided? Yes and each one of these subdivision (subsection) should contain an objective which, when they are considered collectively, provides compliance with the higher objective. (This is the essence of the issue – division of a single objective of 'safe operation' into its respective sub-objectives.)

3. Can methods of compliance be given without an IR (without stating the objective)? No, because there cannot be a method of compliance without an objective (how could there possibly be another method of compliance if no objective is set); this will amount to setting objectives/rules by AMC – something which is not usually tolerated in Major States. There are many examples of this in the draft regulation because it is not clear that a clear policy has been established or declared

4. Can a method of compliance be established for an Essential Requirement? Not really, ERs should provide only the principle – as stated in the preamble to the ER, IRs have to be established to set the objectives for the principles set out in the ERs. If there is an issue it is that the BR/ERs are too detailed – in some cases to the point where they are prescriptive. In view of this they do not permit a clear and unambiguous policy in the production of IRs; clearly, the essential requirements will not be considered by pilots/operators - it is therefore essential that the IRs be written such that they provide the objective requirements for operations - if IRs have to repeat the text of the ERs, it is probably because the wording of the ERs is of objective or prescriptive and not of principle.

5. Does a single method of compliance imply a rule? No, because the rule is the objective which permits any number of methods of compliance. If a single method of compliance is regarded as a rule it will introduce problems; for example, a relatively small element of an individual AMC cannot be (exactly) complied with, but the overall objective could be met. This occurs when a single element of a method of compliance becomes too difficult/costly to apply and equivalence is proposed.

6. Should objectives be set against a safety target? Yes but some safety targets can be qualitative and others quantitative – examples can be found in the certification codes.

7. Can operational concepts (AW/CAT/GA) have different safety targets for the same objective; Yes but in that case the overall (qualitative) safety target is set in the General text and the specific (qualitative or quantitative) safety target in the higher regulation.

8. Do a (complete) set of conditions in a single AMC constitute a method of achieving the objective target? Yes but see 10. below.

9. Does an alternative set of conditions also have to meet the objective target? Yes.

10. Can individual elements in a single AMC be assessed for equivalent safety? Yes and this is the benefit of having methods of compliance rather than prescriptive rules – however, the method of defining equivalent safety must be established and followed (see point 5 above).

The “Fédération Française Aéronautique”, FFA, represents some 600 powered flying aero-clubs or associations in France and 45,000 private pilots. Almost all those aero-clubs offer flight training to their members up to VFR SEP PPL(A). The FFA is the national largest powered flying federation within the European Community.

comment 77

comment by: EHO

General

It is not clear how operators of GA aircraft can be required to apply all, or any, AMC(s) - there does not appear to be a legal device to ensure compliance. (For CAT, compliance is achieved through the approval of the operations manual and the issuance of the Air Operator's Certificate (AOC); non-compliance can be countered by the ability to modify or remove the AOC.)

This somewhat brings into doubt whether, for GA, any rule in Subpart A - General operating and flight rules, can be applied other than in a stand-alone mode. If that is the case (and a search of the ERs/BRs does not provide much clarification) then rules such as OPS.GEN.150 Instrument Flight Rules (IFR) Operating minima - which rely heavily on a large number of AMCs - does not provide sufficient information for its application to GA.

In general, examination appears to indicate that most IRs in Subpart A can be applied without the use of AMCs but, as this review group concentrated its efforts on Commercial Air Transport with helicopters (and not GA), it might be necessary to review each rule of Subpart A to see if it meets the criteria.

comment 78

comment by: EHO

General

Neither Subpart GEN or Subpart CAT appear to show compliance with ICAO Annex 6 Part I, Paragraph 4.2.2.3:

"4.2.2.3. An operator shall meet and maintain the requirements established by the States in which the operations are conducted."

Although this is almost covered by ER 1.a:

"ER 1.a. A flight must not be performed if the crew members and, as appropriate, all other operations personnel involved in its preparation and execution are not familiar with applicable laws, regulations and procedures, pertinent to the performance of their duties, prescribed for the areas to be traversed, the aerodromes planned to be used and the air navigation facilities relating thereto."

It does not quite convey the requirements that were formerly in JAR-OPS 3.020:

"(a) An operator must ensure that:

(1) All employees are made aware that they shall comply with the laws, regulations and procedures of those States in which operations are conducted and which are pertinent to the performance of their duties; and

(2) All crew members are familiar with the laws, regulations and procedures

pertinent to the performance of their duties."

It is recommended that the JAR text is adopted into Part OR.

comment

81

comment by: *Sky Service Netherlands BV*

We are an small compagny in the Netherlands with one Cessna 172.

We make seight seing flights (not longer than 60 minutes) from our airfield EHTE.

The flight we make are always VFR by day light. The flights are singel pilot operation with a commercial pilot (CPL) license.

Now the European EASA has ordered that we shall commit on the EASA OPS NPA's 2009-02 a,b,c,d,e and f and also NPA's 2008 22 a,b,c,d,e, and f and also OPS 2008 - 22 c we can not longer make this flights.

From the 37 small compagny's already 33 compagny's can not make this flights any longer because off these rules.

I urgent ask you to give us permission to make these seight seing flights in a Cessna 172 in the same way we did the last 25 year.

We ask you to make the rules for aeroplanes like the cessna 172 (three passengers) different from the rules for a Boeing 747 and make an exemption for the small operater like us (1 person operation).

comment

85

comment by: *EUROCOPTER*

Eurocopter is in principle in favour of such a project of European Regulation on the operations of aircraft because:

- it improves flight safety through uniformity
- it ensures the same level playing field within EU
- it regulates an important part of operations different from Commercial Air Transport (Private, Business, Aerial Work) where no European standard existed so far
- it secures the aircraft instruments/equipment definition (no more national specificities)

The Regulation structure, taking into account the constraints highlighted by the Agency (to cover all aircraft and types of operations, no repetition in the requirements), is acceptable while not perfect. As a matter of fact we would like to draw the attention of EASA that the constraint of "no repetition of the requirements" (between Subparts OPS/GEN/COM/SPA or between one aircraft type to another aircraft type) sometimes leads to the loss of a clear and immediate vision of what are the applicable requirements (a good example of such complication are the flight instruments and equipment requirements: OPS.GEN.410, OPS.GEN.415, OPS.GEN.420, OPS.GEN.425 and their counterparts in CAT: OPS.CAT.410, OPS.CAT.415, OPS.CAT.420).

In conclusion Eurocopter consider that it is important that this project of Regulation, as improved by the comments, goes to completion, provided enough transition is given to stakeholders (meaning, if necessary, by delaying

its entry into force beyond 08.04.2012).

comment 105 comment by: *Mission of the Republic of Albania to the EU*

The Mission of the Republic of Albania to the European Union in Brussels presents its compliments to the European Aviation Safety Agency in Cologne and has the honour to inform that the regulation on NPA No 2009-01 Operational Suitability Certificate and Safety Directives, and regulation on NPA No 2009-02 Air Operations of Community Operators. were sent for comments to the Directorate General of Civil Aviation in Albania, that agrees with the content of these documents and has no objections.

The Mission of the Republic of Albania to the European Union in Brussels avails itself to this opportunity to renew to the European Aviation Safety Agency in Cologne the assurances of its highest consideration.

comment 142 comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

General

Comments:

The entire NPA is extremely complex, confusing and in some aspect contradicting. It therefore does not meet the requirements of drafting a European legislative act. All participants need legal certainty about the requirements to be met. This is not achieved through this NPA.

In many aspects (see detailed comments) the structure and the content has unnecessary been changed to EU-OPS. There is no safety justification for EASA to fundamentally alter the EU-OPS requirements. Priority should be given to a seamless and smooth transformation into the EASA legal framework.

Proposal: Reconsider the entire NPA and realign it as far as possible with EU-OPS.

comment 153 comment by: *Luftfahrt-Bundesamt*

LBA Comments on EASA NPA 02-2009 Implementing Rules for Air Operations

General Comments

The LBA cannot accept the entire NPA 02-2009 as proposed. In general, we have four major reasons for our dissenting views. These reasons will be referred to in our specific comments which we have prepared to be forwarded to you via the EASA CRT. Please note that the LBA prepared specific comments in order to support the technical review of the proposals made. This does not mean that we are content with the structure in which the proposals for the technical requirements are being presented.

The remaining reasons 5 and 6 are of general nature and stand for themselves. In some of our comments, our arguments may be repeated in the way presented below.

Many of our concerns which we again bring to your attention were brought forward during the rule development process, including the core and drafting group's work as well as by the German representatives in AGNA. Hence, we

are disappointed that most of our concerns and inputs were not considered.

Unfortunately, we were not able to comment on every single paragraph of NPA 02-2009 due to the fact that not enough time was provided for commenting, although we welcomed that the commenting period was once extended. The time given to stakeholders and NAAs was nevertheless not sufficient to work through the entire document. We accept that EASA needs to stick to the time constraints given by the Basic Regulation. However, in the light of the importance of the issue and our arguments brought forward above, a large amount of discussions and incoming comments would have been avoided if inputs and proposals made during the drafting process had been considered in more depth.

1. Reason: Rule Structure

First, the new structure of the proposed rule text does not, by status and content, mirror the current operational rules, i.e. in EU-OPS and JAR-OPS 3. In case of an enforcement of the proposed rule, AMC and guidance material, the industry as well as NAAs would need to change well established checking survey plans, procedures, manuals and records. We do not see any justification for introducing a new rule structure, especially with the view of enhancing safety. In so far, the RIA to the NPA does not really justify the step taken by EASA to entirely change the structure of future European requirements. It is not understandable why EASA did not consider these inputs, as similar objections were raised by other NAA's as well as by industry's representatives. Initially, EASA argued with legal implications a duplication of rules (such as in OPS 1 and 3) would impose. Hence, so EASA, i.e. only one requirement for an AOC can be enforced, leading to a disruption of the well established EU-OPS/JAR-OPS 1 and 3 requirements. The same applies to the proposed licensing requirements. Legal experts throughout Europe very much questioned the legal position expressed by EASA, and meanwhile, it is very clear that similar requirements in different EU – Regulations are acceptable and, in fact, existent. For example, almost identical Authority requirements apply for EU Regulations 1702/2003 and 2042/2003.

The LBA, therefore, proposes not to implement the proposed rule structure, but to develop dedicated requirements for every single air operations application, such as JAR-OPS 1, 3 and draft JAR-OPS 2 and 4. We have to accept duplications in order to provide a separate book for each separate application. So, we also have to accept that in case of the need for changing similar requirements by an NPA, it is the task of EASA to steer the associated rule making work as well as to maintain and update the material as required.

2. Reason: AMC – CS – Philosophy

By having moved a large amount of rule material to AMC status, the entire existing and well established legal basis for a clear legal situation has been destroyed. The current requirements in EU-OPS and JAR-OPS 3 have been established by NPA processes. The current requirements are balanced, justified and, to a large extent, went through an RIA process before being enforced. For us, there is no safety related justification for changing these rules and their philosophy of distinguishing between rule and non-rule material. All organisations involved are working and operating safely under the current system, have prepared their administrative and operating procedures. EASA initially justified the step for introducing the "AMC – philosophy" with the claim that large parts of the JARs are not written in rule form anyway. As an example, the aircraft performance rules were highlighted in this respect. We cannot agree to this position, and many other NAAs and operators opposed as well.

At a later stage, EASA expressed the need for a more flexible handling process for establishing and maintaining EU-Regulations. This, so EASA, can only be established when moving a large part of the requirements into AMCs, as, by doing so, EASA has the power to amend these rules by not using the "comitology process". We understand the position of EASA, but we cannot accept legal uncertainties and a non harmonised rule application which will come up when the "AMC – philosophy" would apply.

The proposed system opens the door for introducing legal uncertainties, which is not acceptable. The possibility of granting "national AMC" material will lead to the fact that some specific AMCs may be established which are not acceptable to certain NAAs. Operators may claim to use these AMCs, and it is foreseeable that court cases will arise. However, as the NAAs are responsible for oversight work, it is essential that the rules are unambiguous.

As a last comment on the "AMC – philosophy", we would like to highlight that some moves from rule to AMC status lead to the fact that future EU – regulations will not be in line with ICAO SARPS (i.e. ELT rules – frequency requirements are in an AMC). This is not in line with the ICAO member states' commitments and it also contradicts with the Article 2 of the Basic Regulation 216/2008.

In general, the same arguments apply for those parts of EU-OPS which have been moved into a CS (FTL – Requirements of EU-OPS Subpart Q). Whereas the "CS – system" may work as a replacement for airworthiness codes, the use for FTL – rules is more than questionable. CSs will not be available in the national languages. CSs are only "soft law" and therefore not legally binding. Dissenting views of pilots, NAAs and organisations will lead to legal discussions in national courts. Different outcomes of these legal reviews may lead to a non harmonised application.

The LBA, therefore, does not accept the move of the FTL – requirements into a CS. We herewith request to keep the status of these requirements in the implementing rules. Finally, it is not acceptable that the proposals of NPA 02-2009 do not include FTL rules for corporate operations with non-complex motor powered aircraft.

3. Reason: Performance based rule making

Generally, the LBA supports the idea of introducing the idea of performance based rulemaking. However, experience shows (i.e. during the work of the ICAO OPSP) that this philosophy does not work in every case. It is obvious that i.e. equipment requirements are easier to apply when these are clearly written. However, most of the current equipment requirements of EU-OPS /JAR-OPS 3 were amended, now generally asking for a "means" to perform a certain task instead of clearly stating what is needed. In our view, this step is not acceptable. For ICAO, a "means" could also be a procedure, and this is our understanding too. There is no safety related need to ask for a "means" showing the airspeed instead of asking for an airspeed indicator. Again, some potential of negotiations between NAAs and operators is implicit here, without any benefit as regards flight safety. We therefore recommend to keep the JAR's text wherever possible, bearing in mind that the current certification codes clearly require certain instruments and equipment (i.e. see Part 25.1303).

4. Reason: Authority Requirements (AR)

The LBA as well as the German ministry of transport expressed major concerns on the proposed AR in NPA 17-2008. In general, these concerns also apply here in this NPA. JAA already dealt with the issue of introducing such rules, and

it was decided to impose such rules by the "JIP – philosophy" and not by hard rules due to the different legal systems in Europe. In case of an enforcement of the AR as proposed, these requirements will collide with national administrative laws, budget and personnel resources requirements.

In addition, the LBA does not see a legal basis in the Basic Regulation for introducing ARs as proposed.

5. Reason: "Declaration" for operators with complex motor powered aircraft

Operators of complex powered motor powered aircraft will be obliged to send a declaration to the competent authority. For the LBA, the role and responsibility of the NAA when having received this document is rather unclear. What should an NAA do with this information? What are the obligations for NAAs in this respect? In our view, the requirement for a declaration as presented may lead to legal problems in case of an accident due to the uncertain status of responsibility.

6. Reason: References to ICAO Docs and other documentation

Some well known and used references to ICAO documentation in EU-OPS and JAR-OPS 3 were often replaced with a more general term. As an example, the reference to the ICAO Technical Instructions (ICAO Doc 9284) in OPS GEN 030 is very specific, whereas in other places, a corresponding reference is made only in a generic way (Technical Instructions). In our view, this should be corrected to clearly state which documents are to be used by operators when i.e. transporting dangerous goods. We therefore propose to keep correct references to ICAO material.

However, the references should not be too detailed. In OPS.GEN 030 (a) the reference (ICAO Doc 9284 is very specific, asking for the edition 2007-2008, which is not the current one. Referring to a specific edition means that the Implementing Rule would have to be changed approximately every 2 years in order to be in compliance with the corresponding valid version of the Technical Instructions.

We therefore propose to check all references to ICAO material in order to provide details within references without being too specific in order to avoid unnecessary amendments of the corresponding IRs.

7. Reason: Reference to JAR/CS 26

In the current EU-OPS, general requirement is included in OPS 1.005 (b) asking the operator to comply with the most recent retroactive airworthiness requirements, formally known as JAR-26. This reference has not been moved to the operational rules of NPA 02-2209. Moreover, EASA is now planning to incorporate these rules in Part 21, as proposed by the OSC – NPA 01-2009, to which the LBA did not agree. As said, we prefer to keep the issue of complying with the retroactive requirements. The following text is quoted from our comment to NPA 01-2009:

"...

(3) Taking account of the above, the LBA herewith proposes not to introduce the SD - concept, but to introduce a similar regulatory mechanism in the operational Implementing Rules for CAT air operations, as presently available in JAR-OPS 1/EU-OPS, where the operator is generally asked to comply with the recent retroactive airworthiness requirements, together with a reference to CS 26. To our knowledge, NPA 02-2009 does not cater for this as there is no equivalent rule to EU-OPS 1.005

(b). Our suggestions also mean that, until the work on establishing CS 26 has not been finalised, the use of the current rules in EU-OPS are to be followed and that aircraft falling under CS 23, CS 27 and CS 29 are not affected by equivalent rules.

(4) In our view, the SD mechanism is not adequate as a substitute or interim solution, first because EASA is not given a legal mandate to address operational issues for EU-operators and second because of the high number of affected aircraft. Finally, we are of the opinion that the NAAs are responsible for this kind of supervising work. Corresponding checking procedures have been established and maintained for years now. There is, in our view, no safety related reason to divert from this well proven concept."

8. Reason: AD - Paragraph

As the NPA 02-2009 does not cover the issue, we would like to address it here in our general comments. The LBA herewith proposes to introduce a requirement in the OPS.GEN part of the Implementing Rules, stating that a flight should not be commenced, until it is ensured that all AD have been performed. A similar rule applies in the German national legal system in addition to the requirements of EU-OPS and JAR-OPS 3 and the other national operational codes. The Essential Requirements in Annex IV of Regulation 216/2008 just say that the aircraft needs to be airworthy, which does not necessarily include the consideration of "national" ADs for which the National Authorities are responsible for. In so far, the technical requirements in Regulations 1702/2003 and 2042/2003 are also not covering the issue.

comment 161

comment by: Airbus SAS

General Comment on NPA 2009-02, all Sub-NPAs

Airbus is in doubt about time and administrative efforts needed to maintain consistency in the evolution of the new system of operational requirements and guidance materials.

As changes may affect all categories of aircraft and/or all kind of organization, the preparation of related working group proposals would need involvement of all potentially affected stakeholders to identify all impacts.

To avoid inadequate involvement, the working groups, if any, would need to be expanded, or EASA would have to accept the risk that affected parts of industry are not represented.

Having in mind the limited EASA resources, the same issue may come up in case EASA decides to discuss rule changes without involvement of stakeholders. EASA would have to ensure that specialists from all potentially affected areas would be available for the rule drafting process.

==> Airbus considers this a direct potential consequence of the chosen rule structure with its "no-single-book-for-one-operation" and "no-duplication-of-requirements" principles.

==> Further, Airbus is concerned published NPAs may be not mature enough. Consistency, quality and potential impacts may need to be introduced by commenting. Only larger companies and stakeholder associations may be able to spend the resources needed to do this. Thus, non-involvement of affected stakeholders during rule drafting may not be sufficiently balanced during the consultation period.

comment

175

comment by: Airbus SAS

General comment on NPA 2009-02 et al; final format of implementing rules; tables of content

As EASA is proposing a complete new system of EU Commission implementing rules, the final rules and AMC/GM could be published incorporating standard tables of content in the format as presented in NPA 2009-02 B page 3 and on. In particular, this is considered necessary because there is no longer "one book per kind of operation" but a mixture of requirements for all kind of aircraft and operations.

Already today, the lack of sufficiently detailed tables of content in IRs Part 21, 66, 145, 147 M, related AMC and GM, and in CS does not contribute to efficient work.

==> Airbus proposes EASA shall urge the Commission to re-think the EC regulation format and include a standard table of content with subparts, sections, requirement titles and page numbers.

==> Airbus proposes EASA shall introduce standard tables of content into all its certification specifications, AMC and GM, with the next amendment as appropriate, or with publication of new final documents.

comment

176

comment by: Airbus SAS

General comment on position of definitions on NPA 2009-02B, C, D, E:

Definitions are included in both regulation OPS.GEN.010 and guidance materials GM OPS.GEN.010. Further definitions are, for example, in OR.OPS.010.GEN, CC.GEN.010, and AR.GEN.410.

1. This means that evolution of definitions reflecting state of the art and best practices would need different approaches for rulemaking.

2. If binding definitions need further guidance materials, then there may be a lack of clarity in the definition itself.

3. This seems to be not in consistency with Implementing rules Parts 21, M, 66, 145 and 147 that do not contains specific definition sections.

4. Further, the EASA certification system includes CS-Definitions to include all general applicable definitions. In any case, EASA CS are standard means to show compliance and therefore soft law equivalent to the AMC/GM to OPS regulation.

To provide for clarity about definition status and consistency in the EASA regulatory system,

==> Airbus proposes to rewrite Sub-NPAs 2009-02 B, C, D, E to include all definitions in Guidance Materials, or to establish one document containing all definitions for the OPS/OR/AR etc. regulations

comment

185

comment by: Ingmar Hedblom

The overall structure of the proposed operational regulation is too complicated

for private operation of non-complex aircraft. They consist of

-Essential requirements for operation in the basic regulation

-Implementing rules in OPS.GEN.001-705.

Both these documents are binding rules.

In addition there are:

-AMC and GM

Even these later are (although not legally/formally) in reality binding

Proposal: Reconsider MDM 032 group original proposal.

See comment number186

comment

239

comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

The codes for citation of paragraphs with more than 9 characters are confusing, since they are not set up in a logical order. This complicates the orientation for the reader and the citation of sections.

Proposal:

Change all codes and adapt the citations where necessary, in order to have a logical and easy to read over all system, according to the sample given under remarks.

Remarks:

Sample: Insted of "OPS.SPA.001.GEN",

"OPS.SPA.002.GEN" and

"OPS.SPA.001.SPN"

all paragraphes should be introduced by a code which is generated in a logic way such as

"OPS.SPA.GEN.001",

"OPS.SPA.GEN.002" and

"OPS.SPA.SPN.001".

comment

240

comment by: *Welcome Air*

- Fundamentally the stakeholder associations believe aviation security measures are within the remit of European Commission DG TREN and should not be confused by those safety measures under the responsibility of EASA.
- EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.
- Security measures to be applied by Commercial Air Transport should

not be in separate EU regulations

comment 255

comment by: *Dassault Aviation*

1. NPA 2009-02 - General Comment

1. "General Aviation" definition: according to ICAO Annex 6 Part II, General Aviation is defined as "an aircraft operation other than a commercial air transport operation or an aerial work operation". According to EASA NPA14-2006 coming from Task MDM.032, General Aviation is defined as "a non-complex aircraft engaged in non-commercial operation". That means that a complex aircraft engaged in non-commercial operation is defined "General Aviation" by ICAO, but not by EASA: how is it called under EASA vocabulary, since it is neither Commercial Air Transport (CAT) nor Commercial other than Commercial Air Transport (COM)? Secondly, if we make the assumption that a business aircraft is a complex aircraft - two turbojets - then, under EASA vocabulary, a business aircraft can not be engaged in General Aviation. This difference in vocabulary may cause misunderstanding among the aviation community which usually associates "General Aviation" with "Non-Commercial", without making the discriminant complex / non-complex. EASA should oppose Commercial operations to Private operations.
2. Flight Tests performed by aircraft manufacturers: Without specific text that would exclude flight tests operations, these operations are covered by Article 8 of the Basic Regulation (EC) No 216/2008 and have to comply with the corresponding Essential Requirements for air operations (Annex IV). Flight tests are flights performed for the purpose of showing compliance to regulations for certification of an airplane modification or for certifying an airplane itself for example. It is recognised by all parties including EASA that flight tests, due to their specificities that are far away from commercial air transport or general aviation, can not be covered by Article 8 and can not comply with Annex IV. This is the reason why a paragraph should specifically exclude these flight tests operations from the Basic Regulation No 216/2008 Article 8 and Annex IV, and finally from the Implementing Rules proposed through this NPA2009-02.
3. MEL: we did not find where in the NPA the limit of MEL applicability was defined. In previous regulation JAR-MMEL/MEL, the MEL is applicable up to the commencement of the flight - refer to JAR-MMEL/MEL.001(a). In case EASA recommends the MEL to be applicable beyond the commencement of the flight - e.g. up to the take-off brake release - through Guidance Materials, how is the operator supposed to deal with a failure occurrence during the taxi phase? Example with MEL departure under item "one normal braking system inoperative": the operator may apply either the associated AFM procedure or the MEL dispatch conditions, the latter ones being more conservative, but much more appropriate in case of rejected take-off. It is Dassault Aviation position to say that MEL is applicable up to the commencement of the flight except for those MEL items for which MEL application before take-off roll constitutes a safety improvement compared the the AFM use.
4. Terms of Reference of EASA Task OPS-001 says that the IRs AIR OPERATIONS be based as much as possible on existing materials such

as EU-OPS1, JAR-OPS 1/3, and draft JAR-OPS 2/4. It is Dassault Aviation position to state that the new European regulatory framework in Air Operations constitutes a good opportunity to improve the associated requirements, beyond transposing the existing materials. Aviation technology is improving, and associated requirements should follow. Some comments here-below illustrate this Dassault Aviation position.

5. Rulemaking Handbook ("e-Tool"): this comment is not linked to NPA2009-02, however, since the Rulemaking Handbook has been first based on this NPA, it seems interesting to place the following comment: the Rulemaking Handbook developed by EASA is a very good tool to identify the applicable requirements depending of the kind of operation (commercial, non-commercial) and the kind of aircraft (aeroplane, helicopter, etc...). The tool will be even more efficient if some criteria are added such as maximum number of passengers, maximum take-off mass, date of type certificate, date of first individual certificate of airworthiness. It will be very beneficial to add these criteria should EASA has plans to improve the Rulemaking Handbook. A second comment on the Rulemaking Handbook is to say that it would be beneficial as well to have AMC and GM linked to an IR directly available below the IR.
6. EASA approach with Implementing Rules (IRs), Acceptable Means of Compliance (AMC), Guidance Materials (GM) and Certification Specifications (CS) is well appreciated, since it differentiates the safety objectives (IRs) from the technical details (AMC, GM, CS). It contributes to provide an adequate level of flexibility.

comment 278

comment by: *Royal Aeronautical Society*

General

In most if not all sections of the NPA the adjectival phrases 'single-engine' and 'single-engined' are used indiscriminately. They seem to be synonymous, and unless some distinction is intended one should be used consistently throughout. However, if a distinction is intended, definitions should be provided to make this clear. In EU-OPS the phrase 'single-engine' is used predominately. **It is suggested that 'single-engined' should be deleted from text covered by the Basic Regulation and that 'single-engine' should be inserted wherever the former occurs.**

The term 'sailplane' is used many times in the NPA texts and in some places the word 'glider' appears. They seem to be synonymous, so unless some distinction is intended one should be chosen and applied consistently throughout. If a distinction is intended, this should be provided in the list of definitions. (Note: 'glider' is used once in the Basic Regulation yet 'sailplane' does not appear there.) **It is suggested that either 'sailplane' or 'glider' be used consistently throughout text covered by the Basic Regulation.**

In various places the terms 'harness', 'seat belt', 'safety harness', 'shoulder harness', 'crew restraint harness' and 'three point harness' are used. **It is suggested that specific descriptions of personal restraint devices should be used for each term that is required and that redundant terms, ie those having identical descriptions, should be replaced with the aim of promoting consistency.**

comment 295 comment by: AOPA-Sweden

This whole NPA seems to have written for CAT, it is impossible to comment each paragraph or points from a GA perspective, the agency should take a new look and modify or at least elucidate a number of items in this NPA. This is necessary to let a number of pilots to follow the regulation, however, they will fly anyway. Too much text and changes from the current regulation will jeopardize flight safety, which supposed to be the objective for the agency. Only a very few, most flagrant, have been notified from AOPA-S.

comment 296 comment by: AOPA-Sweden

It should not be a difference for a non-commercial operation regarding the operations requirement depending on which type of equipment the operator is using. The rules regarding continuous airworthy has to follow the Part M regarding type of aircraft involved, and rest-time and necessary documentation for a flight should be the same if you operate a Cessna 208 or a PA-47, not talking about you don't need office space for a C-208, but for a PA-47 as proposed. The whole draft opinion should be sent back for re-work regarding the impacts on the very light jets especially for single individual owners and pilots of their own aircraft.

In both these cases you cannot find a single responsible individual, except for the pilot flying. And this term should not be applicable on a single private VFR-pilot.

comment 326 comment by: UK CAA

The UK CAA's General Comments on the NPA 2009-02

Introduction

1. The UK Civil Aviation Authority welcomes the opportunity to comment on the European Aviation Safety Agency's Notice of Proposed Amendment (NPA) No 2009-02.

2. The CAA recognises the considerable effort the Agency has made in producing these proposals. The introductory commentary below draws attention to some proposals which CAA considers raise significant safety or operational concerns or where the impacts do not seem to have been adequately assessed. In addition, this summarises the CAA's views on some general subjects on which stakeholder comments were sought.

A: Significant comments on the substantive proposals

Proposal for declaration for all non-commercial operations of complex motor-powered aircraft

3. The CAA is **very concerned** by the failure in the NPA to provide in the implementing rules, in accordance with Article 8.5(d) of Regulation (EC) 216/2008, conditions under which a certificate shall replace a declaration in the case of some operations of complex motor-powered aircraft used in non-commercial operations. The UK CAA **disagrees strongly** that a declaration would provide a sufficient level of **safety** oversight for all operators of complex

motor-powered aircraft used in non-commercial operations, specifically managed aircraft operations where an aircraft is operated by a specialised management company on behalf of a single, or several, owners.

4. The majority of such managed operations within Europe, especially those often referred to as fractional ownership operations, are currently subject to the requirement to hold an Air Operator Certificate (AOC). The CAA considers that there are potential safety risks in changing the oversight of such operations from a certification-based regime to a declaration-based regime with an unknown level of oversight. Moreover, the proposed rules may offer an opportunity for small AOC holders to surrender their AOCs and re-model their business so as to come within a managed/fractional ownership regime, with a consequential likelihood of reduced safety oversight and the possibility of less safe operation.

5. The CAA does not consider that the Agency has proven, as stated in its Regulatory Impact Assessment, that "only the declaration option shows a definitely positive score and in particular that it has a positive safety impact": indeed, it considers this conclusion to be deeply flawed. Moreover, the CAA considers that a proportionate and effective certification process can be devised, less burdensome than the AOC process, but based on a form of certificate for the programme manager or operator, similar to one issued by the US Federal Aviation Administration under its requirements. The CAA does not consider that a requirement to hold such a certificate would be an unnecessary or burdensome change, given that most of the operations affected currently hold AOCs.

Proposed requirements for cabin crew attestations and medical requirements

6. The UK CAA is very **concerned** that the proposed requirements for cabin crew attestations, in particular those related to the medical requirements, are disproportionate, over-burdensome and do not meet the principles of better regulation.

7. The CAA recognises that Article 8.5(e) of Regulation (EC) 216/2008 specifies conditions to be included in the implementing rules, but is concerned that the Agency has not given sufficient attention to ensuring that the conditions are proportionate, not overly burdensome and minimise the changes operators will be forced to make. The CAA notes also that there is no ICAO requirement for a cabin crew attestation or licence. The Agency proposals would therefore go considerably beyond the Member States' ICAO Annex I obligations. The CAA urges the Agency to review all its proposals in this area to ensure that they do not impose unrealistic burdens (for example, the proposed requirement that cabin crew must carry their attestations on board) and that operators and competent authorities are given sufficient flexibility to ensure that current arrangements made in accordance with EU-OPS are not unnecessarily disturbed.

8. The CAA is particularly concerned that the cabin crew attestation **medical requirements** are not justified by any safety benefit, are disproportionate, will impose unnecessary costs on industry and may result in 'social' disbenefits for individuals. The 'medical' Essential Requirements in Annex IV of the Basic Regulation are very similar to those currently applicable under EU-OPS. Cabin crew must be periodically assessed for medical fitness to safely exercise their assigned safety duties and compliance must be shown by appropriate assessment based on aero-medical best practice. However, EU-OPS does not specify any minimum "standards" required for "medical fitness" and allows Member States to decide on an acceptable and appropriate assessment method. The draft requirements in NPA 2009-02, on the other

hand, set down mandatory medical standards very close to Class 2 pilot standards (required for a PPL under proposals in NPA 2008-17) and require that assessment to include regular medical examinations.

9. There is no evidence in any accident safety report or scientific study that has shown that flight safety, or the safety of passengers during emergency evacuation, has ever been compromised as a result of cabin crew incapacitation. Moreover, almost all cabin crew incapacitation is of acute onset (e.g. gastro-enteritis or on-board accidents) and would not be found or predicted by a routine medical examination. The standards would potentially discriminate against cabin crew with a number of chronic conditions which have to be disclosed, but which could be resolved or controlled satisfactorily.

10. The CAA regards the medical proposals to be a matter of significant concern and contrary to the principles of aero-medical best practice as well as better regulation in general.

Proposed requirements on code-sharing arrangements

11. UK CAA **does not agree** that code-share arrangements, which are essentially marketing arrangements, are covered by the Basic Regulation. Therefore, the CAA does not agree that such arrangements, which may include those with operators that never visit the Community, should be covered by these OPS requirements. Given that the scope of these requirements is, according to OPS.GEN.005, to establish requirements to be met to ensure compliance with Article 8 of Regulation (EC) 216/2008, the UK CAA presumes that code-sharing arrangements are included because it is thought necessary for the operation of aircraft referred to in Article 4.1 (c). The CAA does not consider that "an arrangement under which an operator places its designator on a flight operated by another operator" can reasonably be interpreted as a means by which the aircraft on the flight is used by the first operator.

12. The CAA **considers** that the proposals impose an unnecessary burden on both operators and competent authorities which is not required by Regulation (EC) 216/2008 and not justified in terms of safety. The safety of third country operators operating aircraft into, within, or out of the Community, whether or not subject to marketing arrangements such as code-sharing, are in scope of Article 4.1(d) and will be covered by the measures designed to implement Article 9 of Regulation (EC) 216/2008. As such they will be subject to an authorisation issued in accordance with Part-TCO.

Proposed requirements on ramp inspections

13. The CAA is **concerned** that the proposals on ramp inspections seem to confuse aircraft inspections that are carried out as part of the oversight of an operator by the competent authority responsible for the issue of a certificate to the operator with the inspections that can be carried out on any operator by an inspecting authority as part of what is currently known as the Safety Assessment of Foreign Aircraft (SAFA) programme. The proposals seem to confuse the roles of "competent authorities" and "inspecting authorities".

14. The Agency seems to assume, incorrectly, that a Member State's "inspecting authority" is the same body as its "competent authority" for the oversight of operators under AR.GEN.300. Member States must retain the responsibility for deciding whom to designate as the authority for carrying out various tasks for the implementation of Regulation (EC) 216/2008. Member States may decide to appoint different bodies to carry out "ramp inspections". For operators that competent authorities oversee directly, ramp inspections are but one element of the oversight activities covered by AR.GEN.300.

Relationship of proposed requirements to ICAO SARPS

15. The CAA notes that stakeholders are asked to comment specifically on whether they agree with proposed differences with ICAO SARPS. Detailed comments are made in the response to the question at NPA 2009-02A and with regards to detailed proposals. However, the CAA **draws attention** to a specific aspect not mentioned in the question in 2009-02A where the proposals do not align with ICAO, that is the requirement for only one kind of air operator certificate.

16. The Agency has proposed that a single certificate be used to certify two very different activities: "commercial air transportation (CAT)" and "commercial operations other than CAT". ICAO Annex 6 Part 1 defines an Air Operator Certificate (AOC) as only authorising an operator to carry out specified commercial air transport operations. In order to ensure alignment with ICAO, and to avoid confusion for other, non-Community, ICAO Contracting States the status of the AOC should be reserved only for CAT operations, with a separate certificate (with a different name) developed for commercial operations other than CAT.

B: General comments on NPA 2009-02Structure and content of proposed implementing rules

17. The UK CAA understands that the proposed structure and toolbox approach is designed to allow stakeholders to identify the Parts that apply to their specific activity and apply the relevant requirements. The CAA is generally supportive of this idea but for this approach to work effectively great care is needed to ensure that changes, which may confuse stakeholders or impose unnecessary burdens, are not made to established regulatory procedures. Given that the structural changes are accompanied by a number of substantive additions and alterations to existing requirements, the overall level of change is substantial. The CAA understands that the Agency will be carrying out a review in September of the comments received on NPAs in order to determine the best way forward with regards to the structure and substance of the implementing rules related to operations and licensing. The CAA welcomes such a review and urges the Agency to pay careful attention to the potential risks and burdens of imposing substantial changes on industry at this time of severe economic difficulty.

Terminology

18. The UK CAA commented on NPA 2008-22 that stakeholders, including competent authorities, need far more certainty as to the meaning of certain key terms, in particular "competent authority", "organisation" and "person". There is a lack of clear indications in Part-OR, subpart OPS, as to what kind of operation each specific requirement applies: as yet the CAA has not been able to assess whether the Agency's e-tool will provide users with sufficient detailed and reliable guidance to be able to determine which requirement applies to each user. In addition, a new term - "undertaking" - is introduced to the requirements, although it is recognised that this is also used in the Basic Regulation.

19. Clarity and legal certainty is needed with regards to "competent authority" because it is used in a variety of ways in these proposed requirements and in the proposed Authority requirements. The proposals in NPA 2009-02 further complicate matters by introducing a new term "inspecting authority", but fail to recognise that Member States may not appoint the same authority as both the "competent authority" (for overseeing operators etc) and the "inspecting authority" (for carrying out SAFA ramp checks).

Proposed greater use of Acceptable Means of Compliance (AMC) material

20. UK CAA commented on NPA 2008-22 that it could accept a change in the level of some texts in line with a shift from hard to soft law as long as the Implementing Rules are well drafted and the AMCs comprehensive and tailored carefully for each regulatory domain. The CAA stressed that it does not follow that a one-size fits all approach should be used and care should be taken to avoid rulemaking by AMC.

21. UK CAA is concerned that there are a number of cases in NPA 2009-02 where either unsuitable rulemaking by AMC is being proposed, AMCs are proposed that do not relate to a specific rule or AMCs are proposed that are more suitable for guidance material. The CAA specifies all these examples in its detailed comments, both where too much and too little is placed in AMC material, but draws attention to one area as an example of where unsuitable rulemaking by AMC could undermine the primary safety objective of EC Regulation 216/2008:

Performance requirements which were included in EU-OPS 1 / JAR-OPS 1 have been transferred to AMC and Guidance Material (GM). These contain important quantitative parameters and criteria which must be complied with unconditionally in order to achieve the intended level of safety. They need to be upheld across all Member States if the objective of uniform and high levels of protection in civil aviation, as stated in Article 2 of Regulation (EC) 216/2008, is to be realised. The objective will not be achieved by relegating them to AMC or GM because the resulting "flexibility" and "introduction of alternative creative solutions" will bypass this objective and result in uneven, and less safe, implementation between operators and Member States.

Transitional arrangements.

22. To prevent harm to the industry, CAA urges strongly that a substantial transitional period must be permitted as not all the new provisions introduced into the Basic Regulation by Regulation (EC) 216/2008 can be fully implemented by 8 April 2012. A detailed planning framework is needed as soon as possible, setting out introduction dates for all the measures needed to implement the Articles in the Basic Regulation, together with related transitional arrangements. In addition, some flexibility is needed for Member States to establish their own processes to achieve effective and full implementation within the overall transitional framework.

Potential future changes to the applicability of EC Regulation 216/2008

23. The UK CAA recognises that there may be a desire in the future to reduce the scope of Annex II to Regulation (EC) 216/2008 and thereby bring more aircraft types within the requirements of Part-OPS. The CAA considers it essential that a review of Part-OPS takes place following any change in the applicability of EC Regulation 216/2008 in order to ensure that the Rules remain appropriate and proportionate, particularly in respect of light aircraft used for recreational purposes.

comment

365 comment by: *Axel Ockelmann + Manfred Poggensee Commercial Balloon Operators Germany*

There is not any clear definition in the basic regulation or the implementing rules, that says commercial ballooning is Commercial Air Transport.

ICAO is defining Commercial Air Transport as international Transport. From our

point of view commercial ballooning is a commercial operations other than CAT, which means a new category, because it is only partwise "aerial work";but not commercial air transport.

The position of EASA-proposals did not consequently follow the rules ,if commercial ballooning is commercial air transport, why they are not defining a special category of air transport for ballooning. Is it too complicated?

Following EASA philosophie "make the rules proportional to the scale and scope and risk of the operation". EASA has to find lower requirements for the operation of balloons.

Balloons are the simplest aircrafts ever and the pilots are doing pleasure-flights normally inside the dimension of 10-20 miles with a flighttime of 1-2 hours. Balloonpilots are not flying for up to 10-14 hours, or at night, or over timezones. So this commercial operation is rather different to the other commercial air transports.

For the technical requirements we can see the EASA is finding differentiated requirements, why not also following that way for Operations?

Following that reduced way, there must be also differentiated requirements for Age, Flight- and Resttime, Commercial operations with balloons (passenger transport for hire and reward) should be together with aerial work another group in the part for the rules for commercial operations other than commercial air transport.

General Comment:

We ask for a draft-legislation especially for balloons to get much more clarity, because with this draft it is to easy to loose track on things.

comment

382

comment by: AEA

Relevant Text:

General Comment on Security

Comment:

Fundamentally we believe aviation **security** measures are within the remit of European Commission DG TREN and should not be confused by those **safety** measures under the responsibility of EASA.

EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.

Security measures to be applied by Commercial Air Transport should not be in separate EU regulations and Competence for 'In flight' measures must be under a single legislative body

comment

423

comment by: DGAC

DGAC-F GENERAL COMMENT OF NPA 2009-02 a, b, c, d, e, f, g & g1

O General Comments:

We would like to take advantage of this NPA 2009-02, to confirm previous comments concerning NPA 2008-22, that is to say: the new structure is hard to understand, the reading is complex and an overall view is missing. In France, despite many informatory meetings, stakeholders have had great difficulty in understanding these propositions. This is especially true for the small organizations which experience problems in understanding the measures which are applicable to them. It is indispensable that the simplified measures should be very explicit and that a dedicated consultation should take place.

The new regulatory structure does not seem to be well adapted; at least it appears, in our opinion, to be very far from being mature and we confirm our preference for to an activity-based approach.

We consider this NPA as an advanced NPA

It would have been appropriate to keep the old widespread JAR's structure with JAR OPS 0 (Gen), 1 (Plane), 2 (Corporate), 3 (helicopter) and 4 (aerial work), completed by the modern Safety Management Systems concepts and also to create, as necessary, new ones concerning balloons and other aircrafts (such as UAV, sailplanes...).

A great deal of work needs to be done on the definitions linked to "commercial"

The proposed requirements must not prevent a member State from carrying out, apart from the SAFA programmes and methods, ground inspections of foreign aircraft on its territory, as specified by the directive 2004/36 item 2 article 1.

The BR 216/2008 5 and 7 recitals allow the member States to deal directly with certain local based operations as local flights, this possibility must be used

The transition measures must be extensive and gradual in scope according to the areas concerned.

1 Structure:

- Here are some examples which show the difficulties in reading those proposals, for the industry as for the Authorities, and which demonstrate the need for a return to a more classical activity-based regulation.
- Equipment: paragraphs are very long, divided by aircraft types, even mixed with activities (airplane & helicopter vs carriage of parachutists), and too complicated to understand which kind of seat belt/harness is required: OPS.GEN.405 "Equipment for all aircraft", items (a) (3) and (a) (4), then OPS.GEN.400 "Seat belts and harnesses" which should contain previous items, but we have to reach the third line to understand that it's only applicable to commercial air transport.
- A lot of time is uselessly spent trying to understand where the relevant information is to be found, and what is applicable to whom.
- The Agency's holistic approach leads for the reader and the future user, to a far less holistic vision of the applicable rules.
- In spite of the Agency's promise (§24 NPA 2009-02a Explanatory Note) to conserve the whole EU-OPS & JAR-OPS 3 dispositions', many differences crop up throughout the proposition, which leads the reader to doubt the rest of the dispositions, and these differences require a careful analysis, which has not been successfully completed yet because

of the lack of time.

- For example: the disappearance of the “commander” (we need to know who is legally responsible on board, during a flight), and the emergence of the “pilot in command” (PIC); moreover, the PIC can delegate only to another PIC, including above the FL 200, which was not the case in the EU-OPS. This new curtailment appears in AMC, which is somewhat out of place/..

All of this leads to, a very partial study of the dispositions, and the necessity to convert this NPA into an A-NPA. The Agency, after studying the comments/ , shall publish a complete NPA which should encompass the 3 NPAs 2008-17, 2008-22, 2009-02.

2 Definitions:

Serious work must be undertaken on the definitions:

(a) The substance:

CAT: a definition is needed consistent with other European rules. On the one hand, the NPA 2009-02 (point 53, pages 34/123) refers for CAT to the ICAO’s annex 6 definition of “commercial air transport operation” which is not consistent with the “commercial operation” definition contained in the basic regulation article 3)i). On the other hand, the EC 1008/2008, chapter II, article 3)3) b) excludes local flights from the obligation to hold an operating license. We propose to define the “commercial air transport” concept by using the BR’s (article 3i)) definition of “commercial” and the concept of “air transport” as transportation from A to B, with A different from B, as the EC 1008/2008 suggests.

AMC/CS: Following the Agency’s seminar organized on June 23rd, and the large number of explanations asked for, it seems to be necessary to introduce those definitions in the AR.

“Organization”: this term shall be defined. Is it an organism or simply the fact of being organized?

(b) The form:

There is a discrepancy with other European Rules (cf previous), which could lead to a legal uncertainty.

Lack of definition: in this case, either we take the ICAO’s definitions or we propose one. For example, “flight crew is defined nowhere, whereas “cabin crew” is only defined in Part CC and “for the purpose of this part”; so, we do not know which definition should be taken into account for Part OPS. Finally, we have no definition of the “technical cabin crew”.

We have found definitions at many different regulation levels, sometimes in IR, AMC, or GM. For example: the list of definitions begins in the IR section, and suddenly ends, to be continued in the GM section.

Sometimes, a definition is given in the AMC section whereas it is used in IRs.

Generally speaking, definitions should be gathered in only one IR “Part Definition” (except, if it were used in a single paragraph). This way, definitions can be used in other parts, allowing for more homogeneity.

3 Security

Some dispositions proposed by the EASA do not seem to be compliant with other Community Regulations already in force about security. The Agency should verify compliance.

4 Part CC (IR personnel annex V) and Medical CC (IR personnel annex II)

We would like to give full support to the Agency's proposition on both CC's certification and medical requirements.

5 Ramp inspections (IR AR section IV)

The exact scope concerning "ramp inspection" should be clarified.

We understand that the dispositions introduced for ramp inspections are taken in application of the article 10.2 of BR 216/2008 which says that a Member State must, on his territory, conduct ramp inspections on aircraft the general supervision of which he doesn't have the responsibility of, and that these inspections must be conducted by following agency-specified methods, and this would therefore replace the scope of directive 2004/36.

We haven't found any basic regulatory specification in BR 216/2008 to justify the application of Community methods to ramp inspections conducted by a Member State on aircrafts used by operators that it oversees. All references to inspections on all but foreign aircraft must be removed from the agency's proposition in terms of Ramp Inspections.

In addition, the proposed dispositions must not prevent a Member State from conducting, without following the SAFA program (and its methods), ramp inspections of foreign aircraft, as described in paragraph 2 of article 1 of directive 2004/36.

6. Flexibility (use of paragraphs 8.2 and 8.3 of BR216) and subsidiarity

Articles 8.2 and 8.3 make provision for certification of commercial operations and declaration of non commercial operations of complex aircraft "unless otherwise determined in the implementing rules". EASA hasn't made use of this possibility in its propositions whereas we see at least two points where such dispositions could have been made use of.

(a) Fractional ownership and Shared ownership: these two concepts should be better defined. We understand that the agency's propositions do not make provision for a control of air operations conducted under these concepts (except declaration in the case of complex aircraft). We wish that specific dispositions be made.

Regarding fractional ownership, CEAC recommended, a few years ago, that the future European regulation take its inspiration from the American Part 91-K, that imposes conditions on the number of aircraft in the fleet and on the owners, and organises contractual dispositions between the administrator and the co-owners, and between the different co-owners.

(b) Aerial work: as a first step, it seems reasonable to certify only those aerial work activities that are considered as generating the most risk (everything that involves low altitudes: crop-spraying, line surveillance), the rest could be subjected only to a declaration.

(c) Furthermore, certain activities that are restricted to a very small geographical area, should remain in the domain of subsidiarity, taking into account the absence of any competitive aspect and technical requirements linked to a European recognition need.: such as local flights (from A to A, with both time and range limited), and initiation flights. This proposition follows the BR 216/2008's recital n°5, which was initially drawn up to introduce annex 2.

7 FTL

We have found only 4 of the 5 points specified in the article 8.4 of the CR

3922/91 (OPS 1.1105 point 6, OPS 1.1110 points 1.3 and 1.4.1, OPS 1.1115, and OPS 1.1125 point 2.1); the "reduced rest arrangement" is missing.

From our point of view, it seems clear that both the numeric values and the five points specified in article 8.4 should be in the IRs' section. CSs should allow the application of those 5 points. The Agency itself reminds, in the NPA 2009-02-a, that the sub-part Q's substantive provisions shall be included in IR, according to article 22. Moreover, as specified in the NPA 2009-02-a, page 51 paragraph 41, numeric values are considered as "substantive provisions".

Last but not least, we wish, according to the Agency's statements, national provisions, implemented in compliance with article 8.4, to be taken into account and acceptable for further regulation.

8 Transition measures

The propositions contained in the NPA 2009-02 modify requirements significantly concerning certain kinds of stakeholders; which is the case for aerial work (COM non CAT), that are today, in most member states, under a declarative system (which is changing for a certified system).

Those operators are either badly or insufficiently organised and represented and they are faced with numerous problems to read and comment on those texts (not translated into French). Under those conditions, measures to facilitate an acceptable transition must be scheduled (by giving time and the appropriate means to understanding).

According to the BR 216/2008, the IR must be published before April 2012, but the actual putting into practice may occur later

Taking into account:

- The new rules' structure
- Modifications in existing regulations (EU-OPS/JAR OPS 3)
- A wider scope
- The crisis that airlines are facing

The adopted transition measures should be as long as possible and scheduled depending on the areas. We consider that the requirements for the non commercial air transport activities (areas generally not so strongly regulated), should be delayed.

A two-year period after the 8th April 2012 seems reasonable before applying the requirements concerning commercial air transport, and it is our considered opinion that a schedule should be drawn up on an individual basis for all the other activities.

9. Code share

The IR-OPS toughen the conditions by which European airlines will be able to conclude code share agreements with non-European airlines because the candidate must prove (by initial and regular in situ audits) to its Authority that the airline approached for the code share agreement observes the ER (the foreign airline will furthermore have to be TCO authorized) and certain dispositions of IR OPS. The medical fitness required of cabin crew could for example prevent the agreement.

French airlines are worried about the possible repercussions of these propositions on code share agreements that are already in force.

While we understand the legitimate concern that leads to clarifying the conditions associated with code sharing, we consider it not appropriate to

prevent such operations with a major airline that is supervised by a country that is recognized in terms of safety, on the ground that the non-European country does not conform to such and such disposition of IR OPS.

10. Work priority

If the process cannot be finished within the given time, France proposes that the following domains be treated in the following order from highest to lowest priority:

1. CAT airplane and CAT helicopter
2. Corporate aviation: complex aircraft and fractional ownership
3. other types of aerial work (airplane & helicopter)
4. all other domains

comment 447

comment by: *Fédération Française Aéronautique*

Generally speaking, French FFA believes that it is not realistic and not a good method to set up a unique set of Flight Operations rules concerning all category of aircraft from Piper J3 to Jetliner, or from non commercial operations on small aircraft (non complex aircraft below 2T MTOW) to commercial air transport on jetliner.

Quite often in the proposed text, the applicability to non commercial operation on light aircrafts (MTOW below 2T) is not clear and needs more formal and precise explanation and/or definitions.

Justifications :

In many cases, it is clear that this NPA was written mainly with CAT or commercial activities in mind.

Even proposed "Air Operations GEN subpart" shows that it was not written by people having the necessary knowledge and experience in sports and recreational aviation. Within the non complex aircraft category (MTOW below 5,700 kg, etc.), it is obvious that it is totally unrealistic to have the same rules for a Cessna 150 in VFR and a twin turboprop Beach 200 flying IFR!

Many aero-clubs, which are non profit organisations based on volunteers, will not be able to fulfill correctly the requirements proposed. Quite nothing in this project will actually improve flight safety for sports and recreational aviation.

FFA proposal : Separate "Non commercial VFR Flight Operations on non complex aircraft with a MTOW below 2,000 kg" (mainly ELA1 and ELA2 aircrafts) from the rest of non complex aircraft (MTOW below 5,700 kg, etc.). Requirements for Flight Operations of aircraft with MTOW below 2,000 kg, must be established by a competent working group, as it was the case, for example, with MDM 032 group.

comment 462

comment by: *Deutsche Lufthansa AG*

Comment:

The whole NPA package is more than 3000 pages to be checked in detail within a very limited time-frame. For that reasons, the submitted Lufthansa comments to this NPA should be considered as the major concerns from Lufthansa to this

NPA but additional comments/concerns might be identified after the closure of the NPA comment deadline.

Irrespectively of what the consultation rules say, it is unacceptable to force stakeholders to make detailed, constructive, and comprehensive comments on such a big package which is a MAJOR deviation from the current rules.

Proposal:

EASA should take on-board all Lufthansa concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline without claiming that the public consultation period has run out. For commercial air transport we already have EU-OPS as a safe and practical regulation available. Therefore there is no justification to completely redraft the rules as suggested by EASA through this NPA and there is no matter of urgency. The task given to EASA by the Commission was to build upon the heritage of EU-OPS as close as possible. Under this condition, the consultation rules could have easily been met.

comment

463

comment by: *Deutsche Lufthansa AG*

Comment:

NPA 2009-02 is a major departure from EU-OPS both in content/concepts and structure. Those major changes cannot be justified on safety grounds and would lead to unjustified costs and additional complexity for the airline industry. The confusing structure and unclear drafting of this NPA will not provide legal certainty.

We note that this NPA is also not in line with the mandate which was given to EASA by the EU legislator which clearly referred to the need for EASA rules to build on EU-OPS and the JAA heritage. In this context, Lufthansa would like to make reference to the clear concerns expressed by the European Commission and EASA Member States at the June 2009 EASA management board meeting. Lufthansa therefore urges EASA to stick to its safety role and the clear instructions from its Management Board that this NPA should be withdrawn and realigned with EU-OPS.

Proposal:

Relalign the NPA with EU-OPS

comment

464

comment by: *Deutsche Lufthansa AG*

Comment:

The various EASA NPAs (NPA 2008-17, NPA 2008-22, NPA 2009-1, NPA 2009-2 and the NPA TCO) are all closely linked. The fact that they are not open for consultation in one NPA package leads to the fact that some elements of this NPA cannot yet be fully commented (due to missing elements) and that some additional comments might have to be provided after the closure of the NPA comment deadline.

Proposal:

Have a second round of consultation once all elements are available

comment

470

comment by: *TAP Portugal***2009-02A Explanatory note and appendices****Association comment**

1. Fundamentally the stakeholder associations believe aviation security measures are within the remit of European Commission DG TREN and should not be confused by those safety measures under the responsibility of EASA.
2. EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.
3. Security measures to be applied by Commercial Air Transport should not be in separate EU regulations and Competence for 'In flight' measures must be under a single legislative body

comment

476

comment by: *Civil Aviation Authority Finland***The Rules in general**

The totally new system, structure and many changes of the rules, differing from the earlier EU-OPS, JAR-OPS and national regulations, are causing a very big time and money consuming work load to the operators making reorganization and changes in their manual system and to the Aviation Authorities inspecting and approving these.

The original idea was to adopt the existing and well functioning EU-OPS and JAR-OPS 3 as far as possible directly into the EASA rules.

Also there are some rules that are differing from or do not fulfill the ICAO SARPs and these differences may stand long time before adopting the ICAO standards as amendments into EASA rules.

Taking into account the economical and resources problems all the operators and the Aviation Authorities are facing nowadays, it will be impossible to implement the proposed new EASA rules in time (before 8 April 2012) set by Reg. (EC) N:o 216/2008. The big changes themselves can initiate a safety risk.

The balance of the rules

The balance between binding hard rules and non binding material (soft rules) can cause problems.

For instance, the Air Operator Declaration of the non-commercial operation of complex motor-powered aircraft operator and the self statement of the operator, that his operations manual, training and procedures fulfill the rules, without any inspection from the side of the Authority, may later on after some incident or accident lead to the finding, that the statement is not corresponding the real situation. There is no Air Operator Certificate or Approval, which the Authority could suspend, limit or revoke, or in the EASA rules there is given no procedure to the Authority, how to deny the continuation of the non-standard operations.

Also the AR concerning the approval of an alternative AMC for the operator and

the very short time limit given for the Authority approving that AMC may lead to severe resource problems, if or when the Authority receives many applications same time. When EASA is checking only that the AMC approval has been done legally right, but is not checking that the AMC is fulfilling the rules or equivalent safety, we may have in Europe available to operators some AMCs which are not reflecting the requirements.

The balance between some rules in the NPA is not right. For instance, there are very much exact requirements for procedures and arrangements of RAMP inspections and training of RAMP inspectors, but very little about the more important systematic continuous inspections (audits) of the operation, training and records of the AOC holders or other stakeholders, or about the requirements and training of the inspectors (FOIs) of the Authority.

comment 478

comment by: ERA

European Regions Airline Association Comment

Use of 12 consecutive calendar months:

ERA members are uneasy with the use of the concept of "twelve consecutive calendar months" instead of "natural year" as this may have an impact as to when people take their holidays and any knock on effect.

There are numerous examples of changes leading to cost impact on the airline industry without any obvious safety gain i.e. the changes proposed by EASA

related to the In-Flight Relief of the Pilot-in-Command requiring a command

course/Commander for the in-flight relief of a Commander whereas EU-OPS

allows for a suitability qualified First Officer above Flight Level 200.

The new rule-structure is very confusing and not user friendly. More

explanations are needed from EASA regarding the changes to EU-OPS and the

concepts and reasons behind the changes.

This NPA is the major part of a package of NPAs that have been put out for comment over a similar time frame with an important underlying relationship between them. The particular size of this NPA and the other related individual NPAs has made it almost impossible to fully appreciate or comprehend the changes proposed and obviously their eventual implication on the operators concerned. This unfortunate state of affairs has been compounded by two additional factors not experienced before.

The first is the addition of the different phraseology in this and the other NPAs

that has, unless you're a lawyer, made it very difficult to carry out any meaningful comparison between the new and old regulations. Certain reassurances that have been made regarding this NPA reflecting the latest edition of EU-OPS are not borne out by examples in the NPA. In many aspects fundamental differences have been introduced compared to EU-OPS. There is no legal basis and no safety justification for EASA to fundamentally alter the EU-OPS requirements.

The second factor concerns the fact that this NPA is a 'catch all' rule encompassing for the first time a wide spectrum from Commercial Air Transport to Ballooning operations. This makes it a leviathan in terms a regulatory document and a monumental multi task operation in extracting the relevant regulation appertaining to Commercial Air Transport operations. Despite the EASA e-tool [arriving on the scene far too late] a co-operative way of working is needed to produce a better regulation. Would it not be an improvement to retain EU-OPS for the moment? This is a regulation already in place for Commercial Air Transport and is accepted by the individual authorities. EASA could then concentrate on the other operators covered by the IR-OPS that as yet have no common operations rule. Amendments to EU-OPS could be made by individual IR changes to the individual subparts over a period of time? This would enable a greater understanding of the proposed changes, reduce confusion and go some way to resolving the concern amongst smaller operators that they may have missed important fundamental changes that could impact them in the long run.

comment

483

comment by: *bmi*

It is the opinion of bmi that EASA should consider the comments submitted by the United Kingdom CAA and the Association of European Airlines (AEA). bmi concur with the opinions submitted by these organisations.

comment

484

comment by: *Department for Transport UK*

General comments

The UK Department for Transport welcomes the opportunity to comment on the European Aviation Safety Agency's Notice of Proposed Amendment (NPA) No 2009-02.

The introductory comments below draw attention to some of the proposals which are particularly welcome, but also some which it considers raise significant safety or operational concerns or where the potential impact on the industry in terms of the administrative burden does not seem to have been properly taken into consideration.

While the introduction of a completely new structure for the implementing rules presents certain challenges the UK agrees that it has some advantages given its adaptability to cover all the EASA-regulated areas. However, because the new structure will create a considerable amount of work for all concerned, the DfT strongly believes that the initial implementing rules should focus on the minimum required by the Basic Regulation (EC Regulation 216/2008) rather than going beyond them. The DfT also believes that EASA and the Commission should have a workable set of implementing rules adopted by April 2012, with transitional arrangements which allow for full implementation to be completed

within a realistic timeframe after that. Member States may require further flexibility within the transitional arrangements to adapt their procedures and allow for a phased implementation process.

The DfT believes that the priorities for the adoption of an initial set of implementing rules by April 2012 should be:

i) to transpose the requirements of EU-OPS for CAT (and JAR-OPS 3 for CAT helicopter operations, and

ii) to introduce an appropriate regulatory framework for non-commercial operations on complex motor-power aircraft.

Other rulemaking issues can then be taken forward more slowly in a measured manner. These would include:

i) detailed requirements for private/leisure aviation activities;

ii) expansion of the existing rules on flight time limitations, following the scientific study, and development of certification specifications;

iii) expansion of rules for cabin crew attestations in line with the Basic Regulation; and

iv) changes to the rules governing the SAFA arrangements

The DfT notes the inclusion of security related requirements in the Implementing Rules. It may be helpful to air carriers and appropriate authorities if all security related provisions were incorporated into EU security regulations, i.e. Regulation (EC) No 300 and its supporting regulations/decisions. This would achieve a simpler and more coherent structure for security requirements and simplify regulatory oversight. EASA and the Commission may need to consider how this can best be achieved.

Significant Issues

A realistic transition period for industry and national authorities

The UK DfT recognises that the Implementing Rules will have to be adopted and published by April 2012. For this to be possible, the Commission will need to have proposed its draft regulations by April 2011 to allow for adequate discussion in the EASA Committee and consultation of the European Parliament under the revised comitology arrangements. This is less than two years away and EASA still has a lot of work to do in terms of further consultation with industry and NAAs on the proposed changes. It will not be possible for NAAs and the industry to transition to the new EASA rules and structure between the publication of the finalised Implementing Rules and April 2012. The Implementing Rules therefore must allow for a reasonable transition period, perhaps of two years or more, between their official publication and the dates on which the provisions will actually come into force. This will mitigate the safety risks that accompany significant changes to the existing regulatory system and allow the industry to spread the administrative costs (eg adapting manuals) of change across a longer time period.

Proposal for declaration for all non-commercial operations of complex motor-powered aircraft

The DfT is concerned by the failure in the NPA to provide for conditions under which a certificate would replace a declaration in the case of some operations of complex motor-powered aircraft used in non-commercial activity. This is not in accordance with Article 8.5(d) of Regulation (EC) 216/2008. The DfT is concerned that a declaration would not provide a sufficient level of safety oversight for all operators of complex motor-powered aircraft used in non-

commercial operations, specifically managed aircraft operations where an aircraft is operated by a specialised management company on behalf of a single, or several, owners.

The majority of such managed operations, especially those often referred to as fractional ownership operations, are currently subject to the requirement to hold an Air Operator Certificate (AOC). The DfT considers that changing from a certification-based regime to a declaration-based regime with an unknown level of oversight could have a negative impact on safety. Moreover, the proposed rules may provide an incentive for small AOC holders to surrender their AOCs and re-model their business so as to come within a managed/fractional ownership regime, with a consequential likelihood of reduced safety oversight.

The DfT considers that a proportionate and effective certification process can be devised, which is less burdensome than the AOC process. It could be based on a form of certificate for the programme manager or operator, similar to the mandatory "management specifications" issued by the US Federal Aviation Administration under Sub-Part K of FAR 91. The DfT does not consider that a requirement to hold such a certificate would be an unnecessary or burdensome change, given that most of the operations affected currently hold AOCs.

Proposed requirements for cabin crew attestations and medical requirements

The DfT is very concerned that the proposed requirements for cabin crew attestations, in particular those related to the medical requirements, impose unnecessary costs and do not improve safety.

Article 8.4 of the Basic Regulation states that "cabin crew involved in the operation of aircraft referred to in Article 4(1)(b) and (c) shall comply with the essential requirements laid down in Annex IV. Those involved in commercial operations shall hold an attestation as initially set out in Annex III, Subpart O, point (d) of OPS 1 1005 of Regulation (EC) 3922/91.....". Under that Regulation the attestation was related solely to initial training. Under the NPA the attestation has developed into a de facto licence. The DfT recognises that Article 8.5(e) of the Basic Regulation specifies conditions to be included in the implementing rules in relation to attestations, but is concerned that the Agency has not given sufficient attention to ensuring that the conditions are proportionate, given the significant financial pressures currently facing the industry.

The DfT notes also that there is no ICAO requirement for a cabin crew attestation or licence. The Agency proposals would therefore go considerably beyond the Member States' obligations under Annexes 1 and 6 of the Chicago Convention and could place EU operators at a competitive disadvantage while having no demonstrable safety benefit. The DfT urges the Agency to review all its proposals in this area to ensure that they do not impose unrealistic burdens (for example, the proposed requirement that cabin crew must carry their attestations on board) and that operators and competent authorities are given sufficient flexibility to ensure that current arrangements made in accordance with EU-OPS are not unnecessarily disturbed.

The DfT is particularly concerned that the cabin crew attestation medical requirements are not justified by any safety benefit and could impose significant costs (several million pounds) on the aviation industry. They could also lead to unintended consequences whereby existing cabin crew staff with minor or controllable medical conditions could lose their jobs. The 'medical' Essential Requirements in Annex IV of the Basic Regulation are very similar to those currently applicable under EU-OPS. Cabin crew must be periodically assessed for medical fitness to safely exercise their assigned safety duties and compliance must be shown by appropriate assessment based on aero-medical

best practice. However, EU-OPS does not specify any minimum "standards" required for "medical fitness" and allows Member States to decide on an acceptable and appropriate assessment method. The draft requirements in NPA 2009-02, on the other hand, set down mandatory medical standards very close to Class 2 pilot standards (required for a PPL under proposals in NPA 2008-17) and require that assessment to include regular medical examinations.

The DfT agrees with the aero-medical experts in the UK Civil Aviation Authority who state that there is no evidence in any accident safety report or scientific study that flight safety, or the safety of passengers during emergency evacuation, has ever been compromised as a result of cabin crew incapacitation. Moreover, almost all cabin crew incapacitation is of acute onset (e.g. gastro-enteritis or on-board accidents) and would not be found or predicted by a routine medical examination. The standards would potentially discriminate against cabin crew with a number of chronic conditions which have to be disclosed, but which could be resolved or controlled satisfactorily.

Proposed requirements for code sharing arrangements

UK DfT does not consider that the Basic Regulation provides the legal basis to regulate code-share arrangements, which are essentially marketing arrangements. We would not consider that the aircraft of the code share partner of a community operator was being 'used' by the community operator in the manner covered under Article 4.1 (c) of the Basic Regulation, which was drafted to cover leasing arrangements. The DfT also notes that code sharing was specifically discussed during the negotiations on Regulation 1008/2008 and that while the legislators identified a need for operating licence holders to have a specific approval aircraft leases they did not require approvals for code share agreements. Given the pressures on the regulatory system, and the need to avoid unnecessary costs on the industry, the DfT considers that EASA should withdraw the proposals covering code share arrangements.

Flight Time Limits (FTL)

The DfT supports the need for fatigue risk management systems. However, fatigue risk management should form part of an operator's overall safety management system (SMS). The DfT therefore questions whether a separate requirement for a fatigue risk management system is necessary. If there are to be separate requirements on fatigue risk management and SMS, EASA will need to take care to ensure that this does not introduce any unnecessary duplication of effort. It is also important that the requirements of the fatigue risk management system are proportionate and in line with ICAO guidance.

Given that the EASA scientific evaluation of EU OPS subpart Q was only published in January 2009 and that the Agency is still assessing the options for taking forward the study's recommendations, it may be more pragmatic to delay the proposals on FTL in the OPS NPA until a more comprehensive NPA on FTL alone can be published and rely on transposing EU OPS subpart Q for now.

Acceptable Means of Compliance (AMC)

The UK DfT supports the use of AMC material to ensure that airlines can develop a flexible response to changing circumstances and accepts the process by which it is proposed additional or alternative AMC material may be adopted. However, care will need to be taken to ensure that the correct balance exists between what is included in the implementing rules and what is adopted as an AMC. In particular, ICAO standards should normally be included in the implementing rules rather than the AMCs. The AMCs must also only address compliance with a rule and cannot cover issues which are not covered by the rule that they support. For example, AMC1 OPS.GEN.430 details maintenance

requirements for ELTs and is not directly linked to the requirement to have an ELT fitted.

Non Commercial Air Transport Commercial - AOC OR.OPS.015.AOC

The UK DfT does not agree that commercial operations other than commercial air transport should have an air operator's certificate (AOC). An AOC is a requirement of Annex 6 to the Chicago Convention for operators involved in commercial air transport (CAT) operations. The AOC is recognised worldwide as a document that authorises the holder to conduct CAT operations. To issue AOCs to operators which are not authorised to conduct CAT would move away from the ICAO system and could cause confusion in third countries about what EASA AOC holders are authorised to do.

In flight command - AMC OR.OPS.015.FC

The UK DfT notes that the proposed AMC OR.OPS.015.FC would require higher qualifications for pilots acting as the in-flight relief of the pilot in command than are currently required. These allow a suitable qualified pilot (i.e. First Officer) for the in-flight relief of the commander above FL 200. These proposals would have significant costs for industry but no safety case has been made to support this requirement. The DfT therefore opposes this proposal.

Ramp Inspections

The UK DfT is extremely concerned by the proposals to change the categorisation of SAFA ramp inspection findings by reducing the number of categories and reversing the finding levels. We understand the Agency's desire for consistency in its rulemaking but we consider the effectiveness of the procedures, which have been designed specifically for the monitoring of foreign aircraft, can only be diminished by the application of a restricted system of categorisation devised primarily for a different purpose, ie the monitoring of domestic organisations. The SAFA programme is well established and the three levels of finding have proven to be very useful in giving good picture of the standards of the aircraft and operators inspected. Reducing to two levels of findings would make categorisation difficult for inspectors and cause confusion for third country operators being inspected. In addition, removing a first level of finding which, being minor, does not need to be followed up with the operator and State concerned will impose considerable extra work for the Member States as, in accordance with AR.GEN.445 and AR.GEN.345, all findings would now need to be following up.

The DfT is also very concerned by AR.GEN.415 General (b) which requires that ramp inspections on a Member States own operators should be conducted under the same requirements as inspection on foreign aircraft. Ramp checks are only a small part of a wide range of inspecting and auditing processes available to Member States for oversight of their own airlines. The application of the full range of SAFA requirements on information sharing etc which do not apply to other, more in depth and sophisticated oversight techniques, gives unwarranted significance to ramp inspections. The application of these requirements will constrain the ability of Member States to implement inspection regimes tailored to their particular circumstances.

The DfT is also concerned about the use of the term "inspecting authority" rather than "competent authority" in the rules dealing with ramp inspections. In the UK duties assigned to the inspecting authority are currently split between two competent authorities, the Department for Transport and the Civil Aviation Authority. In the absence of any explanation or justification for the change in terminology the DfT considers that the requirements should refer to the competent authority.

comment 504 comment by: *Cirrus Design Corporation*

In general, this NPA fails to provide proportionate rulemaking for single-engine turbine airplane operations. In numerous instances, this NPA has proposed applying the same requirement for a privately operated single-engine turbine airplane weighing less than 2,725 kg as would be required for a 400+ passenger transport airplane solely due to powerplant technology. Many advances in small turbine technology have resulted in increased reliability and the simplification of its use and operation. This, combined with an increasing population of knowledgeable pilots to operate such technology, provides opportunity for increased aviation safety. However, the burden placed on operators for using such technology hinders this class of aircraft and could prolong the advancement of aviation safety for light aircraft.

While legislative challenges limit the extent to which EASA can develop rulemaking, Cirrus recommends some relief be given to small turbine operated aircraft that are used solely for private operations. These operators generally do not have the resources available for the organizational business systems referenced in many of the requirements for complex motor-powered aircraft. More discussion on these requirements is included below.

Further, some of the OPS.GEN and OPS.CAT requirements include requirements for multi-engine aircraft without including single-engine requirements or a statement in the title that it applies only to multi-engine aircraft (e.g. OPS.GEN.155, OPS.CAT.156.A, etc.). While it may be obvious that single-engine aircraft are excluded from these requirements, an explicit statement should be included to ensure future interpretation and assessment of applicability is not necessary.

comment 505 comment by: *Fédération Française Aéronautique*

General : In frequent cases, the applicability is not clear, and it's only after reading the proposed rule that it's possible to know that it concerns helicopters, or aeroplanes, or commercial operations, etc...

French FFA proposal : Systematically add a clear indication of the "applicability" of the rule, i.e. Complex aeroplanes or non complex, helicopters, commercial or not, VFR, IFR, etc...

comment 524 comment by: *Swiss International Airlines / Bruno Pfister*

Association comment

Fundamentally the stakeholder associations believe aviation **security** measures are within the remit of European Commission DG TREN and should not be confused by those **safety** measures under the responsibility of EASA.

EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.

Security measures to be applied by Commercial Air Transport should not be in separate EU regulations and Competence for 'In flight' measures must be under

a single legislative body

comment 567

comment by: *BMVBS (MoT Germany)*

The Federal Republic of Germany cannot accept the text of the entire NPA 02-2009 as proposed. The text does not fulfil the requirements set out by the Regulation No. (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008.

First Reason: Endangering a high uniform level of civil aviation safety in Europe

In Article 1 of this Basic Regulation it is stated:

“1. The principal objective of this Regulation is to establish and maintain a high uniform level of civil aviation safety in Europe.”

The Agency proposed in its draft an approach of so called “performance-based rulemaking” in order to provide a higher level of flexibility to fulfill the technical requirements of the implementing rules and to incorporate technical innovations more easily. While Germany supports the objective of this approach we have strong concerns that the way it is implemented will have negative consequences on the level-of-safety of European aviation.

The Agency proposes to express safety objectives by means of indefinite terms at the level of binding implementing rules. These indefinite legal terms are substantiated by “Acceptable Means of Compliance” (AMC) which are not legally binding. According to German administrative law, the NAA can only enforce binding law. The Agency or the NAA can publish AMCs and require the applicants to fulfill them as prerequisite e. g. for a certificate. If the applicant does not fulfill the requirements of the AMC the NAA would not issue the certificate. If the applicant does not accept the decision of the NAA he or she might go to court. In this case, the judge of the administrative court will decide whether the requirements set out by the written and binding law are fulfilled by the applicant or not. If the binding law contains indefinite legal terms the judge has a high level of freedom for his or her decision.

The consequence might be that a level-of-safety which is lower than that incorporated within the AMC is acceptable to the court. Moreover, courts of different member states might come to different decisions. The result would be a level-of-safety which might be lower than today and which is certainly not uniformly applied. Therefore, the drafts of the NPA do not conform to the Basic Regulation.

In order to establish and maintain a high uniform level of civil aviation safety across Europe it is necessary to provide clear and unambiguous rules which conform to the standards of legal certainty. If a higher level of flexibility for the means to fulfill the binding law is desired the concept of performance-based rulemaking as proposed by ICAO might be used. In order not to compromise the level-of-safety, it is essential that performance objectives within the rules are clearly determined by either quantitative or qualitative terms. An indefinite legal term is too generic and is certainly not appropriate for this purpose.

The approach of performance-based rulemaking should be applied with care since even ICAO has identified risks for the conversion of prescriptive rules into performance-based ones. Except for the State Safety Program and the Safety Management Systems concept ICAO has not yet incorporated the performance-based approach into the standards. Therefore, Europe would be one of the

pioneers when establishing of performance-based rules and must ensure that the States can still fulfill their obligation to comply with ICAO standards.

Second Reason: Unnecessary Deviation from EU-OPS

In Article 8 Paragraph 4 and 6 as well as in Article 22 Paragraph 2 (a) it is clearly stated that at least for the application area of commercial transport in aeroplanes the implementing measures of the Commission shall initially be based on the common technical requirements and administrative procedures specified in Annex III (EU-OPS) to Regulation (EEC) No 3922/91.

The new structure of the proposed rule text does not, by status and content, mirror the current operational rules, i.e. in EU-OPS and JAR-OPS 3. In case of an enforcement of the proposed rule, AMC and guidance material, the industry as well as NAAs would need to change well established checking survey plans, procedures, manuals and records. We do not see any justification for introducing a new rule structure, especially with the view of enhancing safety. In so far, the RIA to the NPA does not really justify the step taken by EASA to entirely change the structure of future European requirements. It is not understandable why EASA did not consider these inputs, as similar objections were raised by other NAA's as well as by industry's representatives. Initially, EASA argued with legal implications a duplication of rules (such as in OPS 1 and 3) would impose. Hence, so EASA, i.e. only one requirement for an AOC can be enforced, leading to a disruption of the well established EU-OPS/JAR-OPS 1 and 3 requirements. The same applies to the proposed licensing requirements. Legal experts throughout Europe very much questioned the legal position expressed by EASA, and meanwhile, it is very clear that similar requirements in different EU – Regulations are acceptable and, in fact, existent. For example, almost identical Authority requirements apply for EU Regulations 1702/2003 and 2042/2003.

Germany, therefore, proposes not to implement the proposed rule structure for OPS, but to develop dedicated requirements for every single air operations application, such as JAR-OPS 1, 3 and draft JAR-OPS 2 and 4. We have to accept duplications in order to provide a separate book for each separate application. So, we also have to accept that in case of the need for changing similar requirements by an NPA, it is the task of EASA to steer the associated rule making work as well as to maintain and update the material as required.

Moreover, there is neither the obligation nor the mandate for EASA within the Basic Regulation to promulgate higher requirements for cabin crew attestations or flight time limitation rules than the ones which are already included in EU-OPS.

The way forward:

The quality of a regulatory amendment is highly dependent on the level of maturity of the draft as published for consultation. Ideally, the consultation process should help the Agency to perform mainly a fine tuning to optimize the final rule. The Notice of Proposed Amendment (NPA) No. 2009-02, however, is far from mature. It contains major conceptual mistakes. In consultation with the German aviation industry it has been assessed that the introduction of the proposed amendment would not only undermine aviation safety due to unclear or incomplete requirements, it would also erode the competitiveness of the European aviation industry at large.

The situation is considered extremely startling and the German government is increasingly concerned about these developments. We do not consider the proposed amendment suitable to support a process that would converge towards a consensus in the Committee phase of the regulatory procedure with

scrutiny, and therefore would strongly advise EASA to re-consider the NPA as an "advanced" NPA that would be followed by a second round of consultation once a consensus on the conceptual approach has been reached. It is already clear at this stage, that this NPA will have to undergo substantial modification to an extent that would require a second round of consultation, if the principle of "better regulation" was to be respected.

In our view the proposed amendment not only fails to achieve the objective to base the implementing rules as much as possible on existing JAA material, it also fails to safeguard the highly important regulatory continuity, thereby creating incalculable risks for affected stakeholders potentially jeopardizing their very existence.

Against this background the Agency would be well advised to apply a sound change management strategy keeping the risks induced by the regulatory changes for the European aviation industry in mind.

Due to the extent and complexity of this rulemaking proposal the deadline of 31st July 2009 was still insufficient to coordinate a complete response by the German MOT. The German Ministry of Transport therefore generally endorses and supports the comments brought forward by the Luftfahrt-Bundesamt and German aviation stakeholders whose comments could not be collated and reproduced in due time.

comment

569

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

European Powered Flying Union, or EPFU, is an European Organisation grouping National powered flying organisation of ten European countries :

Austria, Denmark, Finland, France, Germany, Norway, Luxembourg, United-Kingdom, Sweden and Switzerland.

EPFU acts at all European levels to promote and defend the powered flying as a private sports and recreational flying activity. As a consequence, EPFU is involved in non complex aeroplanes operations and private flights.

EPFU comments are written in order to support general topics and principles agreed by its members, leaving them to comment directly to EASA their own detailed opinions and comments.

comment

570

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

As a general comment, EPFU supports the idea to keep in Implementing Rules very basic rules only, and to include all possible "Regulations" in AMC's and GM's to improve and save flexibility. EPFU is of the opinion that this "policy" must be applied as much and as far as possible.

comment

571

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

Reading this NPA, EPFU observes that the proposed set of rules is essentially

written for Commercial Air Transport and Commercial Operations. Moreover, EPFU observes that it is very difficult to cover all types of Air Operation in the same set of documents and thinks that many rules are difficult, and sometimes impossible, to implement for non commercial operations on non complex aeroplanes.

EPFU suggests that during the CRD implementation, dialogue on this specific items (i.e. rules not adapted to non commercial, non complex aeroplanes operations), will be conducted with organisations which represents this flying activity.

comment 579 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

The NPA 2009-02 introduces many changes in comparison with EU-OPS that are not justified regarding safety.

The comments hereafter SHALL BE considered as :
 · A identification of some of the major issues FNAM asks EASA to discuss with third-parties before any publication of the proposed regulation, consistently with, and prior to, the above common and constructive approach. In consequence, the comments hereafter SHALL NOT BE considered :
 · As a recognition of the third-parties consultation process carried out by EASA
 · As an acceptance or an acknowledgement of the proposed regulation, as a whole or of any part of it
 · As complete : the fact some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent prevented FNAM to understand and comment them

· As exhaustive: the fact some articles (or any part of them) are not commented does not mean FNAM has (or may have) comments about them, neither FNAM accepts or acknowledges them All the following comments are thus limited to our understanding of the effectively published proposed regulation, not withstanding their consistency with any other pieces of regulation, including with the Basic Regulation 216/2008, giving mandate from the Commission and Parliament to EASA.

comment 581 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Publishing Part TCO (Third Country Operators) after the end of the consultation period of NPA 2009-02 (Part-OPS) does not allow stakeholders to fully comment this NPA. This implies that comments induced by this new publication may interfere with comments from NPA 2009-02 (part OPS). As a result, EASA should make a commitment to stakeholders to keep on taking into account OPS comments during the period of consultation of Part-TCO as there are many interconnections between those legislations.

comment 582 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Small organizations should know how and in which way they will benefit of less complicated requirements. This must be more explicit and a part should be dedicated to this type of operators as when reading the whole legislation, it is really confusing to understand what they are expected to do.

comment 598

comment by: Deutsche Lufthansa AG

Relevant text:

New structure of the document (both major structure of "Parts" and detailed structure within every Part.)

Comment:

The comments made by Lufthansa to NPA 2008-22a (which includes the RIA to that NPA) and which were already addressing this NPA 2009-02 are fully applicable here.

Proposal:

Do not change the document structure but stick to EU-OPS, JAR-OPS 3

Quote from Lufthansa Comment N° 149 to NPA 2009-02a

2.6.8 Multi Criteria Analysis (MCA) and recommended option

According to the commentators comments to the individual fields, the adjusted master table looks like this:

Weighted score of options for the structure of the rules		Scoring of options		
		1 A	1 B	1 C
Key Performance Area	Weight	JAR like	vertical	GERT
Safety	3	6	-6	5
Environmental	2	0	0	0
Economic	1	0.3	-1	-0.7
Social	1	0	-0.3	0
Global harmonisation	1	0.7	-1.3	0.3
WEIGHTED TOTAL		7.0	-8.6	4.6

By simple adjustment of some assumptions, the scoring changes significantly, making 1A to the optimal option.

To clarify: the main intent of the commentator is to show that the **RIA is very vulnerable** as based on many assumptions.

Conclusion:

This RIA cannot be used as a sound basis to justify the new rule structure. There are many indications that there is no safety benefit while the economic impact will be stronger than assumed. The NPA should be withdrawn, respectively go through a second consultation process.

End of Quote

comment 630

comment by: British Airways Flight Operations

British Airways Flight Operations department has been actively involved with the industry working groups which have been assessing NPA 2009-02, both within the United Kingdom and internationally. In general, our opinions about the material presented in NPA 2009-02 agree wholeheartedly with those of the Association of European Airlines (AEA), which, we note, has submitted several hundred comments. We have also worked closely with the UK Civil Aviation Authority, which has also submitted several hundred comments.

We have decided to submit this general comment about NPA 2009-02 so that EASA will be aware, unambiguously, of British Airways' concerns about the material presented in the NPA. It is our opinion that NPA 2009-02 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered. The reasons for this conclusion will be discussed below. As well as making this general comment, British Airways has also submitted many individual comments about the NPA, from a number of different sources within the company; however, all should be seen in the light of this opinion: **that NPA 2009-02 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.** In making other comments British Airways does not seek to endorse NPA 2009-02, but rather to limit the damage which would be done to the industry if the material was adopted into implementing rules.

As the Chairman of the EASA Management Board is on record as saying: the Agency has set out to produce idealistic, holistic perfection; regrettably, it has failed in that task. British Airways' first concern is with the structure of the rule material presented. It is undeniably the case that safety proceeds from simplicity, not complexity. Therefore, for EASA to choose to move from a clear and unambiguous set of rules – published in one or two volumes (EU Ops / JAR Ops 1) – to a complicated and diverse set in many volumes causes us great concern. Furthermore, we note it was specifically the Agency's own decision to create a rule set based on the GERT: NPA 2009-02A makes it clear that neither the SSCC nor the AGNA endorsed that decision. We are also aware from conversations with some of the Agency's Rulemaking Officers that they were specifically instructed to use a different rules structure from that which had gone before "because EASA had to be different." We think such a policy decision - essentially to try to destroy the JAA heritage - by senior personnel from the Rulemaking Directorate (both those formerly employed and those still employed by the Agency) constitutes a serious error of judgment. We believe rules for commercial air transport should be published altogether in one volume, and not mixed with rule material for other types of aviation operations.

Another consequence of the Agency's desire to have one set of rules covering all types of operations is the combination of rule material for aeroplane operations and helicopter operations in the published NPA. Having had experience of the JAA rulemaking processes for Sub Parts D and E, we are aware that helicopter operations were never considered in the development of JAR Ops 1 material, and neither should they have been, by definition. Therefore, to propose rule material which is applicable to both types of operation in one document constitutes a serious mistake, which could give rise to what is called colloquially in English 'the law of unintended consequences'; in this case unintended, adverse, safety consequences. We are aware that one of the arguments the Agency has advanced for putting all rules in one place is the need for legal certainty in rulemaking. We are also aware that the Agency believes the same type of activity should not be regulated in more than one place. However, we believe those arguments are flawed: if rules were to be published separately for 'helicopters' and 'aeroplanes' they would be mutually exclusive and unambiguous, even if they contained similar material.

Many comments will doubtless be received by the Agency expressing disquiet that the material in NPA 2009-02 has departed greatly from EU Ops. We are very concerned that the Agency appears to have forgotten its mission – to promote SAFETY – and strayed into areas of social policy. Much new material has been introduced with no safety justification and with little, if any, meaningful regulatory impact assessment.

Leaving aside the concerns expressed above, much of the material proposed in NPA 2009-02 seems ill thought out and lacking in maturity. We are aware that the Agency has expressed concerns to the European Commission about its resourcing for the rulemaking tasks associated with the extension of scope to Air Operations. Of course, if EASA is really short of resources, it would have made much more sense for the Agency to base its rulemaking on the existing EU Ops material rather than branching off in new directions. We are aware this latter opinion is shared by the European Commission. Furthermore, we would have expected rule material to be presented in a mature form; instead, we see rule proposals which seem like early drafts rather than finished material. It seems ungracious to say "we told you so"; however, the Agency will be aware that the AEA in particular expressed concern about the scope of the work required of the Agency versus the amount of time and resource available to it, and suggested the establishment of stakeholder working groups to help with the rulemaking tasks. Of course, those suggestions were firmly declined.

Throughout the rulemaking processes which lead to the publication of NPA 2009-02 *et al* various bodies have been engaged with EASA to offer help with its task and, latterly, to express concerns about the direction in which the rulemaking was proceeding. In particular, the AEA has been very proactive in discussing its thoughts and concerns with the Agency. Furthermore, we know the Agency's Executive Director has recently visited the CEOs of several major European operators to discuss issues of concern. Therefore, the Agency should be under no illusions that there is major dissatisfaction among the operators with the direction in which the rulemaking task has proceeded (although we are concerned that some people within the Agency still do not seem to have acknowledged or accepted that fact). Overall however, the Agency has resolutely refused to engage with the operators; has refused to acknowledge that its rulemaking proposals might be flawed; and has failed to understand its responsibilities to the organisations for which it is creating regulations. This lack of accountability is a major cause for concern.

Lastly, we are very concerned that we are being expected to comment on a large amount of new material, to tight timescales, but without all the relevant material having been published. Since EASA has produced a large amount of interdependent material, it is unacceptable for us to be expected to assess that material without all of it being available. The quality of the comments which the Agency receives will undoubtedly be adversely affected thereby, because interested parties are not in possession of all the relevant information.

Therefore, to summarise British Airways' position. We are greatly concerned with the material presented in NPA 2009-02 because:

- It is presented in many volumes in a way which makes it difficult to understand.
- It mixes material for helicopters and aeroplanes in the same document.
- It departs greatly from EU Ops and introduces new material with no safety justification.
- It is ill thought-out and not mature.

- It demonstrates a lack of accountability to operators by the Agency.
- It relies on unpublished material.

In isolation, any of these issues would give us significant cause for concern. Taken together, they lead us to conclude, unreservedly, **that NPA 2009-02 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.** All of the comments which will be entered by British Airways Flight Operations will be suffixed to that effect.

comment

632

comment by: *Lufthansa CityLine GmbH*

Comment:

The whole NPA package is more than 3000 pages to be checked in detail within a very limited time-frame. For that reasons, the submitted Lufthansa Cityline GmbH comments to this NPA should be considered as the major concerns from Lufthansa Cityline GmbH to this NPA **but additional comments/concerns might be identified after the closure of the NPA comment deadline.**

Irrespectively of what the consultation rules say, it is unacceptable to force stakeholders to make detailed, constructive, and comprehensive comments on such a big package which is a MAJOR deviation from the current rules.

Proposal:

EASA should take on-board all Lufthansa Cityline GmbH concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline without claiming that the public consultation period has run out. For commercial air transport we already have EU-OPS as a safe and practical regulation available. Therefore there is no justification to completely redraft the rules as suggested by EASA through this NPA and there is no matter of urgency. The task given to EASA by the Commission was to build upon the heritage of EU-OPS as close as possible. Under this condition, the consultation rules could have easily been met.

comment

648

comment by: *Deutsche Lufthansa AG*

Lufthansa has been actively involved with the industry working groups which have been assessing NPA 2009-02, both within Germany and internationally. In general, our opinions about the material presented in NPA 2009-02 agree wholeheartedly with those of the Association of European Airlines (AEA), which, we note, has submitted several hundred comments.

We have decided to submit this general comment about NPA 2009-02 so that EASA will be aware, unambiguously, of Lufthansa's concerns about the material presented in the NPA. It is our opinion that NPA 2009-02 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered. The reasons for this conclusion will be discussed below. As well as making this general comment, Lufthansa has also submitted many individual comments about the NPA, from a number of different sources within the company; however, all should be seen in the light of this opinion: **that NPA 2009-02 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.** In making other comments Lufthansa does not seek to endorse NPA 2009-02, but rather to limit the damage which would be done to the industry if the material was adopted into

implementing rules.

As the Chairman of the EASA Management Board is on record as saying: the Agency has set out to produce idealistic, holistic perfection; regrettably, it has failed in that task. Lufthansa's first concern is with the structure of the rule material presented. It is undeniably the case that safety proceeds from simplicity, not complexity. Therefore, for EASA to choose to move from a clear and unambiguous set of rules – published in one or two volumes (EU OPS / JAR OPS 3) – to a complicated and diverse set in many volumes causes us great concern. Furthermore, we note it was specifically the Agency's own decision to create a rule set based on the GERT: NPA 2009-02a makes it clear that neither the SSCC nor the AGNA endorsed that decision. We think such a policy decision - essentially to try to destroy the JAA heritage - by senior personnel from the Rulemaking Directorate (both those formerly employed and those still employed by the Agency) constitutes a serious error of judgment. We believe rules for commercial air transport should be published altogether in one volume, and not mixed with rule material for other types of aviation operations.

Another consequence of the Agency's desire to have one set of rules covering all types of operations is the combination of rule material for aeroplane operations and helicopter operations in the published NPA. Having had experience of the JAA rulemaking processes for Subparts D and E, we are aware that helicopter operations were never considered in the development of JAR OPS 1 material, and neither should they have been, by definition. Therefore, to propose rule material which is applicable to both types of operation in one document constitutes a serious mistake, which could give rise to what is called colloquially 'the law of unintended consequences'; in this case unintended, adverse, safety consequences. We are aware that one of the arguments the Agency has advanced for putting all rules in one place is the need for legal certainty in rulemaking. We are also aware that the Agency believes the same type of activity should not be regulated in more than one place. However, we believe those arguments are flawed: if rules were to be published separately for 'helicopters' and 'aeroplanes' they would be mutually exclusive and unambiguous, even if they contained similar material.

Many comments will doubtless be received by the Agency expressing disquiet that the material in NPA 2009-02 has departed greatly from EU OPS. We are very concerned that the Agency appears to have forgotten its mission – to promote SAFETY – and strayed into areas of social policy. Much new material has been introduced with no safety justification and with little, if any, meaningful regulatory impact assessment.

Leaving aside the concerns expressed above, much of the material proposed in NPA 2009-02 seems ill thought out and lacking in maturity. We are aware that the Agency has expressed concerns to the European Commission about its resourcing for the rulemaking tasks associated with the extension of scope to Air Operations. Of course, if EASA is really short of resources, it would have made much more sense for the Agency to base its rulemaking on the existing EU OPS material rather than branching off in new directions. We are aware this latter opinion is shared by the European Commission. Furthermore, we would have expected rule material to be presented in a mature form; instead, we see rule proposals which seem like early drafts rather than finished material. It seems ungracious to say "we told you so"; however, the Agency will be aware that the AEA in particular expressed concern about the scope of the work required of the Agency versus the amount of time and resource available to it, and suggested the establishment of stakeholder working groups to help with the rulemaking tasks. Those suggestions were firmly declined.

Throughout the rulemaking processes which lead to the publication of NPA

2009-02 *et al* various bodies have been engaged with EASA to offer help with its task and, latterly, to express concerns about the direction in which the rulemaking was proceeding. In particular, the AEA has been very proactive in discussing its thoughts and concerns with the Agency. Furthermore, we know the Agency's Executive Director has recently visited the CEOs of several major European operators to discuss issues of concern. Therefore, the Agency should be under no illusions that there is major dissatisfaction among the operators with the direction in which the rulemaking task has proceeded. Overall however, the Agency has resolutely refused to engage with the operators; has refused to acknowledge that its rulemaking proposals might be flawed; and has failed to understand its responsibilities to the organisations for which it is creating regulations. This lack of accountability is a major cause for concern.

Lastly, we are very concerned that we are being expected to comment on a large amount of new material, to tight timescales, but without all the relevant material having been published. Since EASA has produced a large amount of interdependent material, it is unacceptable for us to be expected to assess that material without all of it being available. The quality of the comments which the Agency receives will undoubtedly be adversely affected thereby, because interested parties are not in possession of all the relevant information.

To summarise our position, we are greatly concerned with the material presented in NPA 2009-02 because:

- It is presented in many volumes in a way which makes it difficult to understand.
- It mixes material for helicopters and aeroplanes in the same document.
- It departs greatly from EU OPS and introduces new material with no safety justification.
- It is not mature.
- It demonstrates a lack of accountability to operators by the Agency.
- It relies on unpublished material.

In isolation, any of these issues would give us significant cause for concern. Taken together, they lead us to conclude, **that NPA 2009-02 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.**

comment

684

comment by: AeroLogic GmbH

I was participating in two workshops on May 05th, 2009 and July 14th, 2009 in Bonn/Germany organized by the German transport ministry. AeroLogic just recently established as a long haul operator in the cargo transport and received the AOC end of May 2009.

It took a lot of resources and money to establish the organization according to EU OPS. At the moment AeroLogic doesn't have enough resources to work on all the presented material at the workshops but takes care to ensure a safe and high quality operation based on the aforementioned European regulation.

In principle we support the idea to further harmonize the regulations for all EU member states and to ensure a common EU regulation for all airline companies worldwide.

The draft NPA 2009-02 is a complicated and huge administrative paperwork

which doesn't result in additional value concerning safety and quality of an air operator like AeroLogic. Many of the detailed questions the members of the workshop raised weren't answered sufficiently. The concept of an overall SMS with FRMS included was not transparent as there was always the idea of EASA members to establish a new FRMS in parallel to SMS which makes no sense.

The European Community after a long time period agreed on a basic Flight Time Limitation system. AeroLogic after establishing the operation according to these principles is not prepared to start again lengthy discussions to change anything in that area as we need a stable environment to make our commercial plans on a long-term and based on our safe and reliable standards we just recently have established.

The same applies to all the other areas of NPA 2009-02 were the user has the feeling that there is a fundamental change in the organization and in the way of introducing new procedures which results in extra workload, extra money to be invested in extra bureaucracy without additional value concerning Safety and Quality of operations. As long as these major concerns are not removed AeroLogic is not able to support NPA 2009-02 in the existing form.

We propose to have an easier and leaner approach to introduce an efficient and easy to understand NPA 2009-02 based on existing cornerstones. I'm prepared to discuss this with the responsible persons within EASA to ensure a practical way for a new rule setting process.

comment

686

comment by: *Cirrus Design Corporation*

NPA 2009-02a, Para. A.IV.76 & A.VI.69

Multiple references are made that single-engine propeller IMC (SE-IMC) and night operations are prohibited. It should be clarified that this is only for commercial operations and that the requirements defined by OPS.GEN have no such prohibition. However, the use of single-engine propeller aircraft for commercial operations should be allowed if properly equipped according to the requirements of ICAO Annex 6. Cirrus supports the rulemaking activity proposed in Paragraph A.VI.69.

TITLE PAGE

p. 1

comment

479

comment by: *ERA*

European Regions Airline Association Comment

- Fundamentally the Stakeholder Associations believe that aviation **security** measures are within the competence, and should remain the sole remit of European Commission DG TREN F5 and should not be confused by those **safety** measures under the responsibility of DG TREN F.3 / EASA.
- EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate

EASA Part Operations.

- Security measures to be applied by Commercial Air Transport should not be split between, duplicated or be contradictory in separate EU Regulations. Regulations (if required) and competence for 'In flight' security measures must be under a single legislative body (DG TREN F5, Aviation Security).

comment 600

comment by: DCAA

The structure of this NPA is very difficult to overview and requires an extensive amount of resources to comment in details. Because of that it has been decided to comment the NPA in general.

comment 613

comment by: IACA International Air Carrier Association

„Copyright EASA“ is unacceptable. Rules must be quotable and re-printable.

TABLE OF REFERENCE FOR NPA 2009-02

p. 2

comment 469

comment by: bmi REGIONAL

It is the opinion of bmi regional that EASA should seriously consider the recently submitted comments made by the CAA and those of the AEA and we align our opinion with those submitted by these organisations.

A. I. General

p. 4

comment 44

comment by: Condor Flugdienst GmbH - FRA HO/R

„Copyright Easa“ is unacceptable. Rules must be quotable and re-printable!

comment 380

comment by: Light Aircraft Association of the Czech Republic

This is the answer of the Light Aircraft Association of the Czech Republic.

During the work of MDM032 following conclusion was agreed and passed to the OPS WG:

- 1. For aircraft below 2000 kg MTOM the Essential Requirements should be applied directly except for 3 additional Implementing Rules (COM/NAV equipment, safety equipment, fuel reserves)
- 2. For aircraft above 2000 kg MTOM OPS 0 should be applied

see MDM032-DOC082 MoM 2007-04-17-19 Final Version.doc

Why this agreement was rejected?

Proposal: Just follow the recommendation of the MDM032 group.

comment 460

comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month OPC validity, 24 month Line Check validity and 24 month SEP validity periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

We don't believe it was the intent of the EU Legislator when tasking EASA to prepare the Implementing Rules to omit this regulation and there is no safety justification for this change. In fact, the ATQP programme has a proven safety benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification

standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.
2. Conversion training and checking.
3. Differences training and familiarisation training.
4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:

- (i) knowledge;
 - (ii) the required skills;
 - (iii) the associated skill based training;
- and, where appropriate
- (iv) the validated behavioural markers.

3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;

4. A specific training programme for:

- (i) each aeroplane type/class within the ATQP;
- (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
- (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;

5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;

6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;

7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;

8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;

9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

(i) a safety case that substantiates the validity of:

(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the

efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

2 Line Oriented Quality Evaluation (LOQE). LOQE is one of the tools used to help evaluate the overall performance of an operation. LOQEs consist of line flights that are observed by appropriately qualified operator personnel to provide feedback to validate the ATQP. The LOQE should be designed to look at those elements of the operation that are unable to be monitored by FDM or Advanced FDM programmes.

3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

4 Event based Assessment. This is the assessment of flight crew to provide assurance that the required knowledge and skills have been acquired. This is achieved within an LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training programme that substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

- a. Enhance safety;
- b. Improve training and qualification standards of flight crew;
- c. Establish attainable training objectives;
- d. Integrate CRM in all aspects of training;

- e. Develop a support and feedback process to form a self-correcting training system;
- f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;
- g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the operational environment;
- h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;
- i. Make efficient use of training resources, specifically to match the use of training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

2.2 Topics: A description of what will be trained during the lesson;

2.3 Targets/Objectives

a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

c. Each qualification event that is required by the programme should specify the training that is required to be undertaken and the required standard to be achieved. (See paragraph j below)

3 Each lesson/course/training or qualification event should have the same basic structure. The topics related to the lesson have to be listed and the lesson targets should be unambiguous.

4 Each lesson/course or training event whether classroom, CBT or simulator should specify the required topics with the relevant targets to be achieved.

(h) Training Personnel

1 Personnel who perform training and checking of flight crew in an operator's ATQP should receive the following additional training on:

- 1.1 ATQP principles and goals;
- 1.2 Knowledge/skills/behaviour as learned from task analysis;
- 1.3 LOE/ LOFT Scenarios to include triggers / markers / event sets / observable behaviour;
- 1.4 Qualification standards;
- 1.5 Harmonisation of assessment standards;
- 1.6 Behavioural markers and the systemic assessment of CRM;
- 1.7 Event sets and the corresponding desired knowledge/skills and behaviour of the flight crew;
- 1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and
- 1.9 LOQE.

(i) Feedback Loop

1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

2 The programmes established quality control mechanisms should at least review the following:

- 2.1 Procedures for approval of recurrent training;
- 2.2 ATQP instructor training approvals;
- 2.3 Approval of event set(s) for LOE/LOFT;
- 2.4 Procedures for conducting LOE and LOQE.

(j) Crew Performance Measurement and Evaluation

1 The qualification and checking programmes should include at least the following elements:

- 1.1 A specified structure;
- 1.2 Elements to be tested/examined;
- 1.3 Targets and/or standards to be attained;
- 1.4 The specified technical and procedural knowledge and skills, and behavioural markers to be exhibited.

2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the

proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

3 The markers specified under the operator's ATQP should form one of the core elements in determining the required qualification standard. A typical set of markers are shown in the table below:

EVENT	MARKER
Awareness	1 Monitors and reports changes in automation status.
of Aeroplane Systems:	2 Applies closed loop principle in all relevant situations.
	3 Uses all channels for updates.
	4 Is aware of remaining technical resources

4 The topics / targets integrated into the curriculum have to be measurable and progression on any

training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

2.2 Establish operational and training objectives based upon an analysis of the operational environment;

2.3 Monitor the effectiveness of flight crew training and qualification.

3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety

personnel in analysing the data. The analysis should be made available to the ATQP postholder.

3.2 The data gathered should:

- a. Include all fleets that plan to operate under the ATQP;
- b. Include all crews trained and qualified under the ATQP;
- c. Be established during the implementation phase of ATQP; and
- d. Continue throughout the life of the ATQP.

4 Data Handling.

4.1 The operator should establish a process, which ensures the strict adherence to any data handling protocols, agreed with flight crew representative bodies, to ensure the confidentiality of individual flight crew members.

4.2 The data handling protocol should define the maximum period of time that detailed FDM or advanced FDM programme data, including exceedences, should be retained. Trend data may be retained permanently.

5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation - including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

- a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;

- b. Be valid to the application and the proposed operation (ATQP);
 - c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;
 - d. Be applicable over the entire lifetime of the programme;
 - e. Demonstrate Completeness and Credibility of the programme;
 - f. Be fully documented;
 - g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;
 - h. Ensure robustness to system change;
 - i. Address the impact of technological advance, obsolescence and change;
 - j. Address the impact of regulatory change.
- 4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment 628

comment by: *Europe Air Sports, VP*

Europe Air Sports is well aware about the needs for this consultation process for Air Operation, covering a huge spread of aviation operations from Commercial Air Transport with a Boeing 747 or an Airbus 380 to the one hour recreational flight in 1000 kg single engine piston aeroplane, in a sailplane or balloon.

This remark proves already that the concept of one rule to fit all has no chance to be successfully applied because the huge differences of operations.

Further, the size and the volume of this complex NPA in its total version create a more or less unmanageable workload on stakeholders and associations because reading, understanding, assessing the implications and commenting of 1000 pages exceed the normal capacities.

We therefore would like to see the rule-making process including the NPAs for Air Operations to be tailored to the complexity of the Air Operation which needs to be regulated. Clearly divided and proportionate rules in separate documents would make the consultation period and delivering the comments much easier for the users concerned and much more effective for the agency to assess, reply and incorporate the comments.

We therefore recommend to follow the the European Commission Communication on the Agenda of a Sustainable Future in General and Business Aviation which was endorsed by the European Parliament in February to develop rules which are proportionate to the complexity of the aircraft or operation concerned.

To complete the comment to this para, it is stated under point 5 that the text has been developed by the agency, based on the inputs of OPS.001 and MDM.032. Unfortunately, most of the inputs of MDM.032 cannot be found in this NPA.

comment 634

comment by: *Antonio Sousa*

- Security measures prescribed by the European Commission (EC), DG-TREN in response to the violent acts occurred on 9/11, have reached a satisfactory, clear and effective level in order to prevent acts of unlawful interference against civil aviation. Furthermore, during this period, lessons have been (well) learned from all involved agencies (States, Airports, Air Carriers, Service Providers, etc.), which led to the EU Regulation n. 300/2008 and its respective implementation legislation, to be published shortly. Considering that Security it's everyone's responsibility, undoubtedly that one of the main attributes of the EC Reg. n.º 300/2008 relates to the broadly involvement and responsibility of all the parties involved on the operational matters. This NPA focuses exclusively the air carrier responsibility on security measures and prevention. Security is reached when all parties are involved and hold responsible for the appropriate security measures.
- Safety measures, under the responsibility of EASA are being confused with the security measures in place; not only those prescribed by DG-TREN, but also contradicts some of the ICAO ISARP's and ECAC Doc. 30. This will lead to uncertainty and confusion to air carriers.

comment 657

comment by: Rui Sarmento

Security measures prescribed by the European Commission (EC), DG-TREN in response to the violent acts occurred on 9/11, have reached a satisfactory, clear and effective level in order to prevent acts of unlawful interference against civil aviation. During this period, lessons have been learned from all involved agencies, which led to the EU Regulation n.º 300/2008 and its respective implementation legislation, to be published shortly. Considering that Security it's everyone's responsibility, undoubtedly that one of the main attributes of the EC Reg. n.º 300/2008 relates to the broadly involvement and responsibility of all the parties involved on the operational matters. This NPA focuses exclusively the air carrier responsibility on security measures and prevention. Security is reached when all parties are involved and hold responsible for the appropriate security measures.

Safety measures, under the responsibility of EASA are being confused with the security measures in place, not only those prescribed by DG-TREN but also contradicts some of the ICAO ISARP's and ECAC Doc 30. This will lead to uncertainty and confusion to air carriers.

comment 661

comment by: SATA Group

- Aviation **security** measures established by the EC DG TREN have an effective level in the prevention of unlawful acts against civil aviation, under the EC regulations 300/2008 and 820/2008. They should not be confused with the safety measures under the responsibility of EASA.
- Also, these EASA safety measures can contradict not only the EU security regulations but also the ECAC doc 30 and the ICAO ISARPS.

comment 141 comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

IV, page 5 to 10

Comment:

Not clear if instruction flights also fall under commercial operations other than commercial air transport.

Proposal:

Please make clear that instruction is no commercial operation.

comment 550 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Relevant text: 14. The first subgroup (commercial air transport) was tasked with the incorporation of requirements of EUOPS in conjunction with subsequent amendments of JAR-OPS1 for commercial air transport by aeroplane and development of related AMC/GM based on JAROPS 1 (Section 2) and appropriate Temporary Guidance Leaflets (TGL) of the JAA Administrative Guidance Material Section 4, Part 3 + The main challenge of this group was to adapt the JARs to the EASA legal framework. According to the number of comments that we are implementing here, this NPA does not reflect precisely Jar-OPS and EU-OPS. There have been additions and changes that are not satisfying operators.

A. IV. Content of the draft Opinions and Decisions - Background

p. 5-10

comment 5 comment by: *Virgin Atlantic Airways Ltd*

Comment. ".. fitness assessment shall be based on Aero-Medical best practice.."

There are no ICAO medical standards for cabin crew and most regulatory authorities, including the VAA, FAA and previously the UK CAA have no requirements.

Justification. There are no examples of which I am aware where medical incapacitation of cabin crew has resulted in a flight safety risk. There is no evidence that blanket medical standards have any impact on safety. Analysis of 3 serious medical incidents in one European airline affecting cabin crew, occurring over a 2 year period, indicated that none of the conditions could have been identified by prior medical screening.

Proposal: As there is no aero-medical best practice on which to base medical requirements for cabin crew, this IR should be removed.

However, recognising that this would be a move away from the current position, at the very most, the current EU-Ops requirement for periodic health assessment (which would include questionnaire assessment with appropriate follow up of specific cases) should be retained.

comment

45

comment by: *EHO*Paragraph 9 third bullet

Experience has shown that the best way to establish conformance (with the regulations and methods of compliance (AMC)) is to establish a 'compliance check list'; this check list can also establish the set of AMCs used to show compliance.

It is not clear how operators of GA complex aircraft can be required to apply all, or any, AMC(s) as there does not appear to be a legal device to ensure compliance. (For CAT, compliance is achieved through the approval of the operations manual and the issuance of the Air Operator's Certificate (AOC); non-compliance can be countered by the ability to modify or remove the AOC.)

comment

82

comment by: *Virgin Atlantic Airways Ltd*

Comment. "... fitness assessment shall be based on Aero-Medical best practice.."

There are no ICAO medical standards for cabin crew and most regulatory authorities, including the VAA, FAA and previously the UK CAA have no requirements.

Justification. There is no rationale for adopting (with minor changes) the medical standards designed for Class 2 pilots, whose workloads, work patterns, job responsibilities, crew numbers and likely impact of sudden and/or subtle incapacitation are completely different. The "acceptable" incapacitation risk for Class 1 pilots has been calculated on the basis of scientific study at 1%, which is based fundamentally large part on the estimation of the % of flight when incapacitation might result in an accident. No such calculation has been done for cabin crew and therefore defining an acceptable risk level is not possible.

Proposal. If medical standards are to be introduced, they should be based on a clear scientific analysis, taking into account the role and the risks and the impact (if any) on flight safety. The work done which resulted in the development of the 1% rule for pilots needs to be repeated for cabin crew.

comment

92

comment by: *AECA helicopters.*

We think that the content of the Jar OPS 3.010, related with exemptions, should be take in account for the purpose of the regulation.

This draft of regulation not including in any part a reference to the possibility of "exemptions". Is clear that for this regulation is imposible to include all circumstamnces related with the aircraft operations. In actual circumstances a regulation´s lack or mistake must be solved by a regulation change and this means o minimun of one year of work.

comment

94

comment by: *David COURT*

14 - I do not understand note 14 and it is written in my language.

If the customer has no control over the operator how is that commercial?

Surely it is when the customer does have control over the operator that it is commercial.

comment 97 comment by: *Heli Gotthard*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 106 comment by: *Stefan Huber*

Site dimensions : This is not applicable to mountain operations owing to site diversity.

comment 119 comment by: *Air Zermatt*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 129 comment by: *Air-Glaciers (pf)*

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comment 163 comment by: *Heli Gotthard AG Erstfeld*

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comment 165

comment by: *Heli Gotthard AG Erstfeld*

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comment 177

comment by: *SHA (AS)*

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comment 187

comment by: *Berner Oberländer Helikopter AG BOHAG*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 196

comment by: *Jill Pelan*

Point 21. "With regard to Flight time limitations , the agency will issue applicable flight time limitation Certification specification (CS) to ensure compliance with the related IR taking into account the latest scientific and technical evidence....."

Proposed text - "With regard to FTL, the agency will issue **Implementing rules** , any individual flight time limitation schemes which deviate from those of the Agency will be referred to the COMmission. Latest scientific & technical evidence which will be published, shall be used to approve any deviate schemes"

Justification

CS material should not exist for FTL limitations. It is to be feared that the "flexibility" of CS material leads to all types of schemes.

As the EASA has not taken into consideration the findings of the MOEBUS study what "latest scientific & technical evidence" WILL be taken into account? This has to be made clear in order NOT to be PARTIAL and be made public to all concerned.

A plethora of individual flight schemes risk appearing and, given the EASA resources, I doubt that this system of assessment will work.

It would be preferable for all CS material to be included in the IR.

comment 199

comment by: Jill Pelan

IV CONTENT OF THE DRAFT OPINIONS AND DECISIONS

Background

21. (Page 9) -- " Crew members involved in commercial operations shall hold a cabin crew attestation Member state may task an operator or training organisation to issue cabin crew attestations if they have specifically been approved therefore"

PROPOSED TEXT : " Crew members involved in commercial operations shall hold a cabin crew attestation (Article 8 (4) of the Basic regulation) THIS attestation shall be issued solely by national authorities after successful completion of the training programme & exam and medical examinations. The implementing rules shall specify the conditions under which such an attestation shall be issued , maintained amended, limited, suspended or revoked thus ensuringetc..."

JUSTIFICATION : The operator or training organisation may be tempted to be subjective in the issuing of attestations.

Only the issuance by the national authorities can guarantee impartiality and fairness in issuing the attestation based on the results of training and medical examinations. THIS HAS BEEN DEMANDED BY ETF FOR MANY YEARS.

comment 200

comment by: Heliswiss AG, Belp

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial

operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 208

comment by: *Dirk Hatebur*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 217

comment by: *Heliswiss NV*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 218

comment by: *Heliswiss*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 243

comment by: *heliswiss ag, belp*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that

activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 256

comment by: *Jan Brühlmann*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 271

comment by: *Catherine Nussbaumer*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 285

comment by: *Walter Mayer, Heliswiss*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 297

comment by: *AOPA-Sweden*

Explanatory note 21:

The term operator does seem very ambiguous, already in the Article 3 (h) of the Basic Regulation.

Who is the responsible operator on the following two cases? There are more.

1. An airplane is owned by a third country trust, with two equal beneficiaries and is flown by pilots close connected to either one of the beneficiaries, a beneficiary does not have any legally responsibility within a trust.
2. An airplane is owned by two or three individuals and is also flown by mutual friends to them. A responsibility can not be shared by several individuals.

comment 305

comment by: *Virgin Atlantic Airways*

Comment. ".. fitness assessment shall be based on Aero-Medical best practice.."

There are no ICAO medical standards for cabin crew and most regulatory authorities, including the VAA, FAA and previously the UK CAA have no requirements.

Justification. There are no examples of which I am aware where medical incapacitation of cabin crew has resulted in a flight safety risk. There is no evidence that blanket medical standards have any impact on safety. Analysis of 3 serious medical incidents in one European airline affecting cabin crew, occurring over a 2 year period, indicated that none of the conditions could have been identified by prior medical screening.

Proposal: As there is no aero-medical best practice on which to base medical requirements for cabin crew, this IR should be removed.

However, recognising that this would be a move away from the current position, at the very most, the current EU-Ops requirement for periodic health assessment (which would include questionnaire assessment with appropriate follow up of specific cases) should be retained.

comment 306

comment by: *Virgin Atlantic Airways*

Comment. ".. fitness assessment shall be based on Aero-Medical best practice.."

There are no ICAO medical standards for cabin crew and most regulatory authorities, including the VAA, FAA and previously the UK CAA have no requirements.

Justification. There is no rationale for adopting (with minor changes) the medical standards designed for Class 2 pilots, whose workloads, work patterns, job responsibilities, crew numbers and likely impact of sudden and/or subtle incapacitation are completely different. The "acceptable" incapacitation risk for Class 1 pilots has been calculated on the basis of scientific study at 1%, which is based fundamentally large part on the estimation of the % of flight when incapacitation might result in an accident. No such calculation has been done for cabin crew and therefore defining an acceptable risk level is not possible.

Proposal. If medical standards are to be introduced, they should be based on a clear scientific analysis, taking into account the role and the risks and the impact (if any) on flight safety. The work done which resulted in the development of the 1% rule for pilots needs to be repeated for cabin crew.

comment 316 comment by: *Philipp Peterhans*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 327 comment by: *UK CAA*

Paragraph No: 21, fourth indent

Comment:

Paragraph 21 sets out the main aspects of the Basic Regulation, claiming that it incorporates amendments made by the European Parliament and Council. However, the UK CAA considers that the fourth indent does not correctly reflect the amendment whereby Article 8.5(d) states that Implementing Rules **shall** (not "may") specify the conditions under which a declaration shall be replaced by a demonstration and the issuance of a certificate.

The CAA's main concerns, however, about the Agency's failure to develop requirements according to this provision relate to the significant safety risks created by the resulting lack of appropriate regulatory oversight of certain managed operations.

Justification:

The UK CAA **disagrees strongly** that a declaration would provide a sufficient level of **safety** oversight for all operators of complex motor-powered aircraft used in non-commercial operations, specifically managed aircraft operations where an aircraft is operated by a specialised management company on behalf of a single, or several, owners. These concerns are elaborated in the UK CAA comment on page 45, paragraph 14.

comment 353 comment by: *Pascal DREER*

Art. 16: When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 364 comment by: *Axel Ockelmann + Manfred Poggensee Commercial Balloon*

Operators Germany

point 21: The European Com.....define various types.....
concerning balloons the intention was not realized.

comment

369

comment by: *barry birch*

With reference to balloons, we need a clear and unambiguous definition by EASA of commercial operation to avoid the unnecessary application of large airline operated aircraft rules, being applied to balloons.

Balloon rides businesses although receiving money for their work, are operating effectively a leisure activity that involves short flights in a very localised area with a minimum number of staff, working with a very basic kind of flying machine.

We do not have cabin crew, balloon pilots do not do long haul flights so should be exempt from fatigue rules. This needs to be defined by EASA because some member states apply fixed wing rules to balloons (Italy for example) because their NAA's do not have the law applying to balloons.

Now is the time to prevent anomalies across the whole of Europe and allow all pilots of balloons to work in all member states. Barry Birch Balloon Pilot/Instructor, Italy.

comment

387

comment by: *HDM Luftrettung gmbH*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment

402

comment by: *Christophe Baumann*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 414

comment by: *Benedikt SCHLEGEL*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 486

comment by: *Ph. Walker*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 489

comment by: *FSC - CCOO*

~~With regard to flight time limitation, the Agency shall issue applicable flight time limitation Certification Specification (CS) to ensure compliance with the related Implementing Rules taking into account the latest scientific and technical evidence.~~

~~Member States may approve individual flight time limitation schemes, which deviate from those issued by the Agency, but in this case they shall inform the Agency, the Commission and other Member States. The Agency shall within one month assess the individual scheme. If a Member State disagrees with the Agency's conclusions, it shall refer the issue to the Commission. The content of individual schemes, which are acceptable to the Agency or on which the Commission has taken a positive decision, shall be published (Article 22(2) of the Basic Regulation).~~

Replace:

With regard to flight time limitation, the Agency shall issue applicable flight time limitation Certification Specification (CS) to ensure compliance with essential requirements and the related Implementing Rules. The Implementing Rules shall include all substantive provisions of Subpart Q of Annex III to Regulation (EEC) No 3922/91 taking into account the latest scientific and technical evidence including the recommendations made by the MOEBUS report of the study on 'Scientific and Medical evaluation of Flight Time Limitations'.

Member States may approve individual flight time limitation schemes, which deviate from those issued by the Agency, but in this case they shall inform the Agency, the Commission and other Member States that they intend to grant approval for such an individual scheme. The Agency shall within one month

assess the individual scheme. If a Member State disagrees with the Agency's conclusions, it shall refer the issue to the Commission. The content of individual schemes, which are acceptable to the Agency or on which the Commission has taken a positive decision, shall be published (Article 22(2) of the Basic Regulation).

Reason:

Regulation 216/2008 Art. 22 2. (a) establishes that Implementing Rules shall include substantive provisions of Subpart Q EU OPS and take into account latest scientific and technical evidence; the recommendations reflected in the MOEBUS study, that was commissioned for this purpose, should be taken into account.

The procedure described in Art. 22 2. (b) should be reproduced as it appears in the Regulation; in the original an obligation of notification of the intent is mandatory. The text as proposed could be interpreted as only asking for information after approval.

comment

493

comment by: *FSC - CCOO*

Cabin crew members involved in commercial operations shall hold a cabin crew attestation (Article 8(4) of the Basic Regulation). The Implementing Rules shall specify the conditions under which such an attestation shall be issued, maintained, amended, limited, suspended or revoked, thus ensuring appropriate compliance with the applicable requirements (Article 8(5)(e) of the Basic Regulation). Member State may task an operator or training organisation to issue cabin crew attestations if they have specifically been approved therefore.

Comment:

To guarantee objectivity and level playing field the attestation should only be issued by the Member States. Furthermore an appeal procedure should be established.

comment

511

comment by: *Hans MESSERLI*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment

522

comment by: *Airbus*

Attachments [#1](#) [#2](#)

Paragraph 21, in the explanatory note pages 8-10, explains the different categories of operations defined in the proposed implementing rules, taking into account the amended Basic Regulation.

Flight operations conducted by aircraft manufacturers typically serve many different purposes. The categories into which those operations will fall need to be clear, and a consistency check needs to be done with other future regulations dealing with manufacturers' flight operations (such as NPA 2008-20 on flight testing, relevant parts of NPA 2008-17 on flight crew licensing and NPA 2008-22 on authority requirements and organisation requirements). It is requested that the Agency work with the aircraft manufacturers in order to define an adequate long-term solution. Airbus has drafted the attached discussion paper, which could be used as a starting point for this work. We also attach the relevant French regulation, under which our flight operations have been conducted so far.

comment

536

comment by: *Trans Hélicoptères (pf)*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment

552

comment by: *CFDT France*

CFDT France & ETF are not in agreement that an operator or training organisation may ISSUE Cabin Crew Attestations. This should be the sole responsibility of the Authority

ALL CABIN CREW MEMBERS SHOULD HAVE AN ATTESTATION - NOT ONLY THOSE "INVOLVED IN COMMERCIAL OPERATIONS".

comment

553

comment by: *CFDT France*

CFDT FRANCE asks for all FTL specifications to be IR and not CS material .

"Latest scientific and technical evidence" can be interpreted subjectively - what is allowed as "evidence"?

comment

578

comment by: *General Aviation Manufacturers Association / Hennig*

15. GAMA appreciates the agency taking steps to establish pan-European implementing regulations for general aviation, including the new definition introduced within the Community – the operations defined by the Basic

Regulations as "non-commercial operations with motor-powered aircraft". It should be recognized that general aviation is commonly defined as all aviation other than scheduled commercial operations and military aircraft. GAMA's members recognize the significant task of establishing pan-European regulations for general aviation since – unlike the commercial air transport regulations – a pan-European set of harmonized requirements did not exist under the JAA system. While GAMA's members appreciate the long-term benefits of a pan-European regulatory system and we applaud the agency's efforts over the past several years, we recommend the agency take great care and work with the European Commission and the industry to establish appropriate transition measures that would accommodate the changes to which the general aviation community will be subject during implementation. This is especially important for the non-commercial operations with complex motor-powered aircraft for which we expect the operator specific changes to be significant.

GAMA recommends that EASA and the European Commission consider the establishment of longer transition periods (by several years) for the general aviation industry as its transition will be more involved and include a process of harmonizing existing national regulatory requirements and operator practices with those of the pan-European Implementing Regulations.

comment

583

comment by: *Heliswiss International*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment

602

comment by: *PPL/IR Europe*

Paragraph 13 makes it clear that no subgroup considered the needs and circumstances of non-commercial operations of non-complex aircraft (NCNC ops). While paragraph 18 mentions the input of MDM.032, that group had a considerably wider scope in its TOR, including licensing and airworthiness considerations, which may have taken priority over the need to consider operations.

Nevertheless, MDM.032 did have an input, as paragraph 71 details, and recommended light regulation. If the absence of appropriate weight of consideration to NCNC ops had resulted in a light set of regulation that could subsequently be extended in the light of operational experience of safety, it would be acceptable. And while paragraph 73 states the intention that "requirements and compliance demonstration ... be proportionate to the complexity of the operations and the risk involved", what seems to be proposed in the IRs/AMC is the adoption of a number of sections of content of EU-OPS/JAR-OPS, previously applicable only to commercial ops, without modification, particularly with regard to IFR operations.

The result of this would be not only unnecessary and overburdensome restriction on private aviation in Europe with consequent economic impact on businesses such as manufacturers and flying training, but also a net loss of safety for the sector: for example, imposing restrictions on IFR operations that are not commensurate with the risks associated with NCNC operations in general, forces aircraft that would have benefited from the increased safety benefit of IFR (albeit with higher risk accepted than for commercial operations) into VFR operations instead.

Moreover, application of EU-OPS/JAR-OPS to NCNC ops is, in the absence of a safety case, clearly compliant with neither the spirit nor the explicit requirements of Art 8(6) of the basic regulation, which requires regulation to be proportionate to the complexity of operations and the risk involved, based on a risk assessment and proportional to the scale and scope of the operation. The test of compliance with Art 8(6) is surely that regulation unsupported by a risk assessment appropriate to NCNC operations must be rejected.

In considering, as Art 8(6) requires, different types of operations and in allowing for related requirements and compliance demonstrations proportionate to the complexity of operations and the risk involved, the following principles differentiate commercial ops from NCNC ops:

1) The requirement for quantitative regulation of commercial ops stems from the need to create a level playing field among competitors. If the crew of airline A are "braver" than the crew of airline B in attempting an approach, airline A derives a competitive advantage at the expense of safety, which is clearly unacceptable. Hence for commercial ops, quantitative minima are necessary. Free from commercial pressures, NCNC operators are able to exercise judgement appropriate to the risk generally accepted in their application of qualitative requirements.

2) There is also an economy-of-scale difference between commercial and NCNC ops, usually apparent in the certification burden. For example, a commercial operator opening up a new route to be flown with 700 sectors per year, the fixed costs of codification, and sometimes approval, of procedures for that particular route may well be justified by its safety benefit. NCNC operators frequently fly a route once. The cost and time associated with the same level of dedicated risk management may be disproportionate. In general, any requirements for 'approval' and 'certification', for example of instrument approach procedures, demand separate risk assessment for commercial and NCNC ops.

3) NCNC operators have to cope with a greater range of missions and circumstances than commercial operators. Risk management issues are frequently complex and unforeseeable, hence there is a requirement for more flexibility in the regulatory structure, and the need for application of judgement when the circumstances are known, which is often in-flight.

Thus the existence of, and, in many cases, the strength of safety case for, requirements that have been previously incorporated into EU-OPS/JAR-OPS does not justify their incorporation into OPS GEN and OPS GEN AMC. I identify the need for change in subsequent comments on subsequent paragraphs in OPS GEN and OPS GEN AMC, and refer back to this commentary.

comment

608

comment by: *Eliticino SA*

Art.16 : When this difficult subject was considered previously, it was decided

that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 618

comment by: *Christian Hölzle*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 629

comment by: *Europe Air Sports, VP*

We support **point 9**, third bullet, to draft rules tailored to the complexity of the operations and aircraft. According to the Basic Regulation, it is considered that the requirements are fulfilled when for operations with complex powered aircraft the operators declare compliance with the applicable requirements. No certificate or declaration for operations with non-complex aircraft are required. (recital 7 of the Basic Regulation 216/2008)

To repeat one comment, the initial TORs (**point 11 and 18**) defined clearly the task and the priorities for this rule-making task. The fourth bullet states that the rules for operations for non-complex motor-powered aircraft should use the inputs from the rule-making group MDM.032. The MDM.032 task force agreed during a meeting at the aero 2007 exhibition in Friedrichshafen that the Essential Requirements in the Annex of the Basic regulation would be detailed enough to fulfill the needs of and to comply with the Basic Regulation, if a few items would be added like fuel reserve.

For reasons unknown to the group we noted in the NPA a complete integration of this type of operations into the structure and content with all the consequences of applying standardized requirements which do not increase the level of safety.

comment 637

comment by: *Swiss Helicopter Group*

Art.16: When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial

operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 674

comment by: *new European Helicopter Association*

Art.16 : When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment 687

comment by: *Asociación Española de Pilotos de Aerostación (AEPA)*

The "Asociación Española de Pilotos de Aerostación (AEPA) is the Spanish Balloon Pilots Association. We represent all the professional pilots in our country, bringing together all the companies licensed by our aviation authorities, the State Agency for Aviation Safety (*Agencia Estatal de Seguridad Aérea* - AESA). We have the recognition of our Aviation Authorities (AESA), with whom we come to work several times to find the appropriate place of our industry and professional activity in the Spanish aeronautical standards.

Said this, in behalf of A.E.P.A., and after our revision of NPA 2009 - 02, we realise that several parts refer balloons under CAT parameters and we do not agree with this perspective.

We understand this is not the real position of balloon companies, suggesting their approach to Commercial Activities "COM"

In Spain, the commercial ballooning follows the standards for "Aerial Works", not CAT. Our permissions are equal to those given to Aerial Works Companies.

According the definitions given in EC 1008/2008:

'**air service**' means a flight or a series of flights carrying passengers, cargo and/or mail for remuneration and/or hire

'**flight**' means a departure from a specified airport towards a specified destination airport;

'**airport**' means any area in a Member State especially adapted for air services;

'**local flight**' means a flight not involving carriage of passengers, mail and/or cargo between different airports or other authorised landing points;

'**air carrier**' means an undertaking with a valid **operating licence** or equivalent;

'**operating licence**' means an authorisation granted by the competent

licensing authority to an undertaking, permitting it to provide **air services** as stated in the operating licence;

So we can understand that **balloons are not performing air services of passengers transport**, cargo or mail, according with the fact that we do not use airports to take off or departure and we do not fly to others airports to make our landings or arrivals. Neither we follow defined aerial paths or air ways. Even according with that definition of "flight" we can say we are not making "flights" but we fly.

Obviously it is assumed balloon flights are commercial activity but not CAT. Our services are for sightseeing purposes never for transport ones, moving people from A to B even from A to A.

This last aspect makes this definition of "LOCAL FLIGHTS" fits to our kind of flights. Including the fact we are not involved in carriage of passengers.

In the other side, the future of the European flight licences, specifically excludes the BALLOON COMERCIAL PILOT title/licence. Also don not provides COMMERCIAL AIR TRANSPORT for Balloons.

Also the most of the criteria and maintenance procedures relates to CAT aircrafts are not applicable to Balloons.

To consider "Touristics or Sightseeing Flights" instead of "Commercial Transport flights" would be much more reasonable. Otherwise we will have aircrafts not complaining the maintenance rates and pilots unqualified to offer CAT services.

Of course that we are "aerial companies", but not like every other "Air Line" who flies with hundred of thousands people more than a balloons company.

A. IV. Content of the draft Opinions and Decisions - Structure

p. 10-17

comment

33

comment by: EHO

Paragraph 23 - 53

The structure of ICAO Annex 6 Part II has recently been amended to include an additional 'section 3' for large aeroplanes; in doing this ICAO divided the SARPs between basic GA and the larger aircraft. This provided an effective way of partitioning the SARPs between the two groups of aircraft/activity resulting in a separated text that was less complex to apply.

The EASA model proposes text which combines the two elements of Annex 6 Part II which is then inherited by the higher parts.

If the higher parts consisted only of complex aircraft there would be no issue but, because there are non-complex aircraft operating under CAT and AW, the principle of inheritance has made the text more complex than is necessary.

A prime example is the requirement for instruments where the combination of complex and non-complex GA and non-complex and complex CAT (aeroplanes and helicopters) makes for a multi-threaded text which is extremely difficult to apply. It would have been much simpler if the structure of JAR-OPS 0 and 2 had been followed (as in ICAO Annex 6 Part II). That way text inherited from Subpart A (GEN) would have been non-complex (or general in nature) and could have been more precisely modified in the higher parts.

There is a further complication as it is not clear whether the rules of Subpart A have been constructed so that they can stand alone - i.e. can be applied without the use of specific and Acceptable Methods of Compliance. If it established that there is no legal instrument for requiring a method of compliance to be applied by GA (as stated in the explanatory text, they are non-binding), because there is no sanction - such as the withdrawal of a certificate, it is not clear how the rule would be applied or what the outcome for safety might be (all weather operations is a good example).

The test is whether:

(a) if objective; they are sufficiently well constructed that they can stand alone; or

(b) if prescriptive; they are of sufficient detail that not only do they suffice for the application to GA but provide the basis for inheritance.

Certainly the simplicity of a model which has only basic GA (for non-complex aircraft) to regulate in Subpart GEN, provides a better platform from which the higher Operational Subparts can be constructed.

Because CAT and AW are both also undertaken with non-complex aircraft, a more basic GEN would permit construction of any higher regulation to be undertaken in a much more logical way - without the necessity for the 'notwithstanding' and 'except that' constructs which are now required. Whilst it is accepted that all aircraft will have to comply with a rule for basic GA for non-complex aircraft, attempting to construct requirements in CAT for non-complex aircraft, and requirements for AW with all aircraft, from a GEN text that is addressed at complex (where these aircraft are performing mostly Corporate Transport) as well as non-complex aircraft, is much more difficult.

It has long been accepted that the regulation of AW - i.e. the working of aircraft on a specific tasks, is of a different order to that where passengers are carried. Most understand that the prime objective for the regulation of AW is the protection of the environment and third parties; the protection of the crew is important but does not approach that required for fare paying passengers - the crew know and understand the risks involved.

Most AW operations are subject to individual risk assessment which will produce a mitigated work regime; attempting to apply the passenger related requirements that are currently in Annex 6 Part II Section 3 - i.e. for complex aircraft, may not be appropriate. A revision of the model to have only basic GA rules in GEN, would assist in the production of a proportionate regulation for AW when inheritance is taken into consideration.

It is suggested that the regulation be re-partitioned so that GEN addresses basic GA with non-complex aircraft; Complex Aircraft, CAT and AW should be addressed in additional requirements that sit, in parallel, above GEN and inheriting from its requirements.

comment

46

comment by: EHO

Paragraph 15

As stated in paragraph 15 "The task of the second subgroup (*noncommercial operations with complex motorpowered aircraft*) was to develop requirements and related AMC/GM for those kind of operations..."

It is not clear how 'applicable AMCs' can be applied to other than Commercial

Operators without a form of approval. No sanction can be applied if there is a failure to apply a Method of Compliance as there is nothing that can be withdrawn. This is not to suggest that non-commercial operations should be approved.

comment

47

comment by: EHO

Paragraph 16

In paragraph 16 it is stated that the working group was asked to "address non-commercial aerial work".

Was that task completed and where are the resulting regulations?

When this difficult subject was considered previously, it was decided that any regulation for Aerial Work (AW) had to include non-commercial operations. Hence the scope of JAR-OPS 4 did not exclude that activity. AW now appears to have been included in the scope of 'Commercial operations other than Commercial Air Transport' thus excluding non-commercial AW. There are no requirements for non-commercial AW other than those contained in Subpart GEN; whilst this category of AW might not be large, it probably should be regulated and also be permitted the derogations from some requirements contained in Subpart GEN.

comment

48

comment by: EHO

Paragraph 41

Whilst it is accepted that documents required for organisational use should be contained in Part-OR, it is not clear why documents that relate to operational procedures are also contained in Part-OR.

When analogous regulations are considered, most of them have a Part that deals with organisational matters (in FARs this is Part 119; in JAR-OPS Subpart C); EASA, has decided that this separate part - because of the recent amendment of Annex 6 Part II - needs to address all of those functional areas where the presence of an organisation can be expected/assumed. That is seen as a good decision.

However, this policy has been abused because Part OR has also been seen as a receptacle for common requirements that are addressed at other than GA with non-complex aircraft. Just because an operational IR is addressed at complex aircraft or commercial operations, does not mean that the requirement should (for convenience) be placed in Part OR. It is important that the purity of principle is maintained and those requirements that are purely operational (and not organisational) be taken out of Part OR and replaced to Part OPS.

One obvious example is **OR.OPS.025.MLR - Operational flight plan**; this is a document that is concerned only with the matter of operational flight planning and has little or nothing to do with organisational matters. Another example is **OR.OPS.030.MLR - Information retained on the ground**; another operational requirement which is concerned with the reconstruction of the projected flight should there be an incident or accident and nothing to do with organisations. (Both of these requirements could be applied (voluntarily) by GA and would improve flight safety.)

comment

49

comment by: EHO

Paragraphs 44 and 45

The addition of the toolkit OPS.SPA is welcomed because it is necessary to make available toolkit elements to GA as well as commercial operations. However, when these elements were contained in EU-OPS, it was clear that the basic operational standards were provided by compliance with the main body of EU-OPS. This was recognised in the provision of JAR-OPS 2 because use of any element of the toolkit put the applicant into the scope of JAR-OPS 2 (as opposed to JAR-OPS 0).

This might have been possible with EASA OPS if there had been Subpart CA (complex aircraft) that sat above Subpart GEN (as is provided in many other regulations); any applicant for a toolkit element could have been automatically brought within the scope of Subpart CA.

Has it been established that the basic level of operational control that is required in the use of any toolkit element is provided in the combination of (the non-complex elements of) Subpart GEN, and the requirements contained within the toolkit element?

comment

50

comment by: EHO

Paragraph 46

One of the challenges of the provision of a set of regulations is to provide a top-down approach; this is usually achieved by setting the top-level objectives in the Essential Requirements (ERs), lower-level objectives in the Implementing Rules (IRs) - using prescriptive requirements only when necessary. Unfortunately, whilst this is declared as the objective, it is clear that the Essential Requirements did not conform to that objective.

Because there appears to be a legal imperative that requirements once stated in ERs cannot be repeated elsewhere, the presence of prescriptive requirements in the ERs obstructs the flow of Objective Regulations. This is also the case for Subpart GEN where use of prescription results in the negating of the requirement with the use of exceptions and the 'notwithstanding' term in higher parts.

Examples of where the prescription in ERs has caused problems is show in OPS.GEN.015 in the text:

"not commencing a flight unless he/she has confirmed that all operational limitations referred to in paragraph 2.a.3. of Annex IV to Regulation (EC) No 216/2008 (Essential requirements for air operations), can be complied with;"

An example of where the principles objective and prescriptive requirements are confused is contained in OPS.GEN.400:

"(a) An aircraft shall be equipped with instruments which will enable the flight crew to:

- (1) control or, in the case of balloons, determine the flight path;
- (2) carry out any required procedural manoeuvre; and
- (3) observe the operating limitations in the expected operating conditions."

This objective requirement is later turned into prescriptive requirements in OPS.GEN.410 and 415 posing the question "why was this objective requirement not retained and methods of compliance used?"

The provision of a top-down regulation with effective objective requirements - prescriptive requirements when necessary and augmented with methods of compliance - is not a simple task. Perhaps it might be necessary to revisit the whole set of regulations (ERs down to AMCs) to implement a true top-down objective based set of requirements.

comment

51

comment by: EHO

Paragraph 47

In fact the resulting requirements are not simpler, they are more complex because every time there is an easement for non-complex operations, the full text of type of operation is used.

Within the two JAR appendices (3.005(f) and (g)) there are alleviations for three types of operation:

Non-complex operations (VFR day, 9 or less with restriction on some specific operations) with:

- a. non-complex aircraft (1);
- b. local non-complex operations with:
 - i. non-complex aircraft (2); or
 - ii. complex aircraft (3).

Because the individual elements have been taken out of the context of the appendices, the prohibitions are no longer present (these ensured that alleviations were only permitted to real non-complex operations) and the purity of the applicability has been lost. Whilst the insertion of the alleviation within rules is accepted (and endorsed), because there has been no attempt to provide a descriptive term for each of the three elements above, some alleviations have been missed and other alleviations have been distorted (either too conservative or too liberal).

Perhaps this situation could be retrieved by providing three definitions: (a) A to A operations; (b) non-complex operations; (c) local operations, from this would result: (1) non-complex operations with non-complex aircraft (2) local non-complex operations with non-complex aircraft; and (3) local non-complex operations with complex aircraft. (This could be further shortened if 'local operations' was defined as a restricted subdivision of 'non-complex operations' - i.e. local operations with non-complex aircraft and local operations with complex aircraft)

The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

The definition and substitution of these terms within the text would permit simplified rules and resolution of the errors of omission and commission seen in the draft.

comment 80 comment by: *Norwegian Air Sports Federation*

Proposal. Create proportional regulations which are applicable to air sports users.

comment 93 comment by: *David COURT*

46 - I hope this will amuse the review group as they work through all our comments.

"as already explained in paragraph 24 one of the principles of community legislation is not repeat requirements"

comment 98 comment by: *Heli Gotthard*

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

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comment 99 comment by: *Heli Gotthard*

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Most AW operations are subject to individual risk assessment which will produce a mitigated work regime; attempting to apply the passenger-related requirements that are currently in Annex 6 Part II Section 3 - i.e. for complex aircraft, may not be appropriate. A revision of the model to have only basic GA rules in GEN, would assist in the production of a proportionate regulation for AW when inheritance is taken into consideration. It is suggested that the regulation be re-partitioned so that GEN addresses basic GA with non-complex aircraft; Complex Aircraft, CAT and AW should be addressed in additional requirements that sit, in parallel, above GEN and inheriting from its

requirements.

comment 107 comment by: *Stefan Huber*

Site dimensions : This is not applicable to mountain operations owing to site diversity.

comment 108 comment by: *Stefan Huber*

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comment 120 comment by: *Air Zermatt*

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comment

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comment

130

comment by: *Air-Glaciers (pf)*

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comment 154

comment by: *Dassault Aviation*

Page 12: in OR column, Subpart MS has to be removed because Subpart MS has been integrated into Subpart GEN. In column AR, Subparts AR.OPS et AR.TCO must be added.

comment 162

comment by: *Airbus SAS*

Comment on NPA2009-02A, Section IV, Para.31

IRs Part 21, M, 66, 145 and 147 are well elaborated and practise proven regulations in the EU/EASA regulatory system. Although their content stems from the pre-EASA era and may have some incompatibilities with the new EU/EASA system, they fit into the EU regulatory environment. At least, there seem to be no legal gaps that would mandate rewriting them, or it should have been already done.

In particular,

- rewriting the current IRs would be for bureaucratic purposes on EU level only and would require EASA/NAA resources that should better be spent for safety

related issues. One could list a lot of rulemaking issues to establish and maintain harmonisation with FAA, to strive for somehow harmonised operational rules in the major aviation global regions, and on other aspects.

- rewritten IRs for certification and maintenance/continued airworthiness would require Industry to adapt their proven organisation approvals without any safety or administrative benefits, or to adapt their organisation to the new rules with questionable effects, and to pass a significant transition phase before coming back to simply work efficiently.

- for all this, the public and industry stakeholders would have to pay, for the sake of bureaucracy only.

==> Airbus strongly recommends EASA to reconsider the expressed intention to re-write Parts 21, M, 66, 145, 147 and to involve manufacturing industry and MROs into its discussion.

comment 164

comment by: *Heli Gotthard AG Erstfeld*

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

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requirements that sit, in parallel, above GEN and inheriting from its requirements.

comment 173

comment by: Airbus SAS

Comment on Explanatory Note Section IV, Para.44 and related others:

Throughout NPA 2009-02, EASA applies 2 systems of determining the requirement/AMC/GM numbering sequence:

Examples in NPA2009-02B:

OPS.GEN.125 and AMC OPS.GEN.125, but

OPS.SPA.001.RVSM and AMC OPS.SPA.001.RVSM...

The explanatory note does not explain why the switch in the sequence of letter and number codes is required.

For consistency and traceability throughout the new implementing rules, only one system should be used.

==> Airbus proposes to revise all NPA subparts to have a requirement identification listing all letter codes first, followed by requirement numbers, and aircraft code as appropriate.

comment 174

comment by: Airbus SAS

General comment on Explanatory Note Section IV, Para 37, aircraft category applicability identifiers and information in various requirements

EASA uses 2 systems to define requirement applicability for aircraft.

While aircraft identifier A(eroplanes), H(elicopters) or B(alloons) added to a requirement number clearly define applicabilities, subtitles in requirements without aircraft identifiers are confusing, in particular if the following sub-requirement texts refers to the related aircraft category and the subpara sequence is continued.

Examples: OPS.GEN.475, OPS.GEN.480

==> Airbus proposes to delete all subtitles in requirements when the following requirement text itself includes appropriate applicability information.

comment 178

comment by: SHA (AS)

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

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comment

184

comment by: *Ingmar Hedblom*

Background point 46 on page 16

This bottom-up procedure should have resulted in a set of general requirements always applicable and free from additional elements for commercial operation which should be in another document.

The corresponding U.S. regulation in FAR Part 91-approach vs Part 121 is a good example in this respect.

Reconsider MDM 032 group original proposal. See comment number 186

comment

188

comment by: *Berner Oberländer Helikopter AG BOHAG*

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comment

201

comment by: *Heliswiss AG, Belp*

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comment 209

comment by: *Dirk Hatebur*

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comment 219

comment by: *Heliswiss*

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comment by: *Heliswiss*

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comment 244

comment by: *heliswiss ag, belp*

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comment 245

comment by: *heliswiss ag, belp*

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comment by: *Catherine Nussbaumer*

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comment by: *Walter Mayer, Heliswiss*

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comment 298

comment by: *AOPA-Sweden*

Explanatory note 25:

AOPA-S considers the GERT as a catastrophic impulse, because of the following reasons, too much wording and not all requirements for the private pilot/aircraft owner in one single document, then waiting for translation into all official languages of the Community according to article 32 of BR. It is the impression of AOPA-S, these documents will not be read or if it will take several generations before all current GA pilots/owners will be updated, if ever! That will in the long term jeopardize flight safety.

A user friendly approach should be addressed in a way that requirements for everybody should be in one part and then add-on parts. The first one just VFR-rules for basic aircraft and then IFR rules for them and then special airspace rules, commercial rules and so on.

comment 299 comment by: AOPA-Sweden

Explanatory note 30:

AOPA-Sweden considers that it should be a requirement on the national authorities to publish a deviation document regarding the current rules and the new rules proposed here. Our association thinks very few pilot/aircraft owners will have the strength and time to read all the gasbaggeries coming out of the agency.

comment 300 comment by: AOPA-Sweden

Explanatory note 32:

Chapter 8 of Annex IV (BR) is a disaster. How can a small VLJ (i.e. a Piper PA-47) be placed in the same category as a major airline A-380. The result will be that a single pilot/owner will keep his/her PA-31 or buy a newer and safer aircraft and have it registered in a third country. Is that really the intention of the parliament? A PA-31 is much more multifaceted to fly than the modern "complex" PA-47 according to AOPA-Sweden's experience.

Article 8.3 in the BR (according to AOPA-Sweden's interpretation) gives the right to simplify the requirements in the implementing rules for non-commercial operation of complex motor-powered aircraft. AOPA-Sweden does not see any tendency to do so, so why is an A-380 owner equivalent to a PA-47 pilot/owner?

comment 301 comment by: AOPA-Sweden

Explanatory note 49:

Is this really necessary for a pilot/owner of a single VLJ??

comment 317 comment by: Philipp Peterhans

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

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comment

328

comment by: UK CAA

Paragraph No: 27/28

Comment:

The UK CAA understands that the Agency will be carrying out a review in September of the comments received on NPAs in order to determine the best way forward with regards to the structure and substance of the implementing rules related to operations and licensing. The CAA welcomes such a review and urges the Agency to pay careful attention to the potential risks and burdens of imposing substantial changes on industry at this time of severe economic difficulty.

Justification:

The UK CAA understands that the proposed structure and toolbox approach is designed to allow stakeholders to identify the Parts that apply to their specific activity and apply the relevant requirements. The CAA is generally supportive of this idea, but for this approach to work effectively great care is needed to ensure that changes, which may confuse stakeholders or impose unnecessary burdens, are not made to established regulatory procedures. Given that the structural changes are accompanied by a number of substantive additions and alterations to existing requirements, the overall level of change is substantial.

comment

329

comment by: UK CAA

Page No: 15

Paragraph No: 41

Comment:

Paragraph 41 states that manuals, logs and records, and security provisions are based on Chapter 8 of the Essential Requirements [i.e. Annex IV of 216/2008] **and required from organisations only**. The UK CAA sees nothing in Chapter 8 of the ERs to suggest that the requirements are limited to operators that are organisations and would welcome the Agency's explanation of why it has decided to require manuals etc only from organisations.

comment 354

comment by: *Pascal DREER*

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comment 371

comment by: *IAOPA Europe*

The structure of the regulation is extremely complex and is not well suited for

aviation use. Where the JAR regulation was developed and structured to make it directly useful for operators and pilots, it seems the current structure is primarily the result of legal considerations on how the aviation law can be fitted into the EU legal framework.

The result is a collection of documents which is more suitable for lawyers than for pilots. To find the answer on any particular item (for instance carriage of ELT) the pilot of a non-commercial complex aircraft must now look up nine different places in the regulation.

1. First he must consult the basic regulation
2. Then he must consult the relevant section of the general regulation applicable to all aircraft types
3. Then he must consult the relevant section of the general regulation for his particular aircraft category
4. Then he must consult the relevant section for complex aircraft of all aircraft types
5. Then he must consult the relevant section for complex aircraft for his particular aircraft category

6-9 After this he must consult the AMCs for the four previous lookups

On top of this he must himself track all amendments to any regulation where just the differences are published and not new consolidated documents.

This is a completely overwhelming task for a pilot who does not have the backing of a legal department .

What is needed is regulation targeted at the end-user of the regulation: The pilot of an aircraft of a particular category. Be it a balloon, aeroplane, glider etc.

The balloon pilot who used to have a set of regulations of maybe 5-10 pages written for balloon-operations must now read through around 1000 pages of regulations, where most of the references to balloons comes in the form the phrase "except for balloons". That makes it impossible to do text-searches since almost all matches will be "except for balloons".

The new online tool (the so-called rulemaking handbook) is a very poor substitute for a rule-manual compiled for the end user.

For instance using the tool to find applicable rules for air-operations on non-commercial balloon operations return more than 100 pdf documents including titles such as "Airborne Collision Avoidance System (ACAS)", "Securing of passenger cabins and galleys", "ground proximity detection", "noise abatement" etc.

These more than 100 references to items which are clearly irrelevant to the non-commercial operation of a balloon can never replace a well-compiled set of regulation written particularly for the balloon pilot, and the same goes for all other sectors of aviation.

The most likely outcome of the proposed structure will be that many pilots will simply give up trying to understand the new regulation which therefore completely misses its original goal of promoting safety.

comment 388

comment by: HDM Luftrettung gGmbH

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comment by: *Christophe Baumann*

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comment

424

comment by: DGAC

Paragraph 24 states that *"one of the major legal reasons why the JAR structure [could not] be kept is related to the multiplication of similar or even identical requirements included in various JARs by virtue of the way they are structured"* and that it was therefore necessary to change the structure of JAR-OPS because of duplication of text in JAR-OPS 1 (EU-OPS) and JAR-OPS 3 which would lead to legal uncertainty.

However, duplication of text could have been easily avoided while keeping the structure of JAR-OPS, by introducing the following :

- **Part-OPS 0** (equivalent to part GEN of IR-OPS), applicable to all aircraft, all operations
- **Part-OPS 1** (equivalent to part CAT of IR-OPS), paragraphs specific to aeroplanes used in commercial air transport
- **Part-OPS 2** (equivalent to part GEN of IR-OPS, paragraphs specific to complex aircraft used in corporate operations)
- **Part-OPS 3** (equivalent to part CAT of IR-OPS, paragraphs specific to helicopters used in commercial air transport)
- **Part-OPS 4** (equivalent to part COM of IR-OPS, paragraphs applicable to commercial operations other than CAT)
- **other Part-OPS** (Part-OPS 5, Part-OPS 6, etc.), as necessary for other aircraft types used in CAT

For instance, duplication of JAR-OPS 0.85 Crew responsibilities could be avoided by cross references such as:

"JAR-OPS 1/2/3/4.085: see JAR-OPS 0.085"

comment

448

comment by: Fédération Française Aéronautique

Structure :

The French FFA is fully aware of the legal aspect presented in § 23 and 24, but point out the necessity to propose requirements which can be accepted and implemented. FFA point out also the very important European principle of proportionality which must be respected within the European rulemaking

process.

FFA insists on the fact that sports and recreational aviation activities need reasonable and accepted rules which can be practically implemented. If it is not the case, flight safety and future development of this important part of aviation will be largely affected, which is obviously unacceptable.

comment

468

comment by: *Civil Aviation Authority of Norway*

Comment:

The first reaction to the proposed Part OPS has been one of surprise and confusion since the structure of the regulation-text deviates so blatantly from the JAR-Structure. The simple fact that a pilot/crew-member or any other person in the industry will now have to look through all sub-parts and -sections to be sure he has found the complete regulation of any question – based on type of operation – is not a simplification of the rules. On the contrary it is felt that this is more complicated than before, and not an improvement.

The Civil Aviation Authority of Norway acknowledges the need for the regulation to be in accordance with the principles of legislation within Community Institutions. We therefore accept that the regulations will have to have another structure than the JAR's.

We do however urge the Agency to consider accepting repetition to a larger degree. This is because we have a fear that the new structure for many years to come can become the basis for misunderstandings when being used by operators used to the JAR-structure. Misunderstandings can be the cause of more or less serious findings when authorities inspecting an operators manuals and organisation. This could in turn undermine the good relationship between competent authority and operator if not handled properly. Worst case such misunderstandings can be the cause of incidents or accidents due to operators not understanding the structure and therefore missing crucial rules.

It is therefore of the utmost importance that EASA not only have an eye for the wording of the rules, but also consider how to insure that misunderstandings based on structure not be the cause of incidents or accidents. We therefore expect EASA to develop a plan on how to ensure that all stakeholders are adequately familiar with the new Part OPS before implementation.

We have of course noted the "e-tool" the agency is developing. While this is a step in the right direction, it is our opinion that a more personalised approach is also needed. EASA needs to consider which groups of stakeholders have to be involved in trainingcourses, examinations etc.

comment

496

comment by: *Ph. Walker*

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comment by: *Hans MESSERLI*

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comment by: *Trans Héli (pf)*

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comment 572

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

EPFU would like to emphasize the basic European principle of **proportionality of the rule** to the problem and the subject concerned. In our case, rules applicable to non commercial operation on non complex aeroplanes must be adapted to the activity and, doing so, avoid any proposal without good justifications as no confirmed improvement in flight safety, excessive bureaucratic burden, unaffordable costs, technical obstacle, etc...

EPFU is of the opinion that a better application of the proportionality principle can be achieved in this NPA.

comment 584

comment by: *Heliswiss International*

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

The definition and substitution of these terms within the text would permit simplified rules and resolution of the errors of omission and commission seen in the draft.

comment 585

comment by: *Heliswiss International*

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Most AW operations are subject to individual risk assessment which will produce a mitigated work regime; attempting to apply the passenger-related requirements that are currently in Annex 6 Part II Section 3 - i.e. for complex aircraft, may not be appropriate. A revision of the model to have only basic GA rules in GEN, would assist in the production of a proportionate regulation for AW when inheritance is taken into consideration. It is suggested that the regulation be re-partitioned so that GEN addresses basic GA with non-complex aircraft; Complex Aircraft, CAT and AW should be addressed in additional requirements that sit, in parallel, above GEN and inheriting from its

requirements.

comment 607 comment by: *ECA - European Cockpit Association*

Comment on page 14, following paragraph:

33. Part OPS consists of 5 Subparts as follows:

Part Air Operations (PartOPS)

Subpart A General operating and flight rules (OPS.GEN)

Subpart B Commercial Air Transport (OPS.CAT)

Subpart C Commercial operations other than commercial air transport (OPS.COM)

Subpart D Operations requiring specific approval (OPS.SPA)

Subpart E Third country operators

Proposed change:

Change the three letter "COM" for Subpart C Commercial operations other than commercial air transport into "OCO" for "other commercial operations than commercial air transport" for this chapter and in consequence throughout the whole NPA 2009-02.

Justification:

The abbreviation "COM" in ICAO is used for "communications" only - in order to comply with ICAO and to avoid misinterpretation and ambiguity, we strongly recommend to change the three letter code as proposed above. This proposal has been discussed during the work of the OPS.001 drafting group and was accepted by the group members, EASA gave no rationale for not accepting this proposal during the drafting process.

comment 610 comment by: *Elitico SA*

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

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comment

619

comment by: *Christian Hölzle*

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The definition and substitution of these terms within the text would permit simplified rules and resolution of the errors of omission and commission seen in the draft.

comment

631

comment by: *Konrad Polreich*

I want to express my recognition for the very good work, which was done to establish this rule and create this innovative structure. It is very confusing in the beginning, but gets much clearer, when getting used to it. The it shows its advantages in the day to day usage.

comment

633

comment by: *Europe Air Sports, VP***point 23**

It is agreed that the Basic Regulation calls for a wider scope of regulation than JARs but it does not necessarily require " a global regulatory system for aviation safety". This statement is true and therefore acceptable in case of Commercial Air Transport but not for non commercial operations with non-complex aircraft where the "ease of use by the regulated person" should be the main objective. The need for a certain principle of legal structure must not override the need for a a regulation which can be understood by the regulated person.

The concept of proportionality and simple Rules for a better and sustainable future of General Aviation should guide the Agency in the CRD process to review the draft of this Regulation.

point 30

All the efforts of the Agency to inform the stakeholders, whether it is in workshops throughout Europe, for Member States or Associations, are highly appreciated,. Those efforts contribute to understand the proposed rule-making, develop a better assessment and enable stakeholders to deliver qualified comments in the consultation process. which in turn help and improve the regulations, when the comments are accepted and incorporated by the Agency.

I twill take a considerable period of time and many efforts from the Agency to make the last sentence true that "regulations are interpreted and applied in one single way throughout the 31 EASA Member States "

comment

638

comment by: *Swiss Helicopter Group*

Art.47 : The definition of 'non-complex operations' could be VFR day with an aircraft with a MPSC of 9 or less (with the specific exclusions contained in the appendices); 'local' could be (non-complex) operations within a limited and defined area (which would have an AMC attached) which start and end at the same location within the same day.

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comment

639

comment by: *Swiss Helicopter Group*

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comment

675

comment by: *new European Helicopter Association*

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A. IV. Content of the draft Opinions and Decisions - Content

p. 17-23

comment 1

comment by: *Markus Hitter / JAR-Contra*

Personal Note, intended to be removed before final review.

65, 66: Ein einziges Luftschiff in der EU, kein einziges Tilt-Rotor-Dingens. Aber: Es müssen unbedingt Regeln her, wenn auch später. Ein typisches Beispiel der unendlichen Regulierungswut.

Wie wäre es, die Leute einfach mal unter Einhaltung der allgemeinen Regeln fliegen zu lassen? Eine normale Lizenz, z.B. PPL-A, Type Rating nach Vorgaben des Herstellers - fertig. Null zusätzliche EASA-Regulierung erforderlich.

72: In der A-NPA 14-2006 war von leichteren Regeln bzw. reduzierten Regulierungen die Rede. Nun stellt man es so hin, als ob die Interessengruppen zusätzliche Regeln fordern würden. Die Aussage der Kommentare zur A-NPA 14-2006 war ganz klar: Schon die Basic Regulation ohne zusätzliche Regeln ist für die Allgemeine Luftfahrt zu kompliziert. Es braucht weitere Vereinfachungen, um diese Verkehrsart vor dem Aussterben zu retten.

comment 26

comment by: *EHOc*

Paragraph 59

It is clear how the application of these principles will work for organizations that require an approval; it is not clear how it can work for GA - non-complex (which do not subject themselves to approval). As is stated in the text "(AMCs) become binding for that particular organisation by virtue of their integration in the legal basis for the approval" - these do not apply to GA with non-complex aircraft.

It is not clear how an Authority could enforce the application of an AMC to a GA flight; there is no approval process nor is here any sanction that could be applied because there is no certificate that could be withdrawn.

comment 32

comment by: *ECA - European Cockpit Association*

Comments on paragraphs 68, 69 and 70:

On paragraphs 68 and 69, ECA believes that:

- We cannot consider an aircraft holding civil registration, covered by an AOC and holding private accident and civil responsibility insurance as a state aircraft.

- Civil operators are hired for SAR, mountain rescue and forest firefighting operations by means of a business sub-contract from the State. This is to deliver a service *“performed under a contract between the operator and a customer”*. The State is acting as a customer in these services.
- Aircraft and crews could be scheduled to one of these services at any time.
- Crews are contracted by means of a labor contract. This is not covered by the State because they are not civil servants such as military, police, customs, etc.
- We can accept “State operation” or “operating for the State”, but only if safety and operational rules are established to provide a legal guidelines to crew when operating these “similar services”, ie. SAR, mountain rescue and forest firefighting.
- The above opinion is based on the need to avoid illegal situations for crew who may not be covered by law when operating these “similar services” without safety operational or legal cover and without the adequate resources.
- In one EU country, the forest private owners association contracts their private aerial firefighting service, in many cases, to the same operators that are operating for the State.
- Some European countries carry out these services directly under their State responsibility, but others do not.

On the following paragraph: “Military, customs and police services have in common that they serve a public interest and or exercise a public service/duty (of care), which assumes that the service is provided by or under the control or responsibility of a government or public authority pursuing to fulfill a public interest. SAR and fire fighting operations share this common element of public interest and or service/duty, as well as governmental control.”

ECA believes that:

- The *“Principle of equal rights”* is vulnerable to inconsistent interpretation as the same arguments could be applied to HEMS services, as this too is a public service under State sub-contract by means of a business contract with civil operators. However, in this case, EASA propose specific operational rules in EU-OPS for HEMS, but not for SAR, mountain rescue or forest firefighting.
- EASA considers that in one case, a state contract *“for remuneration or other valuable consideration”* is a *“similar service”*, but in another case, the service is not.

On the following paragraph: “The fact that the governmental responsibility is exercised in one way or another by a private entity does not change per se the public character of these operations.”

ECA believes:

- Pilots can accept the public character of SAR, mountain rescue and forest firefighting but require to be covered by an operational and safety regulation. Crews must have proper oversight and be controlled by protective regulations.

On the following paragraph: “Other (nontechnical) arguments can be found, e.g. in ICAO Annex 12, which specifically states that governments are obliged to put in place a legal framework and establish authorities and create the

necessary environment for SAR operations."

ECA believes that:

- Some EU countries do not comply with ICAO annex 12 in the SAR services hired to civil operators.
- ECA is informed that some EU operators interpret mountain rescue as being outside the scope of EU-OPS's HHO rules as they operate as SAR. In one EU country, everything is covered by 'SAR', including none or unsafe procedures, no training, no technical operational crews or even no safety rules.

On the following paragraph: "Advisory Circular Joint (ACJ) to Appendix 1 to JAROPS 3.005(d) states, inter alia, that SAR operations, because they are conducted with substantial alleviations from operational and performance standards; are strictly controlled; the crews are trained to the appropriate standard; and they are held at a high state of readiness. Control and tasking is usually exercised by the Police (or the Military or Coastguard in a maritime State) and mandated under State Regulations."

ECA believes:

- In some countries, there are no published State Regulations. They are referred to as "alleviations from operational and performance standards". This includes SAR operations operated by civil operators, mountain rescue and forest firefighting.
- In some EU states, pilots have no operational oversight in daily operations.
- There has recently been some improvement in type training, but not in operations training.
- In some states, there is not "a high state of readiness".

On the following paragraph: "The USA has reached the same conclusion and Title 14 US Code Paragraph 1.1 (ii) states that SAR is to be considered a governmental function."

ECA believes:

- EASA is referring to the US Coast Guard Service. This is effectively a military service. However, it is clearly not the case in Europe.

On the following conclusion by EASA: "70. As a consequence the present draft does not cover explicitly SAR and fire fighting, nothing precludes Member States to give their own interpretation of "similar service" and to make the air operations Implementing Rules applicable to these kinds of operations if they so wish."

Considering furthermore that one EU Accident Investigation Bureau published 40 helicopters accident reports from 2000 to 2005, 12 of which were forest firefighting operations.

Therefore, ECA cannot agree with the EASA conclusions to exclude SAR, mountain rescue and forest firefighting operations operated by civil operators for the States. This is because it could leave 80% of helicopter operations in some EU States without any regulatory oversight and in an unsafe situation. ECA recommends that all commercial helicopters operations be covered by the same OPS regulation (i.e. SAR and firefighting).

comment 36 comment by: *Reto Ruesch*

Draft does not cover SAR

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 52 comment by: *EHO*

Paragraph 58

The method of approval of published AMCs is not made clear in the proposal. Will there be an NPA? How will transparency be achieved?

"By doing so, it will also be faster to adopt an amendment to the AMC instead of going through an amendment of the Implementing Rules every time there is the need to make changes."

comment 53 comment by: *EHO*

Paragraph 59

At the end of paragraph 59, it is stated that:

"AMC will retain their nonbinding nature but, similarly to what is already applicable to CS developed by the Agency, they will be part of the approval basis for organisations. Once an approval is granted to an organisation based on compliance with AMCs adopted by the Agency, they become binding for that particular organisation by virtue of their integration in the legal basis for the approval."

Whilst it is clear how the application of these principles will work for organizations that require an approval; it is not clear how it can work for GA - either complex or non-complex (which do not subject themselves to approval).

Although note 26 to paragraph 60 makes a statement about the requirement for "organisations who do not need an approval", it is not clear how this could possibly be enforced.

comment 100 comment by: *Heli Gotthard*

Art. 70 : SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 110 comment by: *Stefan Huber*

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formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 118 comment by: *NHAF Technical committee*

§ 60

NHF (Norwegian Helicopter Employees Union) has some concerns regarding the proposed system of alternative means of compliance. We believe that the intention is good, but we think the application should be sent directly to EASA. Preferably an equal playing field should be achieved through more hard rules and less soft rules like the AMC.

Justification: If the competent authority will be the one approving such alternative means of compliance we will not achieve an equal level playing field and there is also a risk that organisations might operate with "unsafe" procedures until EASA has reviewed the alternative means of compliance. Due to lack of experience, competence and/or resources, some competent authorities might also say no to alternative procedures which fully meet the safety criteria and should have been approved. Such decisions will not be monitored and quality assured by EASA, hence many competent authorities will just say no, to avoid any trouble.

Some competent authorities already treat the AMC as hard rules and it works fine as long as the rest will do the same.

comment 123 comment by: *Air Zermatt*

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comment 132 comment by: *Air-Glaciers (pf)*

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comment 138 comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Nr. 69 & 70, Page 21 & 22, SAR & firefighting outside scope of Community regulations:

Comment:

There are more aerial activities than just SAR (within the ICAO definition only search and rescue of flight crews and passengers) & firefighting that have a governemental or state character or are linked to public duties in medical emergency and disaster relief.

Proposal:

EASA shall make clear that all flights under a public safety and/or emergency duty are not to be part of EASA regulations; e.g. firefighting, police flights, public health & emergency, disaster relief etc.

comment

139

comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Nr. 65 & 66, page 20

Comment:

Please make clear that items that are not under exclusive and comprehensive regulation of the Community may be regulated on a national level.

Proposal:

Tilt Rotor A/C & Airships to be regulated later.

comment

143

comment by: *ECA - European Cockpit Association*

<![endif--> <![endif-->

Comment on paragraph 60: change as follows :

If and when an organisation wants to use alternative means of compliance, this will imply a change to the approval of that organisation and is therefore subject to prior control by the competent authority 26 . **This control will be exercised by** EASA Provisions **(e.g. experts panel)** in Part AR **which** specify **the** criteria to be used by the competent authorities when evaluating these alternative means of compliance; ~~they will also create the obligation for authorities to both publish and notify to the Agency any alternative means of compliance they approve~~ 27 . Upon receiving **an application for an notification of such** alternative means of compliance, the Agency will analyse them and, if it considers that they fully meet the safety criteria, will initiate a (streamlined) rulemaking task in order to adopt them as AMC **before any approval to use such AMC can be given**. In case the Agency considers that such alternative means of compliance do not meet the safety criteria, **the applicant will be informed of the reasons for the rejection in order to facilitate the possible modification of any proposal for consideration in a subsequent application.** ~~action will be taken in accordance with the standardisation requirements and procedures.~~ This system will guarantee an equal playing field, transparency and harmonization **EASA wide**, while still providing for the necessary flexibility. Initially this new system will only apply to air operations and flight crew licensing, but the intention of the Agency is to propose its extension to other fields of the EASA system later on.

Justification:

The local approval of AMC material will lead to inconsistencies and undermine the level playing field sought by the Commission.

A number of Authorities have small areas of responsibility and/or limited exposure and expertise in certain types of operations. To have such bodies approving operations in areas where their experience and expertise may be limited and then permitting such approvals to be used EASA wide may jeopardise safety and cause legal uncertainty.

The most logical approach is to have such AMC proposals vetted by a central EASA body before approval for use is granted. This will result in a logical and consistent EASA wide approach to the approval of AMC material. There is no additional cost, as the AMC item would have in any case come to EASA under the existing approach.

The existing proposal creates additional work and promotes inconsistency in that an AMC approved locally may be rejected centrally. During the period of approval, potentially unsafe conditions may exist and unfair advantage taken by the operator of this.

The proposed alternative prevents this inconsistency and ensures the best outcome for safety and economic interests.

comment 167 comment by: *Heli Gotthard AG Erstfeld*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 182 comment by: *Ingmar Hedblom*

Background point 56.

In this explanatory note it is stated that in order to maintain the necessary level of flexibility so that the legislator (e.g.the Commission) does not have to be involved for each deviation, only "essential safety elements" are included in the binding rule and that non-essential elements should be dealt with by CS and AMC.

What is "essential safety elements" versus "essential requirements" as defined in Annex IV to the basic regulation? This is very confusing and not easy to explain to an ordinary private pilot (who is supposed to understand the rule)

The logic of above is that there should be no OPS.GEN and that its content should be dealt with by CS and AMC and GM.

Proposal: Reconsider MDM 032 group original proposal.

See comment number 186

comment 183 comment by: *Ingmar Hedblom*

Background point 58

In this explanatory note the term "essential safety objective" is used. What is this in relation to "essential requirements" and "essential safety elements"?

comment 186 comment by: *Ingmar Hedblom*

Background points 71, 72 and 73

With reference to comment numbers 185, 182 and 183, the MDM.032 original proposal with only one set of binding rules should be applied for private operation with non-complex aircraft.

Proposal: Reconsider MDM.032 original proposal with the Essential requirements for operation to be the only binding rule for private operation with non-complex aircraft.

Transfer all of OPS.GEN to AMC, CS and GM material.

If additional binding requirements are needed for communication/navigation, safety equipment and fuel reserves this should be taken care of by a change to the basic regulation Appendix IV.

comment 190

comment by: *Berner Oberländer Helikopter AG BOHAG*

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comment 197

comment by: *Jill Pelan*

Point 56. (page 19) "The specific nature of European Regulations To maintain the necessary level of flexibility it is imperative that only essential safety elements are contained in the rule, LEAVING NON ESSENTIAL IMPLEMENTATION ASPECTS TO CS OR AMC....."

PROPOSED TEXT : "To maintain the necessary level of flexibility it is imperative that only essential safety elements are contained in the rule : FTL rulings are part of the essential safety elements as crew fatigue and work schedules are primordial in ensuring safe practices....."

JUSTIFICATION : Human error due to overwork and fatigue must be taken into account as "Essential safety elements". Refer to latest accidents/incidents (ex:AF Toronto in 2006.....) and the place of human action in loss/saving of lives.

Point 60 " If and when an organisation wants touse alternative means of compliance.....In case the agency considers that such alternative means of compliance do not meet the safety criteria ACTION will be taken....."

PROPOSED TEXT "..... In case the agency considers that such alternative means of compicance do not meet the safety criteria the proposed alternative means of compliance will be refused in consultation with the COMmission"

JUSTIFICATION : If Safety criteria are NOT met then no allowances should be considered.... The commission should issue a refusal and the results be transparent.

comment 203

comment by: *Heliswiss AG, Belp*

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EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, foundation) and geography (sea, mountain, etc).

comment 211 comment by: *Dirk Hatebur*

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comment 224 comment by: *Heliswiss*

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comment 227 comment by: *Heliswiss NV*

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comment 246 comment by: *heliswiss ag, belp*

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comment 260 comment by: *Jan Brühlmann*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, foundation) and geography (sea, mountain, etc).

comment 273 comment by: *Catherine Nussbaumer*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov,

private, fundation) and geography (sea, mountain, etc).

comment 288 comment by: *Walter Mayer, Heliswiss*

Art 70: SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 302 comment by: *AOPA-Sweden*

Differences with ICAO (page 23):

This part of the "explanatory note" seems to be addressed to commercial transport. That restriction should be elucidated already in the headline.

comment 303 comment by: *AOPA-Sweden*

Explanatory note 76:

What is "performance aeroplanes", of course non-commercial operations shall be allowed to go IMC, even with propeller-driven airplanes?

comment 319 comment by: *Philipp Peterhans*

Art 77: From 1968 the Swiss AIB reports 58 occurrences related to technical or maintenance. 25 cases for SP, 28 cases for SE and 5 cases for ME. If we compare to the number of announced occurrences the figures shows : 25 occurrences for SP over a total of 121 representing 21%. 28 occurrences for SE over a total of 240 representing 12%. 5 occurrences for ME over a total of 29 representing 17%. Single Engine is according to this database the safest type. More, both IHST and EHEST in their respective analysis and research have not come to a result or any recommendations about the performance class type of helicopters. Therefore the choice of the performance class shall be left to the operator, provided he obtain the National Authority AOC required.

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There is no justification not allowing Performance Class 2 and 3 helicopter

operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

330

comment by: UK CAA

Page: 18-19**Paragraph No:** 58-60**Comment:**

UK CAA is concerned that there are a number of cases in NPA 2009-02 where either unsuitable rulemaking by AMC is being proposed, AMCs are proposed that do not relate to a specific rule or AMCs are proposed that are more suitable for guidance material. The CAA specifies all these examples in its detailed comments, both where too much and too little is placed in AMC material, but draws attention to one area as an example of where unsuitable rulemaking by AMC could undermine the primary safety objective of EC Regulation 216/2008:

Performance requirements which were included in EU-OPS 1 / JAR-OPS 1 have been transferred to AMC and Guidance Material (GM). These contain important quantitative parameters and criteria which must be complied with unconditionally in order to achieve the intended level of safety. They need to be upheld across all Member States if the objective of uniform and high levels of protection in civil aviation, as stated in Article 2 of Regulation (EC) 216/2008, is to be realised. The objective will not be achieved by relegating them to AMC or GM because the resulting "flexibility" and "introduction of alternative creative solutions" will bypass this objective and result in uneven, and less safe, implementation between operators and Member States.

Justification:

UK CAA commented on NPA 2008-22 that it could accept a change in the level of some texts in line with a shift from hard to soft law as long as the Implementing Rules are well drafted and the AMCs comprehensive and tailored carefully for each regulatory domain. The CAA stressed that it does not follow that a one-size fits all approach should be used and care should be taken to avoid rulemaking by AMC.

comment

331

comment by: UK CAA

Page No: 21**Paragraph No:** 67**Comment:**

The CAA considers that a detailed planning framework is needed as soon as possible, setting out introduction dates for all the measures needed to implement the Articles in the Basic Regulation, together with related transitional arrangements.

With regards to the last sentence (concerning a "fully-fledged rule making process" regarding provisions for flight time limitations), it is important to ensure that the current (safe) arrangements continue until such time as the "process" is complete. In addition, operators will need time to incorporate the new rules into their operations. These new arrangements will need to include

the scientific evaluation of Sub Part Q (see Article 8 of 3922/91 (as amended by 1899/2006)) and the other missing elements of FTL provisions.

Justification:

To prevent any possible confusion regarding interim, final arrangements, and deadlines concerning crew fatigue limitation schemes and fatigue risk management.

comment 356 comment by: *Pascal DREER*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 372 comment by: *IAOPA Europe*

IAOPA strongly supports EASAs proposal to a further review of the rules to check their proportionality for VLJ operations. IAOPA finds that the current proposal is completely disproportionate for the small non-commercial one-man operator of a complex aircraft.

comment 390 comment by: *HDM Luftrettung gGmbH*

Art.70: SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 398 comment by: *BALPA*

Within the last sentences of paragraph 67 you identify that specific FTL Certification Specifications could not be developed in the time available. Can you please advise of timescales and processes that you plan to put in place to address this issue.

comment 405 comment by: *Christophe Baumann*

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comment 417 comment by: *Benedikt SCHLEGEL*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, foundation) and geography (sea, mountain, etc).

comment

425

comment by: DGAC

The hierarchy between AMCs is not clear.

Some paragraphs have been copied from the rule part of EU/JAR-OPS 1/3 and have been transferred to the AMC part. The hierarchy between these paragraphs changed to AMCs and the associated AMCs is not clear.

comment

426

comment by: DGAC

§64 of the « **Content of the draft Opinion and Decision** » reminds us that one main principles that the drafting of Community legislative acts must obey is that "they need to be drafted clearly, simply and precisely. The drafting of a European legislative act must be clear; easy to understand; unambiguous; simple and concise, containing no unnecessary elements; and precise, leaving no uncertainty in the mind of the reader."

Though we think we have maid a sincere effort (in time and willingness) to try and understand the proposal, their remains numerous provisions where we are not sure we have fully understood what provision shall be applicable to whom and when, which, if the provisions are not clarified (perhaps through a change in the structure), might lead to legal uncertainty... and safety problems

comment

471

comment by: Light Aircraft Association UK

Paragraph 60. The process by which EASA reviews, adopts and publishes new AMC needs to be very quick, so that the wider community can take advantage of new means of compliance at the earliest opportunity: this should be of the order of weeks not months.

comment

487

comment by: Fédération Française Aéronautique

Page 18, § 56, 58 and 59

As in other NPA's, French FFA fully support the EASA proposal to keep minimum essential safety elements in the rules (I.R.) and leave non-essential implementation aspects to CS or AMC in order to provide maximum flexibility.

comment

490

comment by: FSC - CCOO

Comment to 56.

It should be clearer that Rulemaking is focused primarily on achieving highest safety levels. The minima and maxima established in Subpart Q EU OPS are to

be considered essential safety elements furthermore latest scientific and technical evidence should be reflected in Implementing Rules; crew fatigue may lead to accidents and loss of lives.

comment 494

comment by: *Directflight Limited*

NPA 2009-02a A. EXPLANATORY NOTE IV Content of the Draft Opinions and Decisions para 67 p21 of 123

Where operators are conducting commercial operations as aerial work, the Agency suggests that these operations are risk assessed against a template in order to develop SOPs for particular operations. Furthermore, the Agency wishes to publish multiple AMCs which presumably reflect the SOPs developed by operators in order to conduct these operations. If Operators effectively produce their own legislation in this manner, are the SOPs and the resulting AMCs not the intellectual property of the companies developing them? To effectively have their operations manual published for all to see would give unfair advantage to competitors or those seeking to bid for contracts.

comment 495

comment by: *FSC - CCOO*

Comment to 60.:

All applications for alternative means of compliance should be accompanied by detailed published scientific evidence proving their safety. Assumed safeness and operational experience should not suffice.

In case the Agency considers that such alternative means of compliance do not meet the safety criteria, action will be taken in accordance with the standardisation requirements and procedures.

Action should be taken **before** any alternative means of compliance do not meet the safety criteria. No alternative means of compliance should be approved it is evident and proven that they meet safety criteria.

comment 498

comment by: *Ph.Walker*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 507

comment by: *ADAC Luftrettung GmbH*

Art. 70

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally.

What is the position?

comment 510 comment by: *easyjet safety*

Fundamentally easyJet believes that aviation **security** measures are within the competence, and should remain the sole remit of European Commission DG TREN F5 and should not be confused by those **safety** measures under the responsibility of DG TREN F.3 / EASA.

EU300/2008 will be implemented by April 2010 latest, EASA Part Operations□ will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.

Security measures to be applied by Commercial Air Transport should not be□ split between, duplicated or be contradictory in separate EU Regulations. Regulations (if required) and competence for 'In flight' security measures must be under a single legislative body (DG TREN F5, Aviation Security).

comment 514 comment by: *Hans MESSERLI*

SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 520 comment by: *easyjet safety*

- easyJet welcomes the greater flexibility of operation provided thro' performance based regulation

-

easyJet welcomes the management system requirements contained within NPA 2009-02 and 2008-22 which recognise that a risk based safety management approach provides positive safety benefits when employed across an Operator's organisation

-

easyJet believes that the training proposals for a comprehensive Cabin Crew attestation are regressive and do not reflect the developments in Flight Crew training adopted thro' ATQP which is based on appropriate risk assessment and resultant training provisions.

-

easyJet believes that the justification for an Attestation, in its being transferable, is specious since the majority of such training is Operator specific

-

easyJet strongly disputes the supporting impact assessment (NPA 2009-02g) which seeks to establish and justify the safety case for a Class II medical requirement for Cabin Crew

-

easyJet believes that this safety case fails to establish any available evidence justifying such onerous medical requirements and simply accepts current practice in a minority of Member States as sufficient – but does not establish that it is necessary - in that it does not relate current levels of flight safety to the level of medical certification in those member states employing differing levels of medical certification. There is therefore no correlation established between a higher level of medical certification and increased flight safety.

In particular easyJet believes such Cabin Crew requirements will lead to higher operational costs due to greater complexity of the training and medical requirements which :

- do not reflect current best practice in the field of air operations as evidenced in the development of ATQP
- do not take into account worldwide aircraft in service experience and scientific and technical progress
- do not define various operations according to their complexity and associated risk and provide for proportionate requirements
- are not based on a risk assessment and proportionate to the scale and scope of operations

in line with the the Implementing Rules (Article 8(5) and 8(6) of the Basic Regulation.

The implementation of such requirements are also likely to be in contravention of disability discrimination laws and lead to significant employee exclusion costs.

In total these requirements, if implemented, will lead to Adverse Annual costs estimated at € 3.5 million for no identifiable safety benefit, when compared with existing industry best practice. The RIA in NPA 2009-02g offers no evidence to justify such additional requirements but simply makes erroneous assumptions about the mitigation effects of cabin crew, which are extrapolated into an estimate of potential passenger lives saved, without demonstrating whether the proposed changes will improve the performance of those Cabin Crew involved

In reality, we believe that current Cabin Crew training provisions employed by easyJet and other large UK operators achieve the Regulation objective of a high and uniform level of safety if employed across Europe and that the imposition of these additional requirements are aligned with social engineering objectives by interested parties rather than the improvement of flight safety across Europe

easyJet therefore strongly believes that Cabin Crew Training and Medical requirements already embodied in EU-OPS and implemented as part of a Safety management system approach will achieve the Regulation objective of a high and uniform level of safety across Europe and that the requirements of NPA 2009-02e be realigned with those of EU-OPS.

-

comment

531

comment by: SHA (AS)

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EASA Parts, and thus subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, foundation) and geography (sea, mountain, etc).

comment 539 comment by: *Trans Héli (pf)*

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comment 554 comment by: *cfdt france*

the CFDT France feels that all FTL and Cabin crew measures are "essentail safety elements" and need to be IR material - the "flexibility" of CS material may lead to flight schemes being accepted that are potentially dangerous because too fatigue inducing to crews.

comment 577 comment by: *General Aviation Manufacturers Association / Hennig*

Attachment [#3](#)

Page 21, 37: The agency discusses the need to conduct further review of the regulations as a result of the introduction of "very light jet" airplanes. While the NPA does not introduce new requirements, GAMA would like to draw the attention of EASA to the included paper that describes the history of single-pilot operations in jet airplanes including those subject to Part/CS-23 requirements. GAMA recommends that any future rulemaking should be focused on single-pilot operations of certain aircraft if analysis of safety data supports the creation of such a rulemaking task and that EASA does not establish a rulemaking task focused on the marketing term "very light jets".

GAMA's members also note that this NPA fails to provide proportionate rulemaking for single-engine turbine airplane operations. In numerous instances, this NPA has proposed applying the same requirement for a privately operated single-engine turbine airplane weighing less than 2,725 kg as would be required for a 400+ passenger transport airplane solely due to powerplant technology. Many advances in small turbine technology have resulted in increased reliability and the simplification of its use and operation. This, combined with an increasing population of knowledgeable pilots to operate such technology, provides opportunity for increased aviation safety. However, the burden placed on operators for using such technology hinders this class of aircraft and could prolong the advancement of aviation safety for light aircraft.

While legislative challenges limit the extent to which EASA can develop rulemaking, GAMA recommends some relief be given to small turbine operated aircraft that are used solely for private operations and that EASA specifically explore light turbine airplanes operated single pilot as part of a future rulemaking project. While the Basic Regulation defines the term "complex motor powered aircraft", GAMA believes that even within this definition there may be a need to consider the unique performance of range of airplanes

captured. Some of the operators of the smallest of these airplanes do not have the resources available for the organizational business systems referenced in many of the requirements for complex motor-powered aircraft.

While the threshold of "complex motor powered airplane" was introduced by the Basic Regulation, GAMA members believe there is still an opportunity to explore the tailoring of the regulations for complex motor-powered airplanes with significantly different performance than large transport category aircraft.

comment 587 comment by: *Heliswiss International*

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comment 599 comment by: *EFLEVA*

Response to Paragraph 60 on Page 19

The EFLEVA considers that order to ensure a level playing field throughout Europe the process of streamlined rulemaking to be adopted by the EASA must be very quick. The outcome should be confirmed within a matter of days.

comment 614 comment by: *Eliticino SA*

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comment 620 comment by: *Christian Hölzle*

Art. 70: SAR appears to be defined by EASA as "similar service" - i.e. not covered by EASA Parts, and this subject to national regulation. This has not been notified formally. SAR shall stay a state regulation due to diversity of systems (gov, private, fundation) and geography (sea, mountain, etc).

comment 640 comment by: *Swiss Helicopter Group*

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comment 653 comment by: *Europe Air Sports, VP*

point 71 and 72, 73

71 clearly describes the position achieved by MDM.032 and its recommendation I referred to in previous comments. The A-NPA 14 was one of the initial consultation processes EASA had initiated in good cooperation with the stakeholders.

The answers to question 5 of the A-NPA do not justify the present integration of the "light " aviation into the Implementing Rule Air Operations. Moreover, that time there was a major discussion going on in the community on a "light Part M".

Stemming from there, the understanding of "light" rules of the stakeholders is different from the interpretation adopted by EASA. The aircraft below 2000 kg would still comply with the ICAO standards of Air Operations when the ER are adhered to but a separate interpretation of the Essential Requirements would not be needed.

Finally, ICAO Annex VI Part II is applicable to "International General Aviation with **aeroplanes**", meaning it is not applicable to local flights within a Member State and it is not applicable to sailplanes/powered sailplanes and balloons. The compliance with the Essential requirements as a minimum would assure the common application within the 31 Member States also assuring a common high level of safety.

comment 682 comment by: *AEI*

2009-02a p.19 para 60

AEI proposes NO text changes.

AEI has serious concerns as to paragraph 60. We believe that this paragraph is inconsistent with the role of EASA in its task of ensuring the highest levels of safety prevail within Europe. We believe that the European Aviation Safety Agency must be in a position to prevent alternative AMC's from entering the system, particularly if the AMC is not considered to have met the required safety standard. Therefore AEI is firmly of the opinion that the regulations must allow for EASA to approve or not approve alternate AMC's prior to being used. Furthermore EASA would lose credibility if it became embroiled in a long drawn out standardisation process because an Alternative AMC was adopted by a competent authority only to be later considered as not fulfilling the relevant safety criteria by EASA.

A. IV. Content of the draft Opinions and Decisions - Differences with ICAO	p. 23-24
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comment 17 comment by: *ECA - European Cockpit Association*

Comment on paragraph 79:

The conclusion of the OPS.001 group should be contested. While historically a transponder "C" may have been an airspace requirement, current ICAO Annex 6 clearly shows that the requirement has grown to a

general, universal one. The main argument is the fact that the transponder constitutes the required co-operative element for current collision avoidance systems. An airspace based carriage requirement would destroy the protection against intruders (from unregulated airspaces).

A European difference with ICAO Annex 6 regarding the pressure altitude reporting transponder requirement is neither beneficial nor desirable.

comment

54

comment by: EHOc

Paragraph 79 sixth bullet

"Weatherdetecting equipment and emergency power supply for the standby artificial horizon are not required for complex motorpowered aircraft used in noncommercial operations."

The requirement for weather detecting equipment is contained in Annex 6 Part II Chapter 3.6.6

comment

55

comment by: EHOc

Paragraph 79 final bullet

"In general, ICAO equipment recommendations as far as they differ from EUOPS have not been addressed as the assessment whether or not they were implemented in Member States has not been performed. This assessment will be part of a separate rulemaking task."

It is not clear how this policy will affect member States; the obligation to ICAO requires that the State consider Recommended Practices. For those States who have applied Recommended Practices, will the continued application of the SARPs be regarded as 'gold plating'?

comment

56

comment by: EHOc

Paragraph 81

The omission of Recommended Practices for helicopters will result in difficulties for member States; some North Sea fringe States mandate VHM for helicopters (in compliance with ICAO Annex 6, Part III, Section 2, Chapter 4.15) - with a mass in excess of 3 175kg or seating capacity of more than nine (enforced for offshore operations). This requirement ensures that helicopters operating over a hostile environment (in offshore operations) have a method of monitoring complex components such as gearboxes.

The HSST of the JAA had already prepared an NPA for VHM and it had been accepted by all members and the applicable manufacturers. If the proposed regulation is allowed to enter into force without such a requirement, it could set back the progress of continuing airworthiness by several years.

A similar situation applies also to the implementation of Flight Data Monitoring systems (in compliance with ICAO Annex 6, Part III, Section II, Chapters 1.1.10 and 1.1.1). Such systems are already being implemented by offshore operators in the North Sea States (and the benefits have already been established

flight trials run by offshore operators and managed by the UK CAA and Shell Aircraft).

This anomalous policy has also led to a situation in the proposal where helicopters in excess of 3,175kg are required to fit an FDR but are not required to fit a CVR (because CVRs have remained a RP even though FDR has become a Standard).

Not to apply the Recommended Practices serves only to reward those States in which they are routinely not applied, and leads to the acceptance of the lowest common denominator. A corollary effect is to remove a signal to manufacturers that production lines for helicopters should so organised that compliance with ICAO SARPs is the norm, not the exception.

comment 87

comment by: *EUROCOPTER*

Comment on item n° 78:

JAR-OPS 3 does not allow commercial air transportation in IMC but also at night: the rulemaking task that EASA will launch should also address Performance Class 3 commercial air transport at night

comment 103

comment by: *Heli Gotthard*

Art 77: From 1968 the Swiss AIB reports 58 occurrences related to technical or maintenance. 25 cases for SP, 28 cases for SE and 5 cases for ME. If we compare to the number of announced occurrences the figures shows : 25 occurrences for SP over a total of 121 representing 21%. 28 occurrences for SE over a total of 240 representing 12%. 5 occurrences for ME over a total of 29 representing 17%. Single Engine is according to this database the safest type. More, both IHST and EHEST in their respective analysis and research have not come to a result or any recommendations about the performance class type of helicopters. Therefore the choice of the performance class shall be left to the operator, provided he obtain the National Authority AOC required.

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From 1968 the Swiss AIB reports 22 occurrence for SAR and HEMS over a total of 390 which represents only the 5.6%. 22 occurrences for more than 325'000 missions accomplished represents 0,0068%. Seven happened on ME and fifteen on SE and only 2 are related to Technical or maintenance (vibrations and hoist failure both on ME). Considering this, Helicopter Class choice shall be left to the operator, provided he obtain the National Authority AOC required.

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

114

comment by: *Stefan Huber*

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comment

127

comment by: *Air Zermatt*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

136

comment by: *Air-Glaciers (pf)*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

151

comment by: *EUROCOPTER*

Item n° 80 (FDRs type IVA):

It is explained in page 24, item n° 80, of the Explanatory Note that the date of applicability of the ICAO type IVA FDR is postponed to 01.01.2010 because the ICAO SARP already require helicopters to be equipped with type IVA FDRs after 01.01.2005, and as a compromise solution resulting from the JAA NPA-OPS 67 (which proposed applicability from 01.01.2010).

Eurocopter would like to make the following comments:

- the date of 01.01.2005 written in ICAO Annex 6 Part III has never been realistic and implementable (some suppliers did not have compliant equipment at that time) and should be modified in accordance with the latest work done by the ICAO FLIRECP. Moreover, for most of ICAO States, this requirement and implementation date have not been transferred in in their national Operational Regulations up to now.

- as far as Europe is concerned, the date of 01.01.2010 written in JAA NPA-OPS 67 was proposed at the date of definition of this NPA, so in 2006; nevertheless such a requirement for FDRs Type IVA has never been included in JAR-OPS 3.

- today the implementation date for FDRs type IVA to be included in the future Part OPS cannot be the "copy and paste" of a date (01.01.2010) which was defined by JAA in 2006.

- it has to be noted that operators cannot, or will have big difficulties to modify the helicopters in order to retrofit Type IVA FDRs without the help of helicopter manufacturers.

- There are important delays for retrofitting Type IVA FDRs on existing aircraft types because of significant technical difficulties to gather the requested data on sub systems (e.g. AFCS, Instrumentation, Navigation) which are:

* Performance of already installed high technology components (e.g. acquisition units) is no longer sufficient to cope with the new requirements. * A new step of technology is necessary (additional inputs, increased update rates, increased computation power).

* New equipment has to be developed and serialized to receive/structure the requested data.

* Installation (new or supplement for the existing one) has to be developed, qualified, certified and introduced into a serial production.

* New software has to be developed for a significant amount of legacy systems, which have to provide the necessary data.

Proposal: Eurocopter propose to postpone the applicability date of Type IVA FDRs to the one proposed by ICAO (Letter to States Ref SP 55/4-09/56 dated 24 July 2009), so **01.01.2016**.

comment 171

comment by: *Heli Gotthard AG Erstfeld*

Art 77: From 1968 the Swiss AIB reports 58 occurrences related to technical or maintenance. 25 cases for SP, 28 cases for SE and 5 cases for ME. If we compare to the number of announced occurrences the figures shows : 25 occurrences for SP over a total of 121 representing 21%. 28 occurrences for SE over a total of 240 representing 12%. 5 occurrences for ME over a total of 29 representing 17%. Single Engine is according to this database the safest type. More, both IHST and EHEST in their respective analysis and research have not come to a result or any recommendations about the performance class type of helicopters. Therefore the choice of the performance class shall be left to the operator, provided he obtain the National Authority AOC required.

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From 1968 the Swiss AIB reports 22 occurrence for SAR and HEMS over a total of 390 which represents only the 5.6%. 22 occurrences for more than 325'000 missions accomplished represents 0,0068%. Seven happened on ME and fifteen on SE and only 2 are related to Technical or maintenance (vibrations and hoist failure both on ME). Considering this, Helicopter Class choice shall be

left to the operator, provided he obtain the National Authority AOC required.

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

194

comment by: *Berner Oberländer Helikopter AG BOHAG*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

206

comment by: *Heliswiss AG, Belp*

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comment 215

comment by: *Dirk Hatebur*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment 231

comment by: *Heliswiss*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment 234

comment by: *Heliswiss NV*

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comment 235

comment by: *Heliswiss NV*

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comment 236

comment by: *Heliswiss NV*

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comment 237 comment by: *Heliswiss NV*

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comment 250 comment by: *heliswiss ag, belp*

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comment 265 comment by: *Jan Brühlmann*

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comment 266 comment by: *Jan Brühlmann*

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comment by: *Jan Brühlmann*

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comment 268

comment by: *Jan Brühlmann*

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comment 276

comment by: *Catherine Nussbaumer*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the

operator obtain the National Authority AOC required.

comment 279

comment by: *Royal Aeronautical Society*

Paragraph 75. Notwithstanding the principle whereby some terms are not included in Part-OPS, OPS.GEN.010 Definitions because 'these are either explained in the rule itself or referred to in the relevant AMC/GM', **the omission of an explanation of the term 'ETOPS' is likely to create misunderstanding** in the several texts in which it is used, and should be corrected by inclusion. It is suggested that an appropriate meaning taken from EU-OPS 1.192 (amended only to reflect the NPA 2009-02b reference to OPS.CAT.156A in place of EU-OPS 1.245(a)) should be included in OPS.GEN.010 Definitions subparagraph (a) thus: '**(sequence number) ETOPS (Extended range operations for two engine aeroplanes). ETOPS operations are those with two engine aeroplanes approved by the Authority (ETOPS approval) to operate beyond the threshold distance determined in accordance with OPS.CAT.156A from an Adequate Aerodrome.**'

Paragraph 76. The term 'single propeller-driven aeroplanes' is inconsistent with the principle that 'single engine' should precede the motive power employed, eg 'propeller', 'turbo-prop', 'reciprocating', 'turbojet', etc as required by the context. As written, the specific interpretation is that the aeroplane is driven by a single propeller – yet this would not be the case where a single engine drove two propellers. **In paragraph 76 it would be correct to state, 'single-engine propeller-driven aeroplanes'.**

Paragraph 77. The proposal to adhere to the less-restrictive requirements of JAR-OPS 3.517 'since incident and accident data did not indicate a need for change' is supported.

Paragraph 79. The proposal to omit any requirement for carriage of a pressure-altitude-reporting transponder on the grounds that this equipment is needed only to support an airspace requirement ignores the highly-important flight safety function this equipment delivers for enabling the avoidance of airborne collisions through its interaction with aircraft that are equipped with airborne collision avoidance systems (ACAS). This function is clearly described in Notes appended to ICAO Annex 6 Part I paragraph 6.19, Part II paragraph 6.13, and Part III Section II paragraph 4.15, all of which specify a requirement that commercial air transport and general aviation aeroplanes, and helicopters shall carry a pressure-altitude-reporting transponder. **Carriage of such a transponder in a non ACAS-equipped aircraft enables ACAS-equipped aircraft to determine or rule out the threat potential by means of calculating and displaying the relative altitude between both aircraft, and this is needed regardless of the transponder-carriage rules that apply to the airspace in which either or both aircraft are flying.** See the EU-OPS-based suggestion for a replacement text under comments on NPA-02b OPS.GEN.530.

comment 292

comment by: *Walter Mayer, Heliswiss*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment

323

comment by: *Philipp Peterhans*

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comment

332

comment by: UK CAA

Page No:

23-24

Paragraph No: 74-81**Comment:**

The CAA notes that stakeholders are asked to comment specifically on whether they agree with proposed differences with ICAO SARPS. Detailed comments are made in the response to the question at NPA 2009-02A and with regards to detailed proposals. However, the CAA draws attention to a specific aspect not mentioned in the question in 2009-02A where the proposals do not align with ICAO, that is the requirement for only one type of air operator certificate.

Justification:

The Agency has proposed that a single certificate be used to certify two very different activities: "commercial air transportation (CAT)" and "commercial operations other than CAT". ICAO Annex 6 Part 1 defines an Air Operator Certificate (AOC) as only authorising an operator to carry out specified commercial air transport operations. In order to ensure alignment with ICAO, and to avoid confusion for other, non-Community, ICAO Contracting States the status of the AOC should be reserved only for CAT operations, with a separate certificate (with a different name) developed for commercial operations other than CAT.

comment

360

comment by: Pascal DREER

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operator obtain the National Authority AOC required.

comment 373 comment by: *IAOPA Europe*

Referring to note 76 it is unacceptable that "the proposed provisions do not allow operations in IMC conditions with single propeller-driven aeroplanes".

The framework for such basic IFR operations must be clear from the beginning and postponing such an essential issue till 2011 will create uncertainty for operators.

comment 374 comment by: *IAOPA Europe*

Referring to section 80, justification is given for not requiring a counter drum pointer altimeter for helicopters since they mainly operate below FL 100.

Exactly the same justification goes for non-pressurised fixed wing aircraft. For these aircraft exchanging a functioning altimeter with a counter drum pointer altimeter does not make economic sense and the benefit safety wise is almost non-existing since they very seldom operate above FL 100.

comment 394 comment by: *HDM Luftrettung gGmbH*

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comment 409 comment by: *Christophe Baumann*

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comment 410 comment by: *Christophe Baumann*

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comment 411 comment by: *Christophe Baumann*

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comment 412 comment by: *Christophe Baumann*

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comment 421 comment by: *Benedikt SCHLEGEL*

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comment 427

comment by: DGAC

§ 76 : Single engine IMC (SE-IMC) :

2011 to start a rulemaking task in order to address this matter seems too late if we want to have something applicable by April 2012. Several European operators are operating single engine turbine aeroplanes (SET) according to 8.3 pending the results of the study launched by EASA on SE-IMC.

Alleviations for single-turbine engined aeroplanes in CAT at night or IMC as per paragraph 5.4 of ICAO annex 6 vol I, should be subject to an approval with a set of mitigating conditions, which should be logically inserted in the associated AMC.(see also comments on NPA 2009-02-b, on § OPS.CAT.316.A)

comment 428

comment by: DGAC

§77 : Helicopter performances :

DGAC supports the transfer into IROPS of JAR-OPS 3 provisions related to SFL

comment 429

comment by: DGAC

§78 : Helicopter PC3-IMC

DGAC supports the transfer into IROPS of JAR-OPS 3 provisions that do not allow PC3-IMC operation for commercial air transport

comment 430

comment by: DGAC

§80 : Instruments, data & equipment Helicopters

DGAC supports the transfer into IROPS of JAR-OPS 3 provisions related to

instruments, data & equipment for helicopters

comment 449 comment by: *Fédération Française Aéronautique*

Page 22, §71to §73 :

French FFA is in complete disagreement with the option taken by OPS.001 group and the Agency, not to take into account the MDM 032 proposal on aircraft below 2,000kg MTOW :

It is fully appropriate to introduce another category of aircraft (i.e. those below 2,000 kg) in Part OPS as it was done in Part M or Part FCL NPA's. Most competent experts on this category of aircraft operations are in the MDM 032 group and sub-groups, and clearly not in OPS.001 group.

Moreover, we note in AMC-OPS.GEN.410 (a) (4), page 200, that a specific difference is made for aeroplanes above and below 2,000 kg MTOW...

So FFA, with others European sports and recreational aviation organisations, strongly asks the Agency to revise it's position on this fundamental point.

comment 488 comment by: *Fédération Française Aéronautique*

Page 23, § 79, first dot :

French FFA fully support the idea that a pressure altitude reporting transponder is required only if stipulated by the applicable airspace requirements. Transponders of any kind is not necessary if the aeroplane is operated in "uncontrolled airspace" only.

comment 502 comment by: *Ph.Walker*

Art 77: From 1968 the Swiss AIB reports 58 occurrences related to technical or maintenance. 25 cases for SP, 28 cases for SE and 5 cases for ME. If we compare to the number of announced occurrences the figures shows : 25 occurrences for SP over a total of 121 representing 21%. 28 occurrences for SE over a total of 240 representing 12%. 5 occurrences for ME over a total of 29 representing 17%. Single Engine is according to this database the safest type. More, both IHST and EHEST in their respective analysis and research have not come to a result or any recommendations about the performance class type of helicopters. Therefore the choice of the performance class shall be left to the operator, provided he obtain the National Authority AOC required.

From 1968 the Swiss AIB reports 18 flame out occurrences (6 on SP and 12 on SE)(10 CAT - 5 AW - 3GA). Out of these 18, 3 were due to HFACS (ice ingestion and fuel contamination). Concerning the SE, on the remaining 9, five happens on Bell 204,205,206, three on SA315B and one on AS350. Considering 390 occurrences and a total of 4 engine failure on the type in use for AW-HEMS-SAR, that represent only 1% of the total occurrences.

From 1968 the Swiss AIB reports 22 occurrence for SAR and HEMS over a total of 390 which represents only the 5.6%. 22 occurrences for more than 325'000 missions accomplished represents 0,0068%. Seven happened on ME and

fifteenth on SE and only 2 are related to Technical or maintenance (vibrations and hoist failure both on ME). Considering this, Helicopter Class choice shall be left to the operator, provided he obtain the National Authority AOC required.

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment 519

comment by: Hans MESSERLI

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comment 529

comment by: SHA (AS)

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comment 543

comment by: *Trans Héli (pf)*

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comment 573

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

§ 71 to §73 on page 22 :

EPFU is of the opinion that MDM 032 group was right when it proposed to introduce another category of aeroplane : *non complex aeroplanes with a MTOW below 2,000 kg*. The present option taken by OPS.001 working group and EASA is a mistake as operations of this aeroplane category is specific, mainly in non commercial organisations as aero-clubs.

EPFU will appreciate if the Agency will consider again the MDM 032 proposal and, doing so, increase EASA credibility within sports and recreational air operators.

comment 574

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

§ 79, page 23, first paragraph :

EPFU approves the principle that a transponder with altitude reporting will be mandatory only if there is an airspace requirement.

comment 592 comment by: *Heliswiss International*

Art 77: From 1968 the Swiss AIB reports 58 occurrences related to technical or maintenance. 25 cases for SP, 28 cases for SE and 5 cases for ME. If we compare to the number of announced occurrences the figures shows : 25 occurrences for SP over a total of 121 representing 21%. 28 occurrences for SE over a total of 240 representing 12%. 5 occurrences for ME over a total of 29 representing 17%. Single Engine is according to this database the safest type. More, both IHST and EHEST in their respective analysis and research have not come to a result or any recommendations about the performance class type of helicopters. Therefore the choice of the performance class shall be left to the operator, provided he obtain the National Authority AOC required.

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comment 595 comment by: *Heliswiss International*

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comment 623 comment by: *Eliticino SA*

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comment 625

comment by: *Christian Hölzle*

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comment 644

comment by: *Swiss Helicopter Group*

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There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment provided the operator obtain the National Authority AOC required.

comment 660

comment by: *Europe Air Sports, VP*

Again, ICAO Annexes are minimum standards which need to be complied with in International Operations with aeroplanes and helicopters. Aeroplanes being aircraft with fixed wings and an engine need to comply with Annex IV Part II. Sailplanes and balloons do not need to fully comply with ICAO requirements.

The agency could - in favour for General Aviation - clarify whether operations with aircraft up to 2000 kg or helicopters within the airspace of EASA Member States is considered to be fully International Operation or whether it could be considered - as common rules are applied - as non international operations.

comment 665

comment by: *ADAC Luftrettung GmbH*

Von 1970 bis Ende 2008 hat die ADAC Luftrettung GmbH über 500.000 Rettungseinsätze durchgeführt. In der Regel sind pro Rettungseinsatz drei Starts und drei Landungen anzusetzen, die, bedingt durch die orographischen Vorgaben und des Einsatzauftrages, regelmäßig nicht auf einem flugplatzähnlichen Gelände durchgeführt werden können. In der Summe der genannten Rettungseinsätze und der daraus resultierenden knapp **3 Millionen** Starts und Landungen hat innerhalb der ADAC Luftrettung GmbH nicht ein einziger Triebwerksausfall zu einem Flugunfall geführt. Insofern sind die derzeit gemäß JAR-OPS 3 deutsch (in der bis zum 31.12.2009 geltenden Fassung) geregelten Anforderungen zur Erreichung eines angemessenen Sicherheitsniveaus vollkommen ausreichend. Eine weitere Verschärfung ist nicht erforderlich. Mit Einführung der JAR-OPS 3 hat die ADAC Luftrettung GmbH mehr als **100.000.000,00 €** für die Modernisierung der Hubschrauberflotte investiert. Alle eingesetzten Hubschrauber sind gemäß Kategorie A zugelassen und nach JAR 27/29 zertifiziert.

Wir beantragen daher, HEMS-Flüge auch zukünftig generell mit Hubschrauber zertifiziert nach Kategorie A in Übereinstimmung mit Flugleistungsstufe 2 (ohne Exposure Time und UMS) durchführen zu können und von den Anforderungen des Subpart D, Section VI auszunehmen

A. IV. Content of the draft Opinions and Decisions - Transition measures

p. 25

comment 254 comment by: *barry birch*

Good to see that medical fitness can follow existing national guidelines. Barry Birch, Balloon Pilot/Instructor, Italy.

comment 333 comment by: *UK CAA***Page No:** 25**Paragraph No:** 82-87**Comment:**

During any transitional period there is a danger that industry and NAAs could be distracted from safety-related matters. Because of this, and to prevent harm to the industry, CAA urges strongly that a substantial transitional period must be permitted as not all the new provisions introduced into the Basic Regulation by Regulation (EC) 216/2008 can be fully implemented by 8 April 2012. In addition, considerable flexibility is needed for Member States to establish their own processes to achieve effective and full implementation within the overall transitional framework.

comment 366 comment by: *Richard ALLEN*

87. This is a good idea - it will ease the pressure of transition on the member states.

comment 431 comment by: *DGAC*

§ 82-83 : The propositions contained in the NPA 2009-02 modify significantly requirements concerning certain kinds of stakeholders; which is the case for aerial work (COM non CAT), that are today, in most member states, under a declarative system (which is changing for a certified system).

Those operators are facing many problems: they are generally small organisations, not well represented, and most of it, there is a discrepancy between the very wide scope of this NPA, and the absence of translation in other Members States' languages than English. In order to deal with it, it seems necessary to implement transition measures to facilitate the change.

According to the BR n°216/2008, the NPA must be published before April 2012, but the entry into force may arrive later; taking into account:

- The new rules' structure
- Modifications in existing regulations (EU-OPS/JAR OPS 3)
- A wider scope

- The crisis that airlines are facing

We find that a period of two years after the 8th April 2012 seems reasonable before applying the requirements concerning commercial air transport, and that a schedule should be drawn up on an individual basis for all the other activities.

comment 432

comment by: DGAC

Transitional measures for CAT are quite easy to imagine (grandfather rights for former JAR OPS3/EUOPS certified operators), however, which transition measures are envisaged for COM operators? COM actually includes (but is not restricted to) aerial work, which activities are not certified in most member states.

comment 499

comment by: Ph. Walker

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 664

comment by: Europe Air Sports, VP

It is very well appreciated that the Agency intends to grandfather existing privileges and rights which were based on JAR Ops/EU Ops. Unfortunately, that does not achieve the objective of enabling stakeholders to exercise their current rights. Many EU member States have safe regulations and aviation law which is not based on JARs but was developed over the years and has proven safe.. Disregarding those privileges would de-motivate the citizens concerned and create an anti-European attitude which certainly is not desired by politics.

We therefore recommend to open the door for wider grandfather rules with transition periods long enough not to create disadvantages for the citizens.

A. V. Regulatory Impact Assessment

p. 26

comment 79

comment by: Norwegian Air Sports Federation

We can not find any appropriate impact assessment study on "Non Commercial/Non complex aircraft".

In the RIA data there are no figures referring to:

- number of air sport pilots
- number of air sport clubs or training facilities
- number of aircraft used by air sport clubs

comment 379

comment by: Boeing

NPA 2009-02a, Explanatory Note and Appendices*V. Regulatory Impact Assessment**Second paragraph**Page 26 of 123***BOEING COMMENT:**

The proposed text states:

"The RIA will be published as NPA 2009-02g together with the NPA on Third-Country Operators".

EASA should reconsider this issue.

JUSTIFICATION: Although EASA has published NPA 2009-02g, which contains the RIA for NPA 2009-02, it has not yet published either the NPA or RIA for the planned rule on Third Country Operators. Without the full RIA, a comprehensive assessment of the implications of the proposed requirements is not possible. We suggest that EASA continue to accept comments on NPA 2009-02 until after the NPA and RIA on Third Country Operators are published.

comment 668

comment by: Europe Air Sports, VP

I repeat our comment that, based on Annex 6 Part II, it is not necessary to require all categories of aircraft to fulfill the minimum standards of ICAO for the International Operations. At least for recreational and sports aviation it is right to say that more than 90 percent of all flight with small aeroplanes, gliders and balloons are flights in the state of registry.

A. VI. Appendices

p. 26

comment 280

comment by: Royal Aeronautical Society

The word 'Appendices' does not appear in ICAO Annex or EU-OPS material and may not be understood by the majority of persons using the English language. The more familiar word 'Appendices' is in fact used on the title page of NPA 2009-02a. **It is suggested that the word 'Appendices' should replace 'Appendences' as the plural form of 'Appendix'.**

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.GEN: General Operating and Flight Rules - Section I: General

p. 26-27

Requirements (OPS.GEN.001)

comment 294

comment by: *Southern Cross International*

It is unclear who is the competent authority if a commercial operator (other than CAT, i.e. aerial work), which is registered in a Member State, performs contracted assignments outside the EU with aircraft not registered in a Member State. Example: a ferry flight of an aircraft registered and maintained in a Third Country.

Are these kind of assignments subject to the IR for Air Operations?

comment 456

comment by: *HDM Luftrettung gmbH*

AMC.OPS.GEN.010 (a)(9)& (10):

What is equivalent here: BO105 and AS355? Recommendation: time limit, what is the relation to PC2 enhanced?

The FAR 27 certificated AC which meet the FAR 29 engine isolation requirements are not certificated under Cat A and can therefore not meet the requirement of OPS.CAT.355.H. The AMC is not in line with the implementing rule and should therefore be revised. Delete all under 2.

EVS is not NVIS, both fit the definition though. Definition needs improvement for clarity

EVS is not NVIS, both fit the definition though. Definition needs improvement for clarity

OPS.GEN.010 (a) (29):

change to read: "... and who have a dedicated task in Helicopter Operations". There is no justification to define all police and firemen and other persons that may only once in their life be involved in helicopter operations as " Ground emergency services personnel".

OPS.GEN.010 (a) (50):

Change to read: " helmet mounted....visual references. " NVGs are usually mounted to helmets, most aviators heads have no special provisions to attach NVGs. NVGs also enhance other references than ground references.

OPS.GEN.010 (a) (51):

Delete all after:..while operating a helicopter. These are described in Section VII OPS.SPA.NVIS

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.GEN: General Operating and Flight Rules - Section II: Operational Procedures (OPS.GEN.100)

p. 27-29

comment 25

comment by: *EHO*

Paragraph 81

This policy has led to a situation where helicopters in excess of 3,175kg are required to fit an FDR but not a CVR (because CVRs have remained an ICAO Recommended Practice even though FDR has become a Standard). This will lead to confusion because most manufacturers fit a combined recorder. In order to preserve single and cost-effective production lines, the rules should be amended and the CVR Recommended Practice adopted as a Standard.

comment

58

comment by: EHOc

Paragraph 7

In the following text:

"AMC/GM have been provided for noncommercial and commercial operations, taking into account various categories of aircraft used therefore."

Is it clear that AMCs for GA will be applied or can be enforced?

comment

59

comment by: EHOc

Paragraph 10

The subsuming of the term heliport into aerodrome takes no account of the different parts of Annex 14 (Volume II as opposed to Volume I - and DOC 9261 'Heliport Manual'); it will also make more difficult the process of applying the various, and specific, clauses for helidecks and ships.

There may also be unseen complications associated with the application of Point-in-Space procedures designed for other than aerodromes.

It is considered that there is a substantial difference with ICAO and the use of the term 'heliport' should be restored unless it can be agreed that it is no longer required.

comment

60

comment by: EHOc

Paragraph 12

The intent of this rule, in its original form, was to make provisions for the 'Approach Ban'; because it has to include 'continuation of approach' in the case when, having passed 1,000ft, the RVR/visibility is then reported to be below the minima for the procedure - it had also to include an objective statement indicating what must be done at the MDA/H or DA/H if the required 'visual reference' for any procedure has not been satisfied. It cannot be prescriptive because each procedure has an associated and clear statement of the required 'visual reference' (non-precision, ARA, PinS, CAT 1, CAT 2, CAT IIIA and IIIB, etc.)

The addition of prescriptive requirement to OPS.GEN.200 - as opposed to the original objective text - has two immediate effects: the description of each procedure may not now have the precise requirements for 'Visual Reference' (in fact there is inconsistency, some do and some don't); and it places into the rule a set of requirements that do not apply to a number of procedures which will be

bound by this rule (the original rule text being the objective to be met at any MDA/H or DH/A).

At the very least this breaks the convention that rules should be performance based - i.e. objective; the objective text has been replaced by (inappropriate) prescriptive clauses. This is an example of an attempt at simplification leading to complexity and potential safety implications.

The inclusion of the phrase 'other visual references specified by the Authority' in the text for non-precision procedures in Appendix 1 to JAR-OPS 1.430, was intended to provide flexibility in those procedures which terminate (or are abbreviated) at a point where the preceding list of elements could not be seen (*Visual Approach - An approach by an IFR Flight when either part or all of the an instrument approach procedure is not completed and the approach is executed with visual reference to the terrain*); or might not even exist - a cloud break procedure, the ARA procedure offshore or a PinS procedures which has a 'proceed VFR' as its visual segment.

The text of the original rule (OPS X.405 now OPS.GEN.200) should be reinstated (in its objective form); and the 'Visual Reference' paragraphs restored where they have been removed from AMCs to OPS.GEN.150 (as in Appendix 1 to OPS X.430). Provision should also be made in those cases where the standard form of the requirement is not flexible enough for the procedure flown - i.e. replacement of the term 'other visual references specified by the Authority' - with a more acceptable form of words.

comment

334

comment by: UK CAA

Page No: 28**Paragraph No:** 10**Comment:**

The definition of aerodrome differs from that now agreed by Council and Parliament with respect to the amendment of 216/2008 to extend its scope to the safety of aerodromes and ATM. Final text should await the formal adoption of the amendment.

Justification:

Consistency is necessary for the efficient application of the total system approach for aviation safety.

comment

433

comment by: DGAC

§ 9 : The issue of potential safety hazards associated with the residues of fluids used for the ground de-icing and anti-icing of aircraft is not addressed in OPS.GEN.100 but in AMC2. We think that it is convenient at this level [*taking into consideration the amendments we propose on this AMC, including the fact that only aeroplanes are concerned with fluids*].

comment

523

comment by: HDM Luftrettung gGmbH

115:

Remark: For operations under OPS.SPA.HEMS the requirement to brief a passenger must be alleviated for unconscious patients.

125:

medical equipment cannot be approved by part 21 organisations, change text to read that all fixtures and fittings for medical equipment must be part 21 approved.

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.GEN: General Operating and Flight Rules - Section III: Aircraft Performance and Operating Limitations (OPS.GEN.300) p. 29-31

comment

61

comment by: *EHO*

Paragraph 26

The text that has been deleted (from JAR-OPS) contains a requirement that any deviations from Standard Masses should be reviewed every 5 years; this limitation on approval has now been removed.

comment

62

comment by: *EHO*

Paragraph 27

The removal of this paragraph (for on-board mass and balance systems) appears to remove the permission for their use; it might be advisable for "on-board mass and balance systems may be used as a primary source for dispatch" to be added to the AMC.

comment

63

comment by: *EHO*

Paragraph 30

As part of the survey to be conducted for Standard Masses, it should be remembered that offshore operations have a specific population (usually heavier) and they should not be lumped in with the general survey.

comment

281

comment by: *Royal Aeronautical Society*

Paragraph 28. Notwithstanding the content of paragraph 28, in several places 'weight' can still be found in some texts. **It is suggested that 'weight' should be replaced by 'mass' throughout texts covered by the Basic Regulation.**

comment 532 comment by: HDM Luftrettung gGmbH

305 (d):

Remark:Part M is not approved to perform Weight and balance measurements of aircraft and should therefore be removed here

comment 533 comment by: HDM Luftrettung gGmbH

325:

Add: ..or suitable landing site for a helicopter.

**A. VI. Appendices - Appendix I : Explanatory memorandum to Part-OPS -
Subpart OPS.GEN: General Operating and Flight Rules - Section IV:
Instruments, Data and Equipment (OPS.GEN.400)**

p. 31-34

comment 64 comment by: EHOc

Paragraph 35

It was for good reasons that the use of equipment was placed into Subpart D of JAR-OPS; the fitting if the equipment is a one-and-for-all decision, the use of equipment is bound by everyday operational procedures (SOPs). This convention has, up to now, been successfully used in JAR-OPS and it is not clear why it was deemed necessary to move away from this in EASA OPS.

As is stated in the explanatory text, the operational procedures sometimes cover the use of more than one element of equipment and where that occurs it is retained within the Section on operational procedures. To ensure consistency and to continue with a successful convention, the original placement should be retained and the operational instructions replaced into Section II.

comment 65 comment by: EHOc

Paragraph 40

Whilst this inclusion is supported, it is not clear why there is a difference of emphasis between OPS.GEN and OPS.CAT; a single requirement is sufficient perhaps with the addition of guidance in the case of helicopter CAT.

comment 66 comment by: EHOc

Paragraph 39

The necessity to provide requirements for a large set of conditions has made the rules on instruments too complex; this is one clear case where there could be a necessity for the complete set of requirements to be carried for each functional area; this is also the case for day VFR, Night VFR and IFR (ICAO

Annex 6 Part III provides requirements in the three distinct areas to avoid over prescription for Night VFR).

Split the rules into their functional areas and provide a clear text for each one.

comment

157

comment by: *William Harford*

This is entirely arbitrary and should be rejected. No safety case is made or supporting evidence offered. If it was a real issue then it would have been included in ICAO Annex 6 Part II & Part III and JAR-OPS 0 would have made it a requirement and not merely a suggestion.

To include this item solely on the basis "it is considered a useful tool to improve safety" brings the Agency into disrepute.

comment

304

comment by: *AOPA-Sweden*

Appendix I ... Section I (40):

A VFR-flight is by definition a flight when the attitude is maintained by visual references out of the cockpit and in VMC. AOPA-Sweden does not agree to a need of additional instruments during operations in VFR/VMC, where the desired attitude not can be maintained to one or more instruments. Such a scenario shall not occur according to AOPA-S, if so a definition of "maintained in a desired attitude without references to one or more flight instruments" is required together with a cost-benefit analysis, because there is always costs involved when adding equipment.

comment

375

comment by: *IAOPA Europe*

Referring to item 40:

Since VFR by definition implies that the attitude is maintained by visual references out of the cockpit and in VMC there is no provision for additional equipment requirements. Instead compliance with ICAO requirements should be kept.

comment

535

comment by: *HDM Luftrettung gGmbH*

410:

(b)(3) Delete all after attitude: there is a change from JAR-OPS 3, only one was required. We see no need to carry 4 means of indicating attitude when 2 pilots are required.

comment

545

comment by: *HDM Luftrettung gGmbH*

415 (a)(6):

no comment, 2 landing lights required, one at least trendable in the vertical

plane

415 (b):

For helicopter IFR operations a (lighted) kneeboard should be acceptable to fulfil this requirement.

440:

RMk: Insert the deleted text from JAR-OPS 3.385. Rescue operations in the mountains have been safely performed under this regulation, we are not aware of any accidents caused by hypoxia in HEMS mountain rescue.

475:

Over water needs to be clarified, use definitions in OPS.GEN.420.

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.GEN: General Operating and Flight Rules - Section V: Manuals, Logs and Records (OPS.GEN.600)	p. 34
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comment

67

comment by: *EHOC*

Paragraph 49

It is not clear why purely operational documents (like the operational flight plan) have been placed into Part OR and not Part OPS. Where documents are required for operational use, it is clear they should be in Part OR (which in fact acts like a Part 119); where they are required for use in operational (flight) procedures they should be in Part OPS.

Replace all documents used in operational procedures in Part OPS Section V.

comment

68

comment by: *EHOC*

Paragraph 50

Although it is stated in the explanatory text that the journey log is contained in Section V, it is not in compliance with Annex 6 because it is not represented as is required in the SARPs.

comment

546

comment by: *HDM Luftrettung gGmbH*

605:

Rmk: the requirement for a certified copy is overdone for operators that perform CAT operations in the member state of registration only.

605 (b) (3):

For HEMS operations in the specified geographical area the carriage of NOTAM and Weather information in paper form should not be required.

A. VI. Appendices - Appendix I : Explanatory memorandum to Part-OPS - Subpart OPS.GEN: General Operating and Flight Rules - Section VI: Security (OPS.GEN.700)	p. 34
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comment 601

comment by: *Ryanair*

The term "potentially disruptive passenger" in the context of Regulation (EC) 300/2008 means a "passenger who is either a deportee, a person deemed to be inadmissible for immigration purposes, or a person in lawful custody".

Although we cannot find any definition of the term "disruptive passenger" in Regulation 216, it is clear that the term "disruptive passenger" is used in a much wider context. This anomaly must be addressed and any confusion removed.

A. VI. Appendices - Appendix I : Explanatory memorandum to Part-OPS - Subpart OPS.CAT: Commercial Air Transport	p. 34
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comment 86

comment by: *EUROCOPTER*

This definition of CAT should be included in NPA 2009-2b, Part CAT, new § OPS.CAT.010.

comment 335

comment by: *UK CAA*

Page No: 34

Paragraph No:

Comment:

Although paragraph 53 of Appendix I states under the heading sub-part OPS.CAT that "commercial air transport is an aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire in accordance with ICAO Annex VI Part 1" there is no such definition in sub-part OPS.CAT (or anywhere else in Part OPS).

comment 491

comment by: *Directflight Limited*

NPA 2009-02a A EXPLANATORY NOTE IV. Content of the draft Opinions and Decisions VI Appendences Subpart OPS.CAT – Commercial Air Transport (OPS-CAT) para 53 p 34 of 123

It is unclear whether certain operations can be classified as CAT. E.g where passengers are carried on specialist aircraft and the principal purpose for their carriage is not to transport them from A to B but for them to act as observers or members of the media though not as part of the indispensable complement. Similarly, where the seats used on the flight are not available to any member of the public in return for payment, but are funded by organizations participating

in or observing specialist activities does not appear to constitute CAT. These operations do not form an air service as expressed by EEC Regulation 1008/08 and do not require a European Operating Licence.

Similarly, these flights can potentially be excluded from OPS.COM – Commercial Operations other than Commercial Air Transport, if they take place with more than 6 persons indispensable to the performance of the task on board or with additional, but not indispensable observers.

comment

568

comment by: *SWISS AERODROMES ASSOCIATION*

The wording "*Aircraft operation ... in accordance with ICAO Annex 6, Part I*" must clearly be understood and defined as meaning operations requiring a operator's license for commercial transportation.

It would not be acceptable to extend the scope of Commercial Air Transport to any operations for remuneration or hire. Some types of private operations against remuneration are possible and should not be considered and treated as CAT.

Definition according to BR covers "*any operation of an aircraft, in return for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator*".

comment

672

comment by: *IDRF e.V. (association of regional airports)*

For consistency please use the complete phraseology of the definition of "commercial" in accordance with the regulation 216/2008, article 3 (i) *for remuneration or other valuable consideration, which is available to the public or, when not made available to the public, which is performed under a contract between an operator and a customer, where the latter has no control over the operator.*

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.CAT: Commercial Air Transport - Section II: Operational Procedures (OPS.CAT.100)

p. 34-35

comment

282

comment by: *Royal Aeronautical Society*

Paragraph 55. The text in brackets is fragmented and confusing. **It is suggested that the words 'not a separate on' should be deleted'.**

comment

434

comment by: *DGAC*

§ 55 :

HEMS (as well as ETOPS) "is a specific commercial air transport operation

whose approval" should therefore be "part of the AOC process". Therefore HEMS should be addressed in subpart CAT as well as ETOPS

**A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS -
Subpart OPS.CAT: Commercial Air Transport - Section III: Aircraft
Performance and Operating Limitations (OPS.CAT.300)**

p. 35-38

comment 69

comment by: *EHO*

Paragraph 71

Annex 6 Part III Section 2 Chapter 3 contains the objective requirements for the achievement of Performance Classes 1, 2 and 3; the attachment then provides the technical description - i.e. one method of compliance. Although the use of AMCs is supported for technical descriptions, the AMCs have no objective with which to show compliance.

Any method requires an objective to which compliance is shown - without this, AMCs just hang in the ether; if there was a proposal for another AMC (for example for PC1) what would be the criteria on which it is assessed. Equivalent safety arguments have to meet two requirements: (1) that they meet the objective of the rule; and (2) that there is an equivalence with existing methods.

This principle applies to all AMCs - they cannot be set in isolation; for each one there should be a set of objectives - that is the underlying basis of 'performance based' regulations.

comment 145

comment by: *ECA - European Cockpit Association*

Comment on paragraph 76. in subpart OPS.CAT, p.38:

This is a divergence from ICAO and ECA has difficulty understanding how the 13000ft short term ever became 16000ft. The two are different and alignment with ICAO has been lost. The alignment with ICAO, i.e. 13000 ft should be restored.

comment 247

comment by: *heliswiss ag, belp*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

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National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 283

comment by: Royal Aeronautical Society

Paragraphs 69 and 70. The terms 'single propeller-engined aeroplanes' and 'single turbojet powered aeroplanes' are inconsistent with the principle that 'single engine' should precede the motive power employed, eg 'propeller', 'turbo-prop', 'reciprocating', 'turbojet', etc as required by the context. This convention is necessary to remain consistent with terminology currently used in EU-OPS. **In paragraph 69 it would be correct to state, 'single-engine propeller-driven aeroplanes', and in paragraph 70 'single-engine turbojet-powered aeroplanes'.**

Paragraph 70. The example in brackets concerning very light jets (VLJ) appears to define *all* VLJ as single-engine turbojet powered aeroplanes – which they are not. **It is suggested that, to avoid any confusion, the text in brackets should be deleted.**

comment 336

comment by: UK CAA

Page No: 38**Paragraph No: 78**

Comment: In the UK, Vibration Health Monitoring (VHM) is required for Commercial Air Transport helicopters with a MAPSC of more than 9 when operated in a hostile environment. A working paper was drafted in 2006 to amend JAR-OPS 3 to reflect this requirement and having progressed through the JAA process was passed to EASA as a future rulemaking requirement. CAA notes that work is progressing under rule-making task 27 and 29.019, which according to the latest 4-year rulemaking programme is due to produce an output in the third quarter of 2010. CAA considers that this is an important task, which will deliver safety improvements, and that every effort should be made to complete the work in time to include the output in the final IR.

Justification: The current UK requirements for helicopter VHM to improve safety could be lost if the Implementing Rules, or an alternative means of compliance, do not address the matter.

comment 377

comment by: IAOPA Europe

Referring to section 76

The rigid limit to 10.000 ft for flights without supplemental oxygen is a recipe for disaster.

Particularly in mountaineous regions it will make flying less safe since it will force pilots to cross mountain tops with less clearing than what is advisable. It will give the pilot less options in case of an engine failure over hostile terrain

and it will force the pilot to fly into potential dangerous down-drafts and weather which could be avoided if the pilot was allowed to climb to a higher and more safe altitude for a short duration of time.

This rigid limitation will inevitably lead to accidents and it prevents the pilot from taking the safest decision which could be to higher for a short duration of time.

comment

435

comment by: DGAC

§59 :

The transfer of technical requirements into AMC, though "providing more flexibility" makes the reading of the provisions very difficult or even confusing, especially due to the numbering.

comment

436

comment by: DGAC

§60:

When the note says "the performance classes applied by the operators shall be part of the Operations Manual and any change to this performance part of the Operations Manual shall be approved by the competent authority as it constitutes a change to the certificate (i.e. the AOC)" do we understand that the change affects the terms of the certificate but the certificate itself, as we do not see anything in the certificate related to performance classes?

comment

457

comment by: Directflight Limited

TABLE OF CONTENTS FOR NPA 2009-02A**A EXPLANATORY NOTE****VI. "APPENDENCES"****APPENDIX 1 EXPLANATORY MEMORANDUM TO PART-OPS****Subpart OPS.CAT Commercial Air Transport (OPS.CAT)****Section III – Aircraft Performance and Operating Limitations (OPS.CAT.300)****para 62**

"...Another reason for this approach is that the requirements and provisions in EU-OPS were based on the assumption that the existing aeroplanes were type certificated in accordance with the applicable airworthiness codes issued by the Agency (CS-23 and CS-25) or in accordance with JARs (JAR-23 and JAR-25). However, not all the aeroplanes used in commercial air transport operations are certificated in accordance with these airworthiness codes. This was already anticipated by the JAA and it was therefore permitted in EU-OPS/JAR-OPS 1.470(d) to apply for different performance classes if an equivalent level of safety is maintained. As a consequence, the proposed performance requirements do not contain the definition of aeroplanes performance classes (A-B-C) but the definitions have been inserted in the applicable AMC."

From the above quotation it is evident that the major difficulties encountered by CAT operators of UK BCAR Section K/ Performance Group C and FAR 23 Normal Category in continuing operations with these aircraft had been anticipated. This does not simply apply to aircraft which have been in service for some time, but also newly built and certified aircraft.

With the many complex differences between the performance codes, should not the codes themselves be treated as giving equivalent levels of safety? Any evidence which shows that the BCARs and/or FARs provide a lesser level of safety should be published and justified. The potential costs of re-testing and re-certification (if that is a possible proposal) are disproportionate and represent serious financial harm to numerous operators who comply with "different" but equivalent codes.

Removing the argument to the AMC gives the opportunity to accommodate these differences. A simple date of original certification would go some way towards accommodating this as in used in EU-OPS Appendix 1 to OPS 1.005(a) (23) (ii) (f) and 25 (ii) (f).

Where there is a plausible argument against some operations otherwise permitted by BCARs or FARs e.g. contaminated runway operation (by omission) then the AMC should reflect this.

comment

576

comment by: *General Aviation Manufacturers Association / Hennig*

GAMA appreciates EASA explicitly recognizing the future rulemaking on Single Engine IMC operations as identified in 2009-02a; A, IV, 69 related to the pending rulemaking. Over the past decade the worldwide aviation industry has progressed toward establishing a framework within which commercial SE-IMC operations can be conducted and our members look forward to appropriate standards being established for the European Community.

comment

603

comment by: *PPL/IR Europe*

Paragraphs 59/60/67 set out the nature of AMC for organisations that require approvals, such as air operators. It proposes that, in effect, alternative AMC may be developed as part of the approvals process, but that organisations that require approvals must either follow published AMC or develop their own in this way.

Non-commercial operators of non-complex aircraft require no such approvals. This leaves significant ambiguity in the interpretation and applicability of OPS GEN AMC to such operators. It is helpful to see how more heavily regulated organisations satisfy the IRs, and it sets a good example for those who choose to follow it because it fits their operational needs. However, non-commercial operators of non-complex aircraft do not have the opportunity, through an approval process, to have their proposals analysed and adopted by the Agency. Moreover, the cost of such a process is disproportionate to its benefit.

Thus it is essential that they retain absolute discretion to meet the requirements of the IRs my means that are not published as AMCs. It must therefore be made explicit in the regulation that AMCs for organisations that do not require approvals are only advisory in nature, and that alternative means are acceptable without specific Agency approval.

Also, see comment #602 above which also refers to paras #71 and #73

comment 685 comment by: *General Aviation Manufacturers Association / Hennig*

GAMA notes the agency's statement about Halon and the existing ICAO assembly resolution. However, GAMA requests that EASA progress a separate rulemaking related to Halon in case the agency decides to modify the AMC OPS.CAT.405 language and allowance for Halon.

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.COM: Commercial Operations other than Commercial Air Transport

p. 38

comment 95 comment by: *David COURT*

Why does the Agency not provide a definition of aerial work?

If it is left to each NAA we will have 27 plus 4 different definitions of what is aerial work.

The definition of aerial work is critical as it determines which licence we must apply for.

comment 96 comment by: *David COURT*

Does this mean ALL training flights or PARACHUTE training flights?

Such a far reaching statement should be more clearly written.

If all training flights are commercial this will impose many additional burdens on training flights and will reduce the numbers learning to fly.

comment 140 comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Nr. 79, page 38

Comment:

Instruction flights not to be qualified as commercial operations

Proposal:

Please make clear that instruction is no commercial operation. Make also clear that other operations as e.g. parachuting are outside commercial operations regulations.

comment 152 comment by: *British Parachute Association*

The term "commercial parachute flights" is used in the final sentence of para.79. We are not sure if the term is used here to distinguish commercial parachute flights from non commercial or sport parachute flights, or if the term is intended to imply that all parachute flights are necessarily 'commercial'.

We believe that sport parachuting (as opposed to military or industry trialing operations) should be regarded as solely within the province of recreational aviation and as such should come outside of 'commercial' rulemaking requirements.

We understand that the regulation of sport parachuting is to come under a separate rulemaking review process by EASA at sometime during 2010. We believe that the legal status of parachuting should properly be addressed at that time and that the NPAs should not make undue assumptions about this status until then. We wish to register our strongest desire to be included in this review process.

We have made some further comments within NPA-2009-02b with regard to parachute operations, but do not wish the fact that we have made comments or suggestions here to be interpreted as our being complicit with the notion that parachute operations should be regarded as commercial. Our position is firmly based on our belief that they are not.

It would perhaps be helpful if a statement could be made within the Comment Response Document that matters relating to sport parachuting operations are still to be the subject of further consideration.

comment 252

comment by: *barry birch*

We need a clearer definition of Aerial Work so that those who are pursuing commercial activity in for example, balloons with a company name on, then the rules will define exactly whether this is commercial or non-commercial work. The new rule should not have any ambiguity. Barry Birch Balloon Pilot/Instructor, Italy.

comment 492

comment by: *Directflight Limited*

NPA 2009-02a A. EXPLANATORY NOTE IV. Content of the draft Opinions and Decisions Subpart OPS.COM – Commercial Operations other than Commercial Air Transport (OPS.COM). Para 79 p 38 of 123.

This paragraph sets out the scope of aerial work and the great variety of activities within this classification appears to be recognised. However, later parts of NPA 2009-02 seem to contradict this acceptance. E.g. **NPA 2009-02b GM1 OPS.GEN.110 Carriage of Persons** precludes the carriage of more than 6 persons who are "indispensable to the performance of a task and carried on a flight taking place immediately before, during or immediately after and directly associated with a specialised task". There are several operations which involve the carriage of more than 6 persons who fulfill the criteria of indispensability mentioned above e.g. Large Atmospheric Research Aircraft (up to 19 excluding crew). Should the scope of OPS.COM be widened to include aircraft and operations such as these? Other examples are Aeronautics Teaching and Commercial Aeronautical Research and Development Aircraft.

There are also operations which would normally fall into the category of

OPS.COM where requirements also exist to facilitate the carriage of members of the media or pure observers not indispensable to the performance of the task. Where is it proposed that these activities should fit when they neither fulfill the definitions of CAT nor COM? Should there be a subdivision of OPS.COM (or OPS.CAT) which enables these activities to be embraced?

A. VI. Appendices - Appendix I : Explanatory memorandum to Part-OPS - Subpart OPS.COM: Commercial Operations other than Commercial Air Transport - Section II: Operational Procedures (OPS.COM.100) p. 38-39

comment 437 comment by: DGAC

§81 specifies the following concerning section II :
 "Secondly, it requires the mitigating procedures to be applied when flying below the minimum flight altitudes."
 However there is no such provision in the text of Section II of subpart COM of Part OPS...

comment 438 comment by: DGAC

§81 : It is written that "such personnel can be crew members on board as well as persons on the ground supporting the aerial work activity". The difference between a crew member and a person is not clear. We understand that a technical crew member is part of the crew but we do not know exactly what the status of a photograph is for example. It is all the more important as the level of safety regarding the engine failure is not the same (OPS.COM.350.H paragraph (c)(6) requires the compliance with OPS.SFL when persons are carried).

A. VI. Appendices - Appendix I : Explanatory memorandum to Part-OPS - Subpart OPS.COM: Commercial Operations other than Commercial Air Transport - Section III: Aircraft Performance and Operating Limitations (OPS.COM.300) p. 39

comment 37 comment by: Reto Ruesch

Flights over a congested hostile environment
 Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall stay to the National Authority.

comment 111 comment by: Stefan Huber

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 124

comment by: *Air Zermatt*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 133

comment by: *Air-Glacières (pf)*

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comment 168

comment by: *Heli Gotthard AG Erstfeld*

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comment 191

comment by: *Berner Oberländer Helikopter AG BOHAG*

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the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 204

comment by: *Heliswiss AG, Belp*

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comment 212

comment by: *Dirk Hatebur*

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comment 225

comment by: *Heliswiss*

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comment 229

comment by: *Heliswiss NV*

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comment 261 comment by: *Jan Brühlmann*

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comment 289 comment by: *Walter Mayer, Heliswiss*

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comment 320 comment by: *Philipp Peterhans*

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comment 337 comment by: *UK CAA*

Page: 39

Paragraph No: 84

Comment:

CAA notes that the Agency seeks stakeholders' comments on whether it is appropriate, as the Agency considers, for Member States to make use of Article 14 flexibility provisions, whenever it is necessary to allow helicopters to operate over a congested hostile environment. CAA presumes that the Agency is referring to Article 14.4 exemptions, for operational needs of a limited duration, and considers that this is not appropriate because, in general, good rulemaking practice should provide for such matters without the need to use flexibility provisions.

comment 357 comment by: *Pascal DREER*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state.The final decision shall remain with the National Authority.Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 391 comment by: *HDM Luftrettung gGmbH*

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comment 406 comment by: *Christophe Baumann*

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comment 418 comment by: *Benedikt SCHLEGEL*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state.The final decision shall remain with the National Authority.Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 439 comment by: *DGAC*

§ 84 : The deletion of the above mentioned provision is not really an issue for us as we will allow cat B helicopters in a congested hostile environment

only if the environment becomes non-congested (for example if the flight to the work area is possible above a river and then if the work area is evacuated).

We have still reservation though on the requirement about cat A and B for COM as it could prevent operators from performing some aerial works which can be done only by big Russian helicopters.

comment

516

comment by: *Hans MESSERLI*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment

528

comment by: *SHA (AS)*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment

540

comment by: *Trans Héli (pf)*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment

588

comment by: *Heliswiss International*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the

flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 615

comment by: *Eliticino SA*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 621

comment by: *Christian Hölzle*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

comment 641

comment by: *Swiss Helicopter Group*

Art.84 : Consultations with helicopter experts involved in the drafting of this provision showed that this was directed to certain types and that it would depend on the discretion of the state. The final decision shall remain with the National Authority. Operations over a hostile environment outside a congested area shall be conducted with a Class A or equivalent and Class B helicopters, if the flight time over this area does not exceed 50% of total flight time, and the flight time over areas not enabling a safe forced landing does not exceed 5 minutes.

**A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS -
Subpart OPS.SPA: Operations Requiring Specific Approvals - Section I:
General requirements (OPS.SPA.GEN)**

p. 40

comment 14

comment by: *Flygande Veteraner*

Historic and Vintage aircraft operation

The future for historic and vintage aircraft does not seem to be fully appreciated in the EASA's announced proposal on new rules and regulations for this kind of operation.

Many Associations within Europe, with an interest to preserve historic and vintage aircraft and also with the ambition to keep their airworthiness valid, will face major problems in the future if there will not be established an exemption system of the EASA rules.

Common guidelines for Non complex and Complex historic and vintage Aircraft would be preferable.

Regarding the requirement of equipment onboard it should only be related to environment demands (navigation equipment, SSR , ELT etc).

For aircraft with a maximum TOW above 5 700 kg mass you can find a statement in the regulations that such an aircraft shall be equipped with FDR and CVR.

To install a FDR on an aircraft constructed for more than 50 years will require a very complex and expensive modification. The main purpose for this equipment is to make it easier to reconstruct circumstances in case of accident or incident. Investigation procedure for older aircraft does not include complex electronic analysis and consequently there is not the same need for a FDR.

CVR is comparatively easier to install and could be acceptable to have as a demand.

Maintenance programs for most of such historic aircraft are today handled by qualified engineers and also follow established procedures, issued by the manufacturer. All "know how" concerning the specific aircraft type is to be found within this group of licensed engineers.

Rules and regulations (EASA) for historic and vintage aircraft should include:

Definition Complex- Non complex aircraft.

Maintenance procedures.

Equipment requirements.

Definition, non commercial operation.

Guidelines for local CAA.

To make it possible for Historical and Vintage Aircraft to be preserved and operated in the future it is necessary to establish realistic rules and regulations for this operation.

This is our chance to show public the history of aviation in a safe and realistic way.

Best regards,

Göran Swenson

Flygande Veteraner

DC3 operator

comment

338

comment by: UK CAA

Page No: 40

Paragraph No: 91

Comment:

It is not understood how requiring specific approvals for non-commercial

operators to be issued by the State of Registry can be applied to aircraft covered by Article 4(1)(c) of Regulation 216/2008.

Justification:

The CAA understands that the NPA as a whole is intended to establish the requirements to be met by an operator to ensure compliance with Article 8 of 216/2008. That Article covers the operation of aircraft referred to in both Article 4(1)(b) and (c) of 216/2008. All aircraft under Article 4(1)(c) are registered in third countries.

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.SPA: Operations Requiring Specific Approvals - Section IV: Low Visibility Operations (OPS.SPA.LVO) p. 41

comment 70

comment by: EHO

Paragraph 97

Whilst the logic of inclusion of LVTO below 400m in the approval process is understood, it will include helicopters under circumstances were they were, and might continue to be, excluded from approval.

CS-AWO 400 - Applicability and Terminology, contains the statement:

"Subpart 4 of this airworthiness code is applicable to aeroplanes for which certification is sought to allow the performance of take-off in lower visibilities than those which are sufficient to ensure that the pilot will at all times have sufficient visibility to complete or abandon the take-off safely."

In fact LVTO procedures in helicopters do not rely upon devices in, or signals outside, the aircraft to maintain directional control or complete the take-off manoeuvre. Because there is already a requirement for operations in Performance Class 1 (PC1), they rely upon the required elements of the Category A procedure and PC1 to ensure control is maintained. As procedures - below the TODRH - are conducted at speeds usually below 45kts, they are perfectly possible in visibility down to 150m.

Further, although operators now comply with the requirements of Appendix 1 to JAR-OPS 3.450 - (b)(10), (13); (c)(1)(iv)-(iv); (2), (4) and (10); (f)(3); (h)(2); and Appendix 1 to JAR-OPS 3.455 (b)(2), (b)(2)(i), (iii), (iv) and (viii), those requirements are seen as somewhat excessive and it is questionable whether specific training and operational procedures are really necessary. In particular, the requirement for low visibility procedures to be in force (itself an aerodrome requirement - to protect the integrity of signal propagation and movement over the surface) the first element of which is mainly addressed at low visibility approaches; and the requirements for procedures to be practiced in a simulator, are not directly related to helicopters - in the case where they can be reasonably controlled using external cues.

As these requirements were originally contained in JAR-OPS 3 and operators complied with them (with the exception of the approval), it should not require a further NPA to have helicopter LVTO - with visibility above 150m - removed from the OPS.SPA.LVO requirements. It might only require an amendment to OPS.GEN.150(a)(2) excluding helicopter LVTO above 150m from that clause and the additional of a further objective requirement to which could be attached

an appropriate method of compliance (which would capture the original intent of the text in JAR-OPS 3 - with the exception of the requirement of LVP and including a recommendation for simulator training). It would also be necessary to remove the first column of **Table 1h of AMC3 OPS.GEN.150 RVR/visibility for take off** - thus restoring the original table contained in JAR-OPS 3.

A. VI. Appendices - Appendix I: Explanatory memorandum to Part-OPS - Subpart OPS.SPA: Operations Requiring Specific Approvals - Section IX: Helicopter Emergency Medical Service Operations (OPS.SPA.HEMS)

p. 43

comment 31 comment by: *ECA - European Cockpit Association*

Comment on the amendment of HEMS performance requirement post NPA-OPS 38:

ECA agrees with JAA NPA-OPS 38 option 2(a).

comment 88 comment by: *EUROCOPTER*

Option 2(c) is the preferred option: partial compliance to Appendix 1 to JAR-OPS 3.517(a): set of conditions + UMS are requested but Risk Assessment is not requested:

- to request a Risk Assessment (option 2(a) on the accident site would be non realistic

- option 2(b) would be against a Fleet Safety objective

- engine reliability statistics are anyway requested by operations without SFL capability

- UMS are available

comment 89 comment by: *EUROCOPTER*

To fulfill the requirement of Performance Class 2, for flight planning the exact landing altitude has to be known before flight, this is often not known and the landing site will be defined when is helicopter is in the accident area.

comment 339 comment by: *UK CAA*

Page No: 43

Paragraph No: Section IX, 111

Comment: In response to the request for a decision on the appropriate option to be taken of those detailed in the HSST-WP-07-03.4 regarding HEMS performance (Attachment D to Appendix I of NPA 2009-02A), the UK CAA supports Option 2 to make the proposed changes and Option 2(c) to apply

partial compliance with Appendix 1 to JAR-OPS 3.517(a). A slight alteration to the resultant text of the proposed paragraph of the JAA WP is also recommended below.

Justification: This option provides the most appropriate solution to the problems identified within the HSST WP and as mentioned within the options takes into consideration that the risk profile at a HEMS operating site is already well known and does not require operators to provide the additional risk assessment. It is felt that the additional text improves the overall context of the paragraph.

Proposed Text (if applicable):

(B) Helicopters conducting operations to/from a HEMS operating site located in a hostile environment shall **be operated in Performance Class 2 without an assured safe landing capability in accordance with JAR-OPS 3.517 and without the requirement to comply with Appendix 1 to JAR-OPS 3.517(a) paragraph (a)(1). The commander shall make every reasonable effort to minimise the period during which there would be danger to helicopter occupants and persons on the surface in the event of a failure of a power unit.**

comment 440

comment by: DGAC

§ 111 : regarding operations to a hostile environment by taking advantage of ground level exposure, we choose option 2(c) requesting :

- no additional safety assessment than the one already done to obtain SFL special approval, and
- the installation of a UMS or equivalent device. As it is already required for the same helicopters when operating flights towards HEMS operating sites and towards public interest site, it makes sense.

Besides, though we acknowledge that it is stated in page 7 of Attachment D to Appendix I [HSST/WP07/03.4] that 'compliance with the requirement for UMS could be provided by (appropriately configured) FADEC with its associated non-volatile memory, and recording and download functions (which are present in most modern light twins used for HEMS), however, we consider that a device can be consider as equivalent to UMS only if there is also a mean to analyse the recorded parameters as stated in (3)(d) of AMC OPS.SPA.001.SFL(b)(4) and (b)(5).

Lastly, we draw the attention of the Agency on the fact that we might face the following issue: there is still no UMS for helicopters very often used in HEMS (EC 135, A109E). EASA has something to do in order to strongly support the development of systems available for the whole HEMS fleet.

comment 466

comment by: ADAC Luftrettung GmbH

NPA 2009-02a, Explanatory Note, Section IX, Helicopter Emergency Medical Service Operations (OPS.SPA.HEMS)

Die Agency fragt die Betreiber im Punkt 111 nach deren Einschätzung.

Wie auch unter OPS.SPA.SFL kommentiert, möchte die ADAC Luftrettung GmbH

hier Stellung beziehen:

Von 1970 bis Ende 2008 hat die ADAC Luftrettung GmbH über 500.000 Rettungseinsätze durchgeführt. In der Regel sind pro Rettungseinsatz drei Starts und drei Landungen anzusetzen, die, bedingt durch die orographischen Vorgaben und des Einsatzauftrages, regelmäßig nicht auf einem flugplatzähnlichen Gelände durchgeführt werden können. In der Summe der genannten Rettungseinsätze und der daraus resultierenden knapp **3 Millionen** Starts und Landungen hat innerhalb der ADAC Luftrettung GmbH nicht ein einziger Triebwerkausfall zu einem Flugunfall geführt. Insofern sind die derzeit gemäß JAR-OPS 3 deutsch (in der bis zum 31.12.2009 geltenden Fassung) geregelten Anforderungen zur Erreichung eines angemessenen Sicherheitsniveaus vollkommen ausreichend. Eine weitere Verschärfung ist nicht erforderlich. Mit Einführung der JAR-OPS 3 hat die ADAC Luftrettung GmbH mehr als **100.000.000,00 €** für die Modernisierung der Hubschrauberflotte investiert. Alle eingesetzten Hubschrauber sind gemäß Kategorie A zugelassen und nach JAR 27/29 zertifiziert.

Wir beantragen daher, HEMS-Flüge auch zukünftig generell mit Hubschrauber zertifiziert nach Kategorie A in Übereinstimmung mit Flugleistungsstufe 2 (ohne Exposure Time und UMS) durchführen zu können und von den Anforderungen des Subpart D, Section VI auszunehmen.

Vor die Wahl gestellt, eine der drei Optionen zu benennen, ist die ADAC Luftrettung GmbH der Auffassung, dass die Option 2b, diejenige ist, die unter Abwägung aller Faktoren am geeignetsten erscheint "the best way forward" zu erfüllen.

comment

475

comment by: ALFA-HELICOPTER

Preferred option is (2)b

A. VI. Appendices - Appendix II: Explanatory memorandum on Part-OR Subpart OPS - Section II: Manuals, logs and records (OR.OPS.001.MLR)

p. 44-45

comment

101

comment by: Heli Gotthard

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment

112

comment by: Stefan Huber

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 125 comment by: *Air Zermatt*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 146 comment by: *ECA - European Cockpit Association*

Comment on paragraph 9.: change as follows:

~~The JAROPS guidance material states that the language of the Operations manuals and elements thereof shall be in English for all operators, as appropriate. Small Operators of simple types with simple operations, such as A to A flights restricted to within a national area only may apply for permission to publish in another acceptable national language. This guidance could not be transferred as it is against the Community principle that gives all EU languages an equal status. Moreover, it is questionable whether an English operations manual used by a nonnative English speaking crew may not pose a safety risk. This was one of the reasons why it had the status of an IEM in the past.~~

Justification:

This is not helpful in the realm of flight safety or freedom of movement of labour within the EU. The crews will have almost certainly been operating using English language manuals for the aircraft. They will have been trained for the aircraft in English and will operate in areas where only English is the common language and this competency is demanded by ICAO. Thus, having operations manuals in English is far less onerous than may at first sight appear and assists in ensuring competency in English.

English is the common language or lingua franca of aviation. This fact has to be accepted by the Commission, unless it wishes to accept the adverse consequences of applying a view appropriate to social life in an inappropriate technical area.

To restrict operations manuals to English permits the freedom of movement of labour. Restricting it to another language will inhibit this freedom, a fact which has been exploited by some already in a protectionist manner.

There is a case for operations manuals used by small operators who operate simple types totally within national borders on A to A flights and similar to be allowed to be presented in the national language. This has been catered for with the suggested wording.

comment 155 comment by: *Dassault Aviation*

Page 44: point 5 reads "This section is complementary to section VI of Part-OPS [...]" it should rather reads "[...] section V of Subpart OPS.GEN contained in Part-OPS [...]".

comment 156 comment by: *Dassault Aviation*

Page 45: point 11 says that the provision of JAR-MMEL/MEL.090 (Operations outside the scope of the MEL) has not been transferred into the IRs because it is part of the flexibility provisions contained in Article 14 of the Basic Regulation (EC) 216/2008. We agree with the general principle that a requirement must not be duplicated by virtue of the Joint Practical Guide for drafting of Community legislation, however, making the link between former JAR-MMEL/MEL.090 and the correct paragraph of the BR - which should actually be 14.4 - will be challenging at the Operator level. In order to help the Operators, we propose that an interpretation of the flexibility provisions of Article 14.4 of the BR be the subject of a Guidance Material, so as to "translate" the flexibility provision approach from the BR world to the MEL world. The Guidance Material could be a copy-paste of JAR-MMEL/MEL.090, that could be inserted as GM OR.OPS.020.MLR(d)(3).

comment 169 comment by: *Heli Gotthard AG Erstfeld*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 180 comment by: *SHA (AS)*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 192 comment by: *Berner Oberländer Helikopter AG BOHAG*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 205 comment by: *Heliswiss AG, Belp*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that

pertain to their duties and responsibilities are written.

comment 213

comment by: *Dirk Hatebur*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 226

comment by: *Heliswiss*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 230

comment by: *Heliswiss NV*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 263

comment by: *Jan Brühlmann*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 274

comment by: *Catherine Nussbaumer*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 290

comment by: *Walter Mayer, Heliswiss*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 321

comment by: *Philipp Peterhans*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 392

comment by: *HDM Luftrettung gGmbH*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 407

comment by: *Christophe Baumann*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 419

comment by: *Benedikt SCHLEGEL*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 480

comment by: *ERA*

European Regions Airline Association Comment

A Common language for operators is not defined. Although the issue regarding community languages is understood, confirmation that writing manuals in the national language only, is accepted is needed. Especially when it comes for guidance for the authorities and what will be accepted in SAFAs.

comment 500 comment by: *Ph. Walker*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 517 comment by: *Hans MESSERLI*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 541 comment by: *Trans Héli (pf)*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 590 comment by: *Heliswiss International*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 616 comment by: *Eliticino SA*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 627 comment by: *Ryanair*

English is internationally recognised as the language of aviation hence the English language competency requirements for crew.

Furthermore, single operators employ individuals from many member states. Any suggestion that the Operations Manual should be published in multiple languages has no basis in safety, could in fact adversely affect safety and is unacceptable.

It is entirely unacceptable that the Agency would, in any piece of documentation, suggest that publication of the operations manual in the internationally recognised language of aviation, English, to non-native English speaking crew may pose a safety risk. This reference must be removed.

comment

642

comment by: *Swiss Helicopter Group*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment

662

comment by: *ADAC Luftrettung GmbH*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment

676

comment by: *ANE (Air Nostrum) OPS QM*

A Common language for operators is not defined. Although the issue regarding community languages is understood, confirmation that writing manuals in the national language only, is accepted is needed. Especially when it comes for guidance for the authorities and what will be accepted in SAFAs.

comment

681

comment by: *Ryanair*

Comment

The reality is that english is the language of aviation. Safety is best served by having the OM in english

Proposal

The operations Manual shall be prepared and available in the English language.

comment 39 comment by: *Reto Ruesch*

OM in english or in both national languages?

English language for non native english speaking crew can be a safety issue, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual which pertain to their duties and responsibilities are written.

comment 134 comment by: *Air-Glaciars (pf)*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 248 comment by: *heliswiss ag, belp*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment 340 comment by: *UK CAA*

Page: 45

Paragraph No: 14

Comment:

The CAA is **very concerned** by the failure in the NPA to provide in the implementing rules, in accordance with Article 8.5(d) of Regulation (EC) 216/2008, conditions under which a declaration shall be replaced by a demonstration of capability and means to discharge the responsibilities associated with the privileges of the operator, recognised by the issuance of a certificate, in the case of some non-commercial operations of complex motor-powered aircraft. The UK CAA **disagrees strongly** that a declaration would provide a sufficient level of **safety** oversight for all operators of complex motor-powered aircraft used in non-commercial operations, specifically managed aircraft operations where an aircraft is operated by a specialised management company on behalf of a single, or several (fractional), owners.

Justification: A large number of managed operations within Europe, especially those often referred to as fractional ownership operations, are currently subject to the requirement to hold an Air Operator Certificate (AOC). The CAA considers that there are potential safety risks in changing the oversight of such operations from a certification-based regime, which currently includes a demonstration of capability and means to discharge the required legal responsibilities, to a declaration-based regime with an unknown level of

oversight. Moreover, the proposed rules may offer an opportunity for small AOC holders to surrender their AOCs and re-model their business so as to come within a managed/fractional ownership regime, with a consequential likelihood of reduced safety oversight and the possibility of less safe operation.

The CAA does not consider that the Agency has proven, as stated in its Regulatory Impact Assessment, that “only the declaration option shows a definitely positive score and in particular that it has a positive safety impact”: indeed, it considers this conclusion to be deeply flawed. Moreover, the CAA considers that a proportionate and effective certification process can be devised, less burdensome than the AOC process, but based on a form of certificate for the programme manager or operator, similar to one issued by the US Federal Aviation Administration under its requirements. The development of such a process by the Agency should take into account the proportionality of the implementing rules bearing in mind that such activities are undertaken on a commercial basis, even though they are not defined in the Basic Regulation as being commercial operations. The passengers on such flights should be assured of safety measures similar to those afforded to passengers on commercial air transport flights. Aircraft ownership should not be a relevant factor where the passenger could not reasonably be expected to properly understand the risks to which they are subjected. The CAA does not consider that a requirement to hold such a certificate would be an unnecessary or burdensome change, given that most of the operations affected currently hold AOCs.

comment

358

comment by: *Pascal DREER*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all

operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment

622

comment by: *Christian Hölzle*

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all

operations personnel are able to understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

comment

671

comment by: *General Aviation Manufacturers Association / Hennig*

GAMA appreciates EASA developing a new process for a pan-European regulatory approach to general aviation operators of large airplanes; i.e. non-commercial operations of complex motor-powered aircraft. The agency is proposing the use of a “declaration” for these airplanes.

The concept of a declaration is new to the industry and so is the legal terminology of "capability and means to discharge the responsibilities associated with the non-commercial operation of a complex motor-powered aircraft". As a result, it will require significant attention from the agency, the National Aviation Authorities, and industry.

GAMA fully endorses the agency not requiring "air operator certification" for general aviation operators. However, we would note that the term "complex motor-powered aircraft" captures a broad segment of general aviation from simple twin-engine turboprops (and the emerging segment of single-engine jets) through large, intercontinental business jets.

To be successful, the implementation of the requirement to "declare" must receive great attention by the agency, including consideration for performance based requirements for different types of airplanes (within the complex definition) and the sophistication of the operator. GAMA looks forward to working with EASA toward the successful implementation of the requirement to "declare" for a segment of the general aviation community.

Also, since this will involve a significant change from how many operators do business today, GAMA recommends that EASA work with the Commission to determine an appropriate longer transition time frame for general aviation.

GAMA also plans to provide further comments to about this concept as EASA publishes the "Third Country Operator" NPA, which we understand also includes a requirement for non-Community operators to make a "declaration" of capability.

**A. VI. Appendices - Appendix II: Explanatory memorandum on Part-OR
Subpart OPS - Section IV: Air operator certification (OR.OPS.001.AOC)**

p. 45-46

comment 147

comment by: ECA - European Cockpit Association

Comment on paragraph 19.: change as follows:

19. For wet-lease in of an aircraft from a third country operator, certain conditions need to be fulfilled. The third country operator is required to hold a third country operator authorisation⁵⁶. In addition, the third country operator needs to comply with the technical requirements in Part OPS, as well as the OROPS requirements related to training; to the manuals, logs and records keeping; to FTL schemes; and to security. However, it is not obliged to use the related AMC of Part OPS and may use its standard operating procedures as contained in its operations manual provided it can demonstrate that they provide for compliance with the requirements. **Compliance will be determined by the same process as for equivalent AMC material.** By doing so, the third country operator can continue using its standard operating procedures instead of changing procedures from one flight to another as this could pose a certain safety risk.

Justification:

Is this covered adequately by the certification of foreign carriers?

Surely this is only a variation on AMC and if the means of compliance is not acceptable, then it is not acceptable. After all, it could result in means of compliance that are not acceptable being permitted for a third country operator

that would not be permitted for an EASA certified operator.

comment

341

comment by: UK CAA

Page No: 46

Paragraph No: 18, 20

Comment: UK CAA **does not agree** that code-share arrangements, which are essentially marketing arrangements, are covered by the Basic Regulation. Therefore, the CAA does not agree that such arrangements, which may include those with operators that never visit the Community, should be covered by these OPS requirements. Given that the scope of these requirements is, according to OPS.GEN.005, to establish requirements to be met to ensure compliance with Article 8 of Regulation (EC) 216/2008, the UK CAA presumes that code-sharing arrangements are included because it is thought necessary for the operation of aircraft referred to in Article 4.1 (c). The CAA does not consider that "an arrangement under which an operator places its designator on a flight operated by another operator" can reasonably be interpreted as a means by which the aircraft on the flight is used by the first operator.

Justification: The CAA **considers** that the proposals impose an unnecessary burden on both operators and competent authorities which is not required by Regulation (EC) 216/2008 and not justified in terms of safety. The safety of third country operators operating aircraft into, within, or out of the Community, whether or not subject to marketing arrangements such as code-sharing, are in scope of Article 4.1(d) and will be covered by the measures designed to implement Article 9 of Regulation (EC) 216/2008. As such they will be subject to an authorisation issued in accordance with Part-TCO.

comment

441

comment by: DGAC

§ 16 :

There is a contradiction in the paragraph due to the last sentence "This is of course even more the case for Annex II aircraft involved in commercial air transport": a "standard"/restricted Certificate of Airworthiness is Part 21 and therefore shall comply with the applicable provisions related to continuing airworthiness and maintenance (Part M, Part 145, etc..) according to R216/2008. Such an aircraft can not be considered as an Annex II aircraft anymore.

Therefore, as Annex II aircraft can not comply to (c)(2) of OR.OPS.015.AOC requesting all aircraft operated in commercial air transport to have a certificate of airworthiness in accordance with Part21, we understand that aircraft referred to in points (a)(ii), (d) and (h) of Annex II are not eligible for Commercial Air Transport (CAT) according to § 5 of article 4 of R216/2008.

comment

589

comment by: Heliswiss International

Art.9 : The English language can be a safety issue for a non-native-English-speaking crew, therefore the choice of the language shall be left to the national authority.(b) The operator shall ensure that all operations personnel are able to

understand the language in which those parts of the Operations Manual that pertain to their duties and responsibilities are written.

**A. VI. Appendices - Appendix II: Explanatory memorandum on Part-OR
Subpart OPS - Section V: Flight crew (OR.OPS.001.FC)**

p. 46-48

comment 284

comment by: *Royal Aeronautical Society*

Paragraph 25 explains that the term 'commander' will not appear having been replaced by 'pilot-in-command'. However, the term 'commander' still appears in NPA 2009-02b page 173 GM OPS.GEN.180 H paragraph 7.a, and in NPA 2009-02d page 31 GM 2 AR.GEN.430 (b)(2) Initial Training Programme paragraph 12.e.3. **It is suggested that the noun 'commander' should be replaced by 'pilot-in-command' in these two texts.**

comment

367

comment by: *AEA*

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month OPC validity, 24 month Line Check validity and 24 month SEP validity periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

We don't believe it was the intent of the EU Legislator when tasking EASA to prepare the Implementing Rules to omit this regulation and there is no safety justification for this change. In fact, the ATQP programme has a proven safety benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.

2. Conversion training and checking.

3. Differences training and familiarisation training.

4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:
 - (i) knowledge;
 - (ii) the required skills;
 - (iii) the associated skill based training;and, where appropriate
 - (iv) the validated behavioural markers.
3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;
4. A specific training programme for:
 - (i) each aeroplane type/class within the ATQP;
 - (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
 - (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;
5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;
6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;
7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;
8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;
9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:
 - (i) a safety case that substantiates the validity of:
 - (A) the revised training and qualification standards when compared with the

standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

2 Line Oriented Quality Evaluation (LOQE). LOQE is one of the tools used to help evaluate the overall performance of an operation. LOQEs consist of line flights that are observed by appropriately qualified operator personnel to provide feedback to validate the ATQP. The LOQE should be designed to look at those elements of the operation that are unable to be monitored by FDM or Advanced FDM programmes.

3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

4 Event based Assessment. This is the assessment of flight crew to provide assurance that the required knowledge and skills have been acquired. This is achieved within an LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training programme that substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include

quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

- a. Enhance safety;
- b. Improve training and qualification standards of flight crew;
- c. Establish attainable training objectives;
- d. Integrate CRM in all aspects of training;
- e. Develop a support and feedback process to form a self-correcting training system;
- f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;
- g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the operational environment;
- h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;
- i. Make efficient use of training resources, specifically to match the use of training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

2.2 Topics: A description of what will be trained during the lesson;

2.3 Targets/Objectives

a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

c. Each qualification event that is required by the programme should specify the training that is required to be undertaken and the required standard to be achieved. (See paragraph j below)

3 Each lesson/course/training or qualification event should have the same basic structure. The topics related to the lesson have to be listed and the lesson targets should be unambiguous.

4 Each lesson/course or training event whether classroom, CBT or simulator should specify the required topics with the relevant targets to be achieved.

(h) Training Personnel

1 Personnel who perform training and checking of flight crew in an operator's ATQP should receive the following additional training on:

1.1 ATQP principles and goals;

1.2 Knowledge/skills/behaviour as learned from task analysis;

1.3 LOE/ LOFT Scenarios to include triggers / markers / event sets / observable behaviour;

1.4 Qualification standards;

1.5 Harmonisation of assessment standards;

1.6 Behavioural markers and the systemic assessment of CRM;

1.7 Event sets and the corresponding desired knowledge/skills and behaviour of the flight crew;

1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and

1.9 LOQE.

(i) Feedback Loop

1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

2 The programmes established quality control mechanisms should at least review the following:

2.1 Procedures for approval of recurrent training;

2.2 ATQP instructor training approvals;

2.3 Approval of event set(s) for LOE/LOFT;

2.4 Procedures for conducting LOE and LOQE.

(j) Crew Performance Measurement and Evaluation

1 The qualification and checking programmes should include at least the following elements:

1.1 A specified structure;

1.2 Elements to be tested/examined;

1.3 Targets and/or standards to be attained;

1.4 The specified technical and procedural knowledge and skills, and behavioural markers to be exhibited.

2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

3 The markers specified under the operator's ATQP should form one of the core elements in determining the required qualification standard. A typical set of markers are shown in the table below:

EVENT	MARKER
Awareness	1 Monitors and reports changes in automation status.
of Aeroplane Systems:	2 Applies closed loop principle in all relevant situations.
	3 Uses all channels for updates.
	4 Is aware of remaining technical resources

4 The topics / targets integrated into the curriculum have to be measurable and progression on any training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

2.2 Establish operational and training objectives based upon an analysis of the operational environment;

2.3 Monitor the effectiveness of flight crew training and qualification.

3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety personnel in analysing the data. The analysis should be made available to the ATQP postholder.

3.2 The data gathered should:

- a. Include all fleets that plan to operate under the ATQP;
- b. Include all crews trained and qualified under the ATQP;
- c. Be established during the implementation phase of ATQP; and
- d. Continue throughout the life of the ATQP.

4 Data Handling.

4.1 The operator should establish a process, which ensures the strict adherence to any data handling protocols, agreed with flight crew representative bodies, to ensure the confidentiality of individual flight crew members.

4.2 The data handling protocol should define the maximum period of time that detailed FDM or advanced FDM programme data, including exceedences, should be retained. Trend data may be retained permanently.

5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation – including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

- a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;
- b. Be valid to the application and the proposed operation (ATQP);
- c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;
- d. Be applicable over the entire lifetime of the programme;
- e. Demonstrate Completeness and Credibility of the programme;
- f. Be fully documented;
- g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;
- h. Ensure robustness to system change;
- i. Address the impact of technological advance, obsolescence and change;
- j. Address the impact of regulatory change.

4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment 381

comment by: *AUSTRIAN Airlines*

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month OPC validity, 24 month Line Check validity and 24 month SEP validity periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

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benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

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2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

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4. Nomination as commander.
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(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:
 - (i) knowledge;
 - (ii) the required skills;
 - (iii) the associated skill based training;and, where appropriate
 - (iv) the validated behavioural markers.
3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;
4. A specific training programme for:
 - (i) each aeroplane type/class within the ATQP;
 - (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
 - (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;
5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;
6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;
7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;
8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;
9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

(i) a safety case that substantiates the validity of:

(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

2 Line Oriented Quality Evaluation (LOQE). LOQE is one of the tools used to help evaluate the overall performance of an operation. LOQEs consist of line flights that are observed by appropriately qualified operator personnel to provide feedback to validate the ATQP. The LOQE should be designed to look at those elements of the operation that are unable to be monitored by FDM or Advanced FDM programmes.

3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

4 Event based Assessment. This is the assessment of flight crew to provide assurance that the required knowledge and skills have been acquired. This is achieved within an LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and

requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training

programme that substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

- a. Enhance safety;
- b. Improve training and qualification standards of flight crew;
- c. Establish attainable training objectives;
- d. Integrate CRM in all aspects of training;
- e. Develop a support and feedback process to form a self-correcting training system;
- f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;
- g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the operational environment;
- h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;
- i. Make efficient use of training resources, specifically to match the use of training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

2.2 Topics: A description of what will be trained during the lesson;

2.3 Targets/Objectives

a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

c. Each qualification event that is required by the programme should specify the training that is required to be undertaken and the required standard to be achieved. (See paragraph j below)

3 Each lesson/course/training or qualification event should have the same basic structure. The topics related to the lesson have to be listed and the lesson targets should be unambiguous.

4 Each lesson/course or training event whether classroom, CBT or simulator should specify the required topics with the relevant targets to be achieved.

(h) Training Personnel

1 Personnel who perform training and checking of flight crew in an operator's ATQP should receive the following additional training on:

1.1 ATQP principles and goals;

1.2 Knowledge/skills/behaviour as learned from task analysis;

1.3 LOE/ LOFT Scenarios to include triggers / markers / event sets / observable behaviour;

1.4 Qualification standards;

1.5 Harmonisation of assessment standards;

1.6 Behavioural markers and the systemic assessment of CRM;

1.7 Event sets and the corresponding desired knowledge/skills and behaviour of the flight crew;

1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and

1.9 LOQE.

(i) Feedback Loop

1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

2 The programmes established quality control mechanisms should at least review the following:

2.1 Procedures for approval of recurrent training;

2.2 ATQP instructor training approvals;

2.3 Approval of event set(s) for LOE/LOFT;

2.4 Procedures for conducting LOE and LOQE.

(j) Crew Performance Measurement and Evaluation

1 The qualification and checking programmes should include at least the following elements:

1.1 A specified structure;

1.2 Elements to be tested/examined;

1.3 Targets and/or standards to be attained;

1.4 The specified technical and procedural knowledge and skills, and behavioural markers to be exhibited.

2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

3 The markers specified under the operator's ATQP should form one of the core elements in determining the required qualification standard. A typical set of markers are shown in the table below:

EVENT	MARKER
Awareness	1 Monitors and reports changes in automation status.
of Aeroplane Systems:	2 Applies closed loop principle in all relevant situations.
	3 Uses all channels for updates.
	4 Is aware of remaining technical resources

4 The topics / targets integrated into the curriculum have to be measurable and progression on any training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant

crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

2.2 Establish operational and training objectives based upon an analysis of the operational environment;

2.3 Monitor the effectiveness of flight crew training and qualification.

3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety personnel in analysing the data. The analysis should be made available to the ATQP postholder.

3.2 The data gathered should:

- a. Include all fleets that plan to operate under the ATQP;
- b. Include all crews trained and qualified under the ATQP;
- c. Be established during the implementation phase of ATQP; and
- d. Continue throughout the life of the ATQP.

4 Data Handling.

4.1 The operator should establish a process, which ensures the strict adherence to any data handling protocols, agreed with flight crew representative bodies, to ensure the confidentiality of individual flight crew members.

4.2 The data handling protocol should define the maximum period of time that detailed FDM or advanced FDM programme data, including exceedences, should be retained. Trend data may be retained permanently.

5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation – including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;

b. Be valid to the application and the proposed operation (ATQP);

c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent

safety standards are achieved;

d. Be applicable over the entire lifetime of the programme;

e. Demonstrate Completeness and Credibility of the programme;

f. Be fully documented;

g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;

h. Ensure robustness to system change;

i. Address the impact of technological advance, obsolescence and change;

j. Address the impact of regulatory change.

4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment 386

comment by: TAP Portugal

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12

month OPC validity, 24 month Line Check validity and 24 month SEP validity periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

We don't believe it was the intent of the EU Legislator when tasking EASA to prepare the Implementing Rules to omit this regulation and there is no safety justification for this change. In fact, the ATQP programme has a proven safety benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24

calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.
2. Conversion training and checking.
3. Differences training and familiarisation training.
4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:

- (i) knowledge;
- (ii) the required skills;
- (iii) the associated skill based training;

and, where appropriate

- (iv) the validated behavioural markers.

3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;

4. A specific training programme for:

- (i) each aeroplane type/class within the ATQP;
- (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
- (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;

5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;

6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply

with the provisions of OPS 1.965;

7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;

8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;

9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

(i) a safety case that substantiates the validity of:

(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

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The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

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The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

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2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

- a. Enhance safety;
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minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

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2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

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c. Be established during the implementation phase of ATQP; and

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2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

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2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

- a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;
- b. Be valid to the application and the proposed operation (ATQP);
- c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;
- d. Be applicable over the entire lifetime of the programme;
- e. Demonstrate Completeness and Credibility of the programme;
- f. Be fully documented;
- g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;
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- i. Address the impact of technological advance, obsolescence and change;
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4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment

442

comment by: DGAC

§ 28: We strongly support the status quo in respect of non harmonization of the requirements between aeroplane and helicopter for flight crew composition under IFR or at night. It is important to keep rules adapted to the type of aircraft

comment

451

comment by: KLM

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

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Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from

the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.
2. Conversion training and checking.
3. Differences training and familiarisation training.
4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:

(i) knowledge;

(ii) the required skills;

(iii) the associated skill based training;

and, where appropriate

(iv) the validated behavioural markers.

3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;

4. A specific training programme for:

- (i) each aeroplane type/class within the ATQP;
 - (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating – CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
 - (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner – CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;
5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;
 6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;
 7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;
 8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;
 9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

- (i) a safety case that substantiates the validity of:

- (A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

- (B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

- (ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

- (iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate

trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an

acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

2 Line Oriented Quality Evaluation (LOQE). LOQE is one of the tools used to help evaluate the overall performance of an operation. LOQEs consist of line flights that are observed by appropriately qualified operator personnel to provide feedback to validate the ATQP. The LOQE should be designed to look at those elements of the operation that are unable to be monitored by FDM or Advanced FDM programmes.

3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

4 Event based Assessment. This is the assessment of flight crew to provide assurance that the required knowledge and skills have been acquired. This is achieved within an LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training programme that substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

a. Enhance safety;

b. Improve training and qualification standards of flight crew;

c. Establish attainable training objectives;

d. Integrate CRM in all aspects of training;

e. Develop a support and feedback process to form a self-correcting training system;

f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;

g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the

operational environment;

h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;

i. Make efficient use of training resources, specifically to match the use of

training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

2.2 Topics: A description of what will be trained during the lesson;

2.3 Targets/Objectives

a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

c. Each qualification event that is required by the programme should specify the training that is required to be undertaken and the required standard to be achieved. (See paragraph j below)

3 Each lesson/course/training or qualification event should have the same basic structure. The topics related to the lesson have to be listed and the lesson targets should be unambiguous.

4 Each lesson/course or training event whether classroom, CBT or simulator should specify the required topics with the relevant targets to be achieved.

(h) Training Personnel

1 Personnel who perform training and checking of flight crew in an operator's ATQP should receive the following additional training on:

1.1 ATQP principles and goals;

1.2 Knowledge/skills/behaviour as learned from task analysis;

1.3 LOE/ LOFT Scenarios to include triggers / markers / event sets / observable behaviour;

1.4 Qualification standards;

1.5 Harmonisation of assessment standards;

1.6 Behavioural markers and the systemic assessment of CRM;

1.7 Event sets and the corresponding desired knowledge/skills and behaviour of the flight crew;

1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and

1.9 LOQE.

(i) Feedback Loop

1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

2 The programmes established quality control mechanisms should at least review the following:

2.1 Procedures for approval of recurrent training;

2.2 ATQP instructor training approvals;

2.3 Approval of event set(s) for LOE/LOFT;

2.4 Procedures for conducting LOE and LOQE.

(j) Crew Performance Measurement and Evaluation

1 The qualification and checking programmes should include at least the following elements:

1.1 A specified structure;

1.2 Elements to be tested/examined;

1.3 Targets and/or standards to be attained;

1.4 The specified technical and procedural knowledge and skills, and behavioural markers to be exhibited.

2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

3 The markers specified under the operator's ATQP should form one of the core elements in determining the required qualification standard. A typical set of markers are shown in the table below:

EVENT	MARKER
Awareness	1 Monitors and reports changes in automation status.

of Aeroplane Systems:	2 Applies closed loop principle in all relevant situations.
	3 Uses all channels for updates.
	4 Is aware of remaining technical resources

4 The topics / targets integrated into the curriculum have to be measurable and progression on any training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

2.2 Establish operational and training objectives based upon an analysis of the operational environment;

2.3 Monitor the effectiveness of flight crew training and qualification.

3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety personnel in analysing the data. The analysis should be made available to the ATQP postholder.

3.2 The data gathered should:

a. Include all fleets that plan to operate under the ATQP;

b. Include all crews trained and qualified under the ATQP;

c. Be established during the implementation phase of ATQP; and

d. Continue throughout the life of the ATQP.

4 Data Handling.

4.1 The operator should establish a process, which ensures the strict adherence to any data handling protocols, agreed with flight crew representative bodies, to ensure the confidentiality of individual flight crew

members.

4.2 The data handling protocol should define the maximum period of time that detailed FDM or advanced FDM programme data, including exceedences, should be retained. Trend data may be retained permanently.

5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation - including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

- a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;
- b. Be valid to the application and the proposed operation (ATQP);
- c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;
- d. Be applicable over the entire lifetime of the programme;
- e. Demonstrate Completeness and Credibility of the programme;
- f. Be fully documented;
- g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;
- h. Ensure robustness to system change;

- i. Address the impact of technological advance, obsolescence and change;
- j. Address the impact of regulatory change.

4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment 459

comment by: *Virgin Atlantic Airways*

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month OPC validity, 24 month Line Check validity and 24 month SEP validity periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

We don't believe it was the intent of the EU Legislator when tasking EASA to prepare the Implementing Rules to omit this regulation and there is no safety justification for this change. In fact, the ATQP programme has a proven safety benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the

Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

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4. Nomination as commander.

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6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;

2. A task analysis to determine the tasks to be analysed in terms of:

(i) knowledge;

(ii) the required skills;

(iii) the associated skill based training;

and, where appropriate

(iv) the validated behavioural markers.

3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;

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(i) each aeroplane type/class within the ATQP;

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(iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;

5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;

6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;

7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;

8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;

9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

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(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

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3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

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required knowledge and skills have been acquired. This is achieved within an LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training programme that

substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

a. Enhance safety;

b. Improve training and qualification standards of flight crew;

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e. Develop a support and feedback process to form a self-correcting training

system;

f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;

g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the

operational environment;

h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;

i. Make efficient use of training resources, specifically to match the use of training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

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a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

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1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and 1.9 LOQE.

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1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

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1 The qualification and checking programmes should include at least the following elements:

1.1 A specified structure;

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2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should

also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

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4 The topics / targets integrated into the curriculum have to be measurable and progression on any training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

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3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety personnel in analysing the data. The analysis should be made available to the

ATQP postholder.

3.2 The data gathered should:

- a. Include all fleets that plan to operate under the ATQP;
- b. Include all crews trained and qualified under the ATQP;
- c. Be established during the implementation phase of ATQP; and
- d. Continue throughout the life of the ATQP.

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5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation - including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

- a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;

- b. Be valid to the application and the proposed operation (ATQP);
 - c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;
 - d. Be applicable over the entire lifetime of the programme;
 - e. Demonstrate Completeness and Credibility of the programme;
 - f. Be fully documented;
 - g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;
 - h. Ensure robustness to system change;
 - i. Address the impact of technological advance, obsolescence and change;
 - j. Address the impact of regulatory change.
- 4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment

461

comment by: *Deutsche Lufthansa AG***Relevant Text:**

29. Finally, EU-OPS 1.978, which allows operators to establish alternative train programmes, was not transposed as such a flexibility is already built in the new training requirements are now AMC material and the right to deviate that v EU-OPS framework is not needed any more. In this new context, if an operator training programme that does not follow the related AMC, it will have to be foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month OPC validity, 24 month Line Check validity and 24 month SEP validity periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

We don't believe it was the intent of the EU Legislator when tasking EASA to prepare the Implementing Rules to omit this regulation and there is no safety justification for this change. In fact, the ATQP programme has a proven safety benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation and associated AMC:

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an alternative training and Qualification programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan in accordance with OR.OPS

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.

2. Conversion training and checking.

3. Differences training and familiarisation training.
4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:
 - (i) knowledge;
 - (ii) the required skills;
 - (iii) the associated skill based training;and, where appropriate
 - (iv) the validated behavioural markers.
3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;
4. A specific training programme for:
 - (i) each aeroplane type/class within the ATQP;
 - (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
 - (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;
5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;
6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;
7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;
8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;
9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:
 - (i) a safety case that substantiates the validity of:

(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

2 Line Oriented Quality Evaluation (LOQE). LOQE is one of the tools used to help evaluate the

overall performance of an operation. LOQEs consist of line flights that are observed by appropriately qualified operator personnel to provide feedback to validate the ATQP. The LOQE should be designed to look at those elements of the operation that are unable to be monitored by FDM or Advanced FDM programmes.

3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

4 Event based Assessment. This is the assessment of flight crew to provide assurance that the

required knowledge and skills have been acquired. This is achieved within an LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training programme that

substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-

OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

- a. Enhance safety;
- b. Improve training and qualification standards of flight crew;
- c. Establish attainable training objectives;
- d. Integrate CRM in all aspects of training;
- e. Develop a support and feedback process to form a self-correcting training system;
- f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;
- g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the operational environment;
- h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;
- i. Make efficient use of training resources, specifically to match the use of training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

2.2 Topics: A description of what will be trained during the lesson;

2.3 Targets/Objectives

a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

c. Each qualification event that is required by the programme should specify the training that is required to be undertaken and the required standard to be achieved. (See paragraph j below)

3 Each lesson/course/training or qualification event should have the same basic structure. The topics related to the lesson have to be listed and the lesson targets should be unambiguous.

4 Each lesson/course or training event whether classroom, CBT or simulator should specify the required topics with the relevant targets to be achieved.

(h) Training Personnel

1 Personnel who perform training and checking of flight crew in an operator's ATQP should receive the following additional training on:

1.1 ATQP principles and goals;

1.2 Knowledge/skills/behaviour as learned from task analysis;

1.3 LOE/ LOFT Scenarios to include triggers / markers / event sets / observable behaviour;

1.4 Qualification standards;

1.5 Harmonisation of assessment standards;

1.6 Behavioural markers and the systemic assessment of CRM;

1.7 Event sets and the corresponding desired knowledge/skills and behaviour of the flight crew;

1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and

1.9 LOQE.

(i) Feedback Loop

1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

2 The programmes established quality control mechanisms should at least review the following:

2.1 Procedures for approval of recurrent training;

2.2 ATQP instructor training approvals;

2.3 Approval of event set(s) for LOE/LOFT;

2.4 Procedures for conducting LOE and LOQE.

(j) Crew Performance Measurement and Evaluation

1 The qualification and checking programmes should include at least the following elements:

- 1.1 A specified structure;
- 1.2 Elements to be tested/examined;
- 1.3 Targets and/or standards to be attained;
- 1.4 The specified technical and procedural knowledge and skills, and behavioural markers to be exhibited.

2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

3 The markers specified under the operator's ATQP should form one of the core elements in determining the required qualification standard. A typical set of markers are shown in the table below:

EVENT	MARKER
Awareness	1 Monitors and reports changes in automation status.
of Aeroplane Systems:	2 Applies closed loop principle in all relevant situations.
	3 Uses all channels for updates.
	4 Is aware of remaining technical resources

4 The topics / targets integrated into the curriculum have to be measurable and progression on any training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the

discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

2.2 Establish operational and training objectives based upon an analysis of the operational environment;

2.3 Monitor the effectiveness of flight crew training and qualification.

3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety personnel in analysing the data. The analysis should be made available to the ATQP postholder.

3.2 The data gathered should:

- a. Include all fleets that plan to operate under the ATQP;
- b. Include all crews trained and qualified under the ATQP;
- c. Be established during the implementation phase of ATQP; and
- d. Continue throughout the life of the ATQP.

4 Data Handling.

4.1 The operator should establish a process, which ensures the strict adherence to any data handling protocols, agreed with flight crew representative bodies, to ensure the confidentiality of individual flight crew members.

4.2 The data handling protocol should define the maximum period of time that detailed FDM or advanced FDM programme data, including exceedences, should be retained. Trend data may be retained permanently.

5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation – including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;

b. Be valid to the application and the proposed operation (ATQP);

c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;

d. Be applicable over the entire lifetime of the programme;

e. Demonstrate Completeness and Credibility of the programme;

f. Be fully documented;

g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;

h. Ensure robustness to system change;

i. Address the impact of technological advance, obsolescence and change;

j. Address the impact of regulatory change.

4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment 534

comment by: *easyjet safety*

Relevant Text:

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This statement neglects to take into consideration the full extent of EU-OPS 1.978.

EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month

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The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package.

Currently note 29 refers only to the training element.

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Proposal:

Include the following (new) regulation based on EU-OPS 1.978, and (new) AMC based on Appendix 1 to EU-OPS 1.978.

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an Alternative Training and Qualification Programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan.

(d) In addition to the checks required by OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. Operator Proficiency Check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. Line Check — 24 calendar months in addition to the remainder of the month

of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. Emergency and Safety Equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.
2. Conversion training and checking.
3. Differences training and familiarisation training.
4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:

- (i) knowledge;
- (ii) the required skills;
- (iii) the associated skill based training;

and, where appropriate

- (iv) the validated behavioural markers.

3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;

4. A specific training programme for:

- (i) each aeroplane type/class within the ATQP;
- (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
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5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;

6. A method for the assessment of flight crew both during conversion and

recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OR OPS;

7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;

8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;

9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

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1. The implementation process shall include the following stages:

(i) a safety case that substantiates the validity of:

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If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

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(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

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comment 597

comment by: Icelandair

Relevant Text:

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4. A specific training programme for:
 - (i) each aeroplane type/class within the ATQP;
 - (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating – CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
 - (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner – CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;
5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;
6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply with the provisions of OPS 1.965;
7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;

8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;

9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

(i) a safety case that substantiates the validity of:

(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

(d) Terminology

1 Line Oriented Evaluation (LOE). LOE is an evaluation methodology used in the ATQP to evaluate trainee performance, and to validate trainee proficiency. LOEs consist of flight simulator scenarios that are developed by the operator in accordance with a methodology approved as part of the ATQP. The LOE should be realistic and include appropriate weather scenarios and in addition should fall within an acceptable range of difficulty. The LOE should include the use of validated event sets to provide the basis for event based assessment. See paragraph 4 below.

2 Line Oriented Quality Evaluation (LOQE). LOQE is one of the tools used to help evaluate the overall performance of an operation. LOQEs consist of line flights that are observed by appropriately qualified operator personnel to provide feedback to validate the ATQP. The LOQE should be designed to look at those elements of the operation that are unable to be monitored by FDM or Advanced FDM programmes.

3 Skill based training. Skill based training requires the identification of specific knowledge and skills.

The required knowledge and skills are identified within an ATQP as part of a task analysis and are used to provide targeted training.

4 Event based Assessment. This is the assessment of flight crew to provide assurance that the

required knowledge and skills have been acquired. This is achieved within an

LOE. Feedback to the flight crew is an integral part of event based assessment.]

(e) Requirements, Scope and Documentation of the Programme

The documentation should demonstrate how the operator should establish the scope and requirements of the programme. The documentation should include:

1 How the ATQP should enable the operator to establish an alternative training programme that substitutes the requirements as listed in OR-OPS. The programme should demonstrate that the operator is able to improve the training and qualification standards of flight crew to a level that exceeds the standard prescribed in OR-OPS.

2 The operator's training needs and established operational and training objectives.

3 How the operator defines the process for designing of and gaining approval for the operator's flight crew qualification programmes. This should include quantified operational and training objectives identified by the operator's internal monitoring programmes. External sources may also be used.

4 How the programme will:

a. Enhance safety;

b. Improve training and qualification standards of flight crew;

c. Establish attainable training objectives;

d. Integrate CRM in all aspects of training;

e. Develop a support and feedback process to form a self-correcting training system;

f. Institute a system of progressive evaluations of all training to enable consistent and uniform monitoring of the training undertaken by flight crew;

g. Enable the operator to be able to respond to the new aeroplane technologies and changes in the

operational environment;

h. Foster the use of innovative training methods and technology for flight crew instruction and the evaluation of training systems;

i. Make efficient use of training resources, specifically to match the use of training media to the training needs.

(f) Task Analysis

For each aeroplane type/class to be included within the ATQP the operator should establish a systematic review that determines and defines the various tasks to be undertaken by the flight crew when operating that type(s)/class. Data from other types/class may also be used. The analysis should determine and describe the knowledge and skills required to complete the various tasks specific to the aeroplane type/class and/or type of operation. In addition the analysis should identify the appropriate behavioural markers that should be exhibited. The task analysis should be suitably validated in accordance with paragraph (c)(iii). The task analysis, in conjunction with the data gathering programme(s) permit the operator to establish a programme of targeted training together with the associated training objectives described in paragraph (g) below.

(g) Training Programme

The training programme should have the following structure:

1 Curriculum.

1.1 Daily lesson plan.

2 The curriculum should specify the following elements:

2.1 Entry requirements: A list of topics and content, describing what training level will be required before start or continuation of training.

2.2 Topics: A description of what will be trained during the lesson;

2.3 Targets/Objectives

a. Specific target or set of targets that have to be reached and fulfilled before the training course can be continued.

b. Each specified target should have an associated objective that is identifiable both by the flight crew and the trainers.

c. Each qualification event that is required by the programme should specify the training that is required to be undertaken and the required standard to be achieved. (See paragraph j below)

3 Each lesson/course/training or qualification event should have the same basic structure. The topics related to the lesson have to be listed and the lesson targets should be unambiguous.

4 Each lesson/course or training event whether classroom, CBT or simulator should specify the required topics with the relevant targets to be achieved.

(h) Training Personnel

1 Personnel who perform training and checking of flight crew in an operator's ATQP should receive the following additional training on:

1.1 ATQP principles and goals;

1.2 Knowledge/skills/behaviour as learned from task analysis;

1.3 LOE/ LOFT Scenarios to include triggers / markers / event sets / observable behaviour;

1.4 Qualification standards;

1.5 Harmonisation of assessment standards;

1.6 Behavioural markers and the systemic assessment of CRM;

1.7 Event sets and the corresponding desired knowledge/skills and behaviour of the flight crew;

1.8 The processes that the operator has implemented to validate the training and qualification standards and the instructors part in the ATQP quality control; and 1.9 LOQE.

(i) Feedback Loop

1 The feedback should be used as a tool to validate that the curricula are implemented as specified by the ATQP; this enables substantiation of the curriculum, and that proficiency and training objectives have

been met. The feedback loop should include data from operations flight data monitoring, advanced FDM programme and LOE/LOQE programmes. In addition the evaluation process shall describe whether the overall targets/objectives of training are being achieved and shall prescribe any corrective action that needs to be undertaken.

2 The programmes established quality control mechanisms should at least

review the following:

2.1 Procedures for approval of recurrent training;

2.2 ATQP instructor training approvals;

2.3 Approval of event set(s) for LOE/LOFT;

2.4 Procedures for conducting LOE and LOQE.

(j) Crew Performance Measurement and Evaluation

1 The qualification and checking programmes should include at least the following elements:

1.1 A specified structure;

1.2 Elements to be tested/examined;

1.3 Targets and/or standards to be attained;

1.4 The specified technical and procedural knowledge and skills, and behavioural markers to be exhibited.

2 An LOE event should comprise of tasks and sub-tasks performed by the crew under a specified set of conditions. Each event has one or more specific training targets/objectives, which require the performance of a specific manoeuvre, the application of procedures, or the opportunity to practise cognitive, communication or other complex skills. For each event the proficiency that is required to be achieved should be established. Each event should include a range of circumstances under which the crews' performance is to be measured and evaluated. The conditions pertaining to each event should also be established and they may include the prevailing meteorological conditions (ceiling, visibility, wind, turbulence etc.); the operational environment (navigation aid inoperable etc.); and the operational contingencies (non-normal operation etc).

3 The markers specified under the operator's ATQP should form one of the core elements in determining the required qualification standard. A typical set of markers are shown in the table below:

EVENT	MARKER
Awareness	1 Monitors and reports changes in automation status.
of Aeroplane Systems:	2 Applies closed loop principle in all relevant situations.
	3 Uses all channels for updates.
	4 Is aware of remaining technical resources

4 The topics / targets integrated into the curriculum have to be measurable and progression on any training/course is only allowed if the targets are fulfilled.

(k) Data Monitoring/Analysis Programme

1 The data analysis programme should consist of:

1.1 A Flight Data Monitoring (FDM) programme: This programme should include systematic evaluation of operational data derived from equipment that is able to record the flight profile and relevant operational information during flights conducted by the operator's aeroplane. Data collection should reach a minimum of 60% of all relevant flights conducted by the operator before ATQP approval is granted. This proportion may be increased at the discretion of the Authority.

1.2 An Advanced FDM when an extension to the ATQP is requested: An advanced

FDM programme is determined by the level of integration with other safety initiatives implemented by the operator, such as the operator's Quality System. The programme should include both systematic evaluations of data from an FDM programme and flight crew training events for the relevant crews. Data collection should reach a minimum of 80% of all relevant flights and training conducted by the operator. This proportion may be varied at the discretion of the Authority.

2 The purpose of either an FDM or advanced FDM programme is to enable the operator to:

2.1 Provide data to support the programme's implementation and justify any changes to the ATQP;

2.2 Establish operational and training objectives based upon an analysis of the operational environment;

2.3 Monitor the effectiveness of flight crew training and qualification.

3 Data Gathering.

3.1 FDM programmes should include a system that captures flight data, and then transforms the data into an appropriate format for analysis. The programme should generate information to assist the operations safety personnel in analysing the data. The analysis should be made available to the ATQP postholder.

3.2 The data gathered should:

- a. Include all fleets that plan to operate under the ATQP;
- b. Include all crews trained and qualified under the ATQP;
- c. Be established during the implementation phase of ATQP; and
- d. Continue throughout the life of the ATQP.

4 Data Handling.

4.1 The operator should establish a process, which ensures the strict adherence to any data handling protocols, agreed with flight crew representative bodies, to ensure the confidentiality of individual flight crew members.

4.2 The data handling protocol should define the maximum period of time that detailed FDM or advanced FDM programme data, including exceedences, should be retained. Trend data may be retained permanently.

5 An operator that has an acceptable operations flight data monitoring programme prior to the proposed introduction of ATQP may, with the approval of the Authority, use relevant data from other fleets not part of the proposed ATQP.

(I) Safety Case

1.1 A documented body of evidence that provides a demonstrable and valid justification that the programme (ATQP) is adequately safe for the given type of operation. The safety case should encompass each phase of implementation of the programme and be applicable over the lifetime of the programme that is to be overseen.

1.2 The safety case should:

- a. Demonstrate the required level of safety;
- b. Ensure the required safety is maintained throughout the lifetime of the programme;
- c. Minimise risk during all phases of the programmes implementation and

operation.

2 Elements of a Safety Case:

2.1 Planning: Integrated and planned with the operation (ATQP) that is to be justified;

2.2 Criteria: Develop the applicable criteria - see paragraph 3 below;

2.3 Documentation: Safety related documentation – including a safety checklist;

2.4 Programme of implementation: To include controls and validity checks;

2.5 Oversight: Review and audits.

3 Criteria for the establishment of a Safety Case.

3.1 The Safety Case should:

a. Be able to demonstrate that the required or equivalent level of safety is maintained throughout all phases of the programme, including as required by paragraph (c) below;

b. Be valid to the application and the proposed operation (ATQP);

c. Be adequately safe and ensure the required regulatory safety standards or approved equivalent safety standards are achieved;

d. Be applicable over the entire lifetime of the programme;

e. Demonstrate Completeness and Credibility of the programme;

f. Be fully documented;

g. Ensure integrity of the operation and the maintenance of the operations and training infra-structure;

h. Ensure robustness to system change;

i. Address the impact of technological advance, obsolescence and change;

j. Address the impact of regulatory change.

4 In accordance with paragraph (c) the operator may develop an equivalent method other than that specified above.

comment

683

comment by: *British Airways*

Relevant Text:

29. Finally, EU-OPS 1.978, which allows operators to establish alternative training and qualification programmes, was not transposed as such a flexibility is already built in the new set of rules since the training requirements are now AMC material and the right to deviate that was necessary in the EU-OPS framework is not needed any more. In this new context, if an operator wants to develop a training programme that does not follow the related AMC, it will have to use the mechanism foreseen in Part-AR and Part-OR to deal with alternative means of compliance.

Comment:

This statement neglects to take into consideration the full extent of EU-OPS 1.978. EU-OPS 1.978 not only allows for flexibility in the training programme but in addition prescribes an alternative schedule for checking under which 12 month OPC validity, 24 month Line Check validity and 24 month SEP validity

periods may be approved.

The omission of this alternative checking schedule would have a significantly detrimental impact on those community operators who have already adopted an approved ATQP programme. We argue that an ATQP programme is an amalgam of both training AND checking and that enhanced validity periods are integral to the package. Currently note 29 refers only to the training element.

We don't believe it was the intent of the EU Legislator when tasking EASA to prepare the Implementing Rules to omit this regulation and there is no safety justification for this change. In fact, the ATQP programme has a proven safety benefit demonstrated through the individual safety cases. We request that EASA reinstate the provisions of EU-OPS 1.978 in a new regulation and new AMC.

Proposal:

Include the following (new) regulation based on EU-OPS 1.978, and (new) AMC based on Appendix 1 to EU-OPS 1.978.

OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator, following a minimum of two years continuous operations, may substitute the training and checking requirements for flight crew specified in OR.OPS.145.FC by an Alternative Training and Qualification Programme (ATQP) approved by the Authority. The two years continuous operations may be reduced at the discretion of the Authority.

(b) The ATQP must contain training and checking which establishes and maintains a level of proficiency demonstrated to be at least not less than the level of proficiency achieved by following the provisions of OR.OPS. The standard of flight crew training and qualification shall be established prior to the introduction of ATQP; the required ATQP training and qualification standards shall also be specified.

(c) An operator applying for approval to implement an ATQP shall provide the Authority with an implementation plan.

(d) In addition to the checks required OR.OPS an operator shall ensure that each flight crew member undergoes a Line Orientated Evaluation (LOE).

1. The line orientated evaluation (LOE) shall be conducted in a simulator. The LOE may be undertaken with other approved ATQP training.

2. The period of validity of a LOE shall be 12 calendar months, in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous LOE the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous LOE.

(e) After two years of operating within an approved ATQP an operator may, with the approval of the Authority, extend the periods of OR.OPS.145.FC follows:

1. operator proficiency check — 12 calendar months in addition to the remainder of the month of issue. If issued within the final three calendar months of validity of a previous operator proficiency check, the period of validity shall extend from the date of issue until 12 calendar months from the expiry date of that previous operator proficiency check;

2. line check — 24 calendar months in addition to the remainder of the month of issue. If issued within the final six calendar months of validity of a previous line check, the period of validity shall extend from the date of issue until 24

calendar months from the expiry date of that previous line check. The line check may be combined with a line oriented quality evaluation (LOQE) with the approval of the authority;

3. emergency and safety equipment checking — 24 calendar months in addition to the remainder of the month of issue. If issued within the final 6 calendar months of validity of a previous check, the period of validity shall extend from the date of issue until 24 calendar months from the expiry date of that previous check.

(f) The ATQP shall be the responsibility of a nominated post holder.

AMC OR.OPS.150.FC - Alternative training and qualification programme

(a) An operator's ATQP may apply to the following requirements that relate to training and qualifications:

1. Low Visibility Operations –Training and Qualifications.
2. Conversion training and checking.
3. Differences training and familiarisation training.
4. Nomination as commander.
5. Recurrent training and checking.
6. Operation on more than one type or variant.

(b) Components of the ATQP — an alternative training and qualification programme shall comprise the following:

1. Documentation that details the scope and requirements of the programme;
2. A task analysis to determine the tasks to be analysed in terms of:

- (i) knowledge;
- (ii) the required skills;
- (iii) the associated skill based training;

and, where appropriate

- (iv) the validated behavioural markers.

3. Curricula — the curriculum structure and content shall be determined by task analysis, and shall include proficiency objectives including when and how those objectives shall be met. The process for curriculum development shall be acceptable to the Authority;

4. A specific training programme for:

- (i) each aeroplane type/class within the ATQP;
- (ii) the instructors (Class rating instructor rating/Synthetic flight instructor authorisation/Type rating instructor rating — CRI/SFI/TRI), and other personnel undertaking flight crew instruction;
- (iii) the examiners (Class rating examiner/Synthetic flight examiner/Type rating examiner — CRE/SFE/TRE); to include a method for the standardisation of the instructors and examiners;

5. A feedback loop for the purpose of curriculum validation and refinement, and to ascertain that the programme meets its proficiency objectives;

6. A method for the assessment of flight crew both during conversion and recurrent training and checking. The assessment process shall include event-based assessment as part of the LOE. The method of assessment shall comply

with the provisions of OR OPS;

7. An integrated system of quality control, that ensures compliance with all the requirements processes and procedures of the programme;

8. A process that describes the method to be used if the monitoring and evaluation programmes do not ensure compliance with the established proficiency and qualification standards for flight crew;

9. A data monitoring/analysis programme.

(c) Implementation

The operator shall develop an evaluation and implementation strategy acceptable to the Authority;

the following requirements shall be fulfilled:

1. The implementation process shall include the following stages:

(i) a safety case that substantiates the validity of:

(A) the revised training and qualification standards when compared with the standards achieved under OR.OPS prior to the introduction of ATQP.

(B) any new training methods implemented as part of ATQP.

If approved by the Authority the operator may establish an equivalent method other than a formal safety case.

(ii) Undertake a task analysis as required by paragraph (b)2 above in order to establish the operator's programme of targeted training and the associated training objectives.

(iii) A period of operation whilst data is collected and analysed to ensure the efficacy of the safety case or equivalent and validate the task analysis. During this period the operator shall continue to operate to the pre-ATQP OR.OPS requirements. The length of this period shall be agreed with the authority;

2. The operator may then be approved to conduct training and qualification as specified under the ATQP.

**A. VI. Appendices - Appendix II: Explanatory memorandum on Part-OR
Subpart OPS - Section VII: Technical crew (OR.OPS.001.TC)**

p. 48-49

comment 342

comment by: UK CAA

Page No: 49

Paragraph No: 33

Comment:

Paragraph OR.OPS.01.TC 33 defines technical crew as passengers. It is thus not appropriate to set medical standards.

Justification:

This proposal would add to the regulatory burden without enhancing safety.

Proposed Text (if applicable):

Delete OR.OPS.01.TC 33 Paragraphs 1-4.

**A. VI. Appendices - Appendix II: Explanatory memorandum on Part-OR
Subpart OPS - Section VIII: Flight and Duty Time Limitations and Rest
Requirements (OR.OPS.001.FTL)**

p. 49-54

comment 3

comment by: AIR SAFETY GROUP

1. **Para 36 first sentence suggest changeeffects of previous duties' to '...effects of previous duty period'** Note: Quoting 'duties' in the plural begs the question how many previous duties will need to be taken into account? ..2, 10, 100 or more??
2. **Para 36 last but one sentence suggest add several other items that need to be taken into account as follows: - Days Off achieved, Time of start of duty, consecutive early, night and late duties, and standby.**
3. **Para 38 ... to specify reporting times proportionate to the ground duties PRIOR TO FLIGHT to be executed.** Note: It is presumed that is what is meant here.
4. **Para 39 - add after rest periods 'and Days off' for crew members. Delete 's' at end of 'aircraft'.**
5. **Para 41 - There is a danger that by moving all the hard numbers and limitations into the FTL certification specifications and then allowing each Operator to apply for their own specific FTL schemes with their own hard numbers, there may be literally hundreds of Variation/Derogation requests needing to be assessed and approved (or otherwise). EASA will need to formulate the method and Policy as to how such requests are dealt with even handedly such that standardisation, as well as overall safety of each approved FTL scheme, is assured. I recommend that the basic maximums and minimums of flying/duty and rest/days off be included in the IRs as established by the Scientific and Medical Review. The aim must be, as a priority, to prevent fatigue and if it is a medical fact that working more than a certain number of hours can lead to fatigue, then that limit must be set and included within the IRs.**
6. **Para 41 (a) should include '100 duty hours in any 14 consecutive days' and, for completeness and so there is no misunderstanding that the Working Time Directive also must be complied with - '2000 duty hours in any 12 consecutive calendar months' should be included together with other parts of the WTD that apply to both Flight and Cabin Crew in terms of days off, leave etc.**
7. **Para 41 (b) Suggest a '500 flight hours in any 6 consecutive calendar months' be included.**
8. **Para 41 (c) - using the word 'should' in this paragraph is not firm enough unless there are obvious sanctions that will apply to the operator who does not follow this paragraph. Suggest change the word 'should' to 'must'. A;Iso suggest insert at beginning of sentence - Total duty periods 'and block times' referred etc...**
9. **Para 41 - referring to minimum rest CS FTL 1.155 is confusing in that it refers to minimum rest away from Home Base being 14**

hours. Yet in NPA 2009 - 02c CS FTL.1.155 (a) mentions 12 hours and (b) mentions 10 hours with an 8 hour sleep opportunity. As an absolute minimum rest when away from Home Base there should be at least 10 hours in the allocated room in the hotel provided by the Operator. Some crews use dedicated rooms in hotels and on occasions cannot get into their room because of a delay and the previous occupants may not have vacated - hence 10 hours minimum actually in the room provided.

10. Para 41 - final paragraph - for an operator to be able to change a crew member's Home Base up to 4 times a year is unthinkable! I cannot imagine who would cause such disruption to a crew member's home life style by making them continually be in the process and expense (will the operator pay removals etc) of selling and finding new accommodation every three months! If instead of no more than 4 times a year it was changed to 'no more than once in any calendar year with the agreement of the crew member', that might be more acceptable.

comment 198

comment by: Jill Pelan

Section IV AIR Operator Certification

Point 19 (Page 46) : "For wet-lease in of an aircraft from a third country"

Comment : This paragraph conflicts with NPA - 2C OR.OPS 030. AOC Leasing "Wet Leasin" & also NPA 2009 - 2C AMC OR.OPS 030 AOC LEasing.

Section VIII Flight and Duty time Limitations & rest requirement

Point 41 (Page 51) : "FTL Certification specifications for commercial air transport operations are in the Section VIII. *FTL Certification specifications* :..... It is the understanding of the agency that 'substantive provisions' are figures and therefore all figures in Subpart Q were moved to FTL certification specifications"

Comment : *Subpart Q Provisions should be IR material - It is not acceptable that the figures be replaced by individual sates & operators for "flexibility". All figures & limitations in Section VIII should be IR rulings.*

JUSTIFICATION : *Scientific and technical findings in the MOEBUS study state that Flight hours and rest periods affect the performance of crew to an extent that the SAFETY of operations may be compromised.*

If figures/limitations are published in the NPA then they must be respected and NO exceptions considered.

Point 43 (Page 52): The FRMS is "a scientifically based, data driven ongoing adaptive process that can identify fatigue risks and delvelop.... A FRMS is an integral part ofan operator's established management system and should be based on a partnership approach between the operator , comptetent authority and crew member representatives....."

Comment : What is a scientifically based data driven ongoing process that identifies fatigue risks? THIS should be more precise in the the

text.

The partner approach should include how crew member representatives are designated -- many smaller airlines do not have crew representation... How will crew members be designated? This should be addressed.

IV Content of Draft opinions & Decisions -Transition Measures

Point 85 (Page 25) "While this latter attestation is an evidence of training issued to the cabin crew after successful completion of the initial safety training including aircraft type-specific training"

COMMENT: If "Aircraft type-specific training" is included in the initial attestation this may prevent cabin crew from successfully applying for posts with airlines. A cabin crew member may present an initial attestation with 3 type specific training that does not correspond to those types of aircraft operated by the company/operator. Every operator has it's own type specific training (including situation of emergency equipment) and will only repeat any type specific training already held by a prospective candidate. General training and operations should be addressed in the initial attestation

& type-specific training be reserved for recurrent training or initial training with the operator once the cabin crew becomes an employee with the operator in order for fair competition & an fair playing field when applying for a position with an operator.

Proposed text: " While this latter attestation is an evidence of training issued to the cabin crew after successful completion and testing of knowledge obtained in the initial training , aircraft type-specific training will be addressed during recurrent training"

Point 87 (Page 25) : "As regards medical fitness.....Credit may also be envisaged for occupational medical checks of cabin crew required by National Health regulations if they comply with all the applicable medical requirements set in the Implementing rules"

PROPOSED TEXT: Credit may not be envisaged for occupational medical checks of cabin crew required by National Health regulations even if they comply with all the applicable medical requirements set in the IR"

JUSTIFICATION :

This paragraph conflicts with NPA 2009 - 2E "Med A. 080 Aeromedical examinations and assessments" where it is stated that "Aeromedical examinations and assessments of medical fitness of applicants for and holders of a cabin crew attestation shall be conducted by an AME qualified for the issuance of Class 2 medical certificates or by an AeMC.

Occupational medical checks done by NON AERO MEDICAL practitioners should in NO case be admitted

General practitioners are not trained in Aero Medical medicine & cannot appreciate the importance/pertinence of medical criteria for the practice of a job in a pressurised environment with oxygen impoverished cabin air, heavy work loads & specific conditions within the aircraft. Interpretations will invariably differ as to the fitness of crew to work aboard different aircraft. Specific medical knowledge and experience are needed for this.

SECTION VI Cabin Crew (OR.OPS 001.TC)

Point 48 (Page 53) "Definitions to be used..... A definition of "Duty" is a novelty and is described as 'any task that a crew member is required to carry out associated with the business of an AOC holder" In this respect, questions related to standby shall be regulated by the competent authority"

Comment: This phrase should include the dispositions contained in NAP 2009 - 02C OR.OPS 050 and OP OPS 350 Standy By Duty to avoid any confusion.

comment 253

comment by: *barry birch*

Will the Basic Regulation apply to the crew of a balloon who are ground based and assisting a pilot who has a busy schedule. The cost of rostering staff for balloon operators will be impractical and expensive. Barry Birch, Balloon Pilot/Instructor, Italy.

comment 343

comment by: *UK CAA***Page No:** 51**Paragraph No:** 41**Comment:**

The penultimate bullet point gives a 14 hour requirement for minimum rest. This is believed to be a typographical error as the CS FTL 1.155 (b) (at page 35 of 136 of NPA 2009-02 c) has not been altered from the published Sub Part Q which remains at 10 hours.

Justification:

Typographical error.

comment 344

comment by: *UK CAA***Page No:** 53 and 54**Paragraph No:** 59**Comment:**

The contents of this paragraph have been noted particularly in respect of the "full FTL rule making process". It is important to ensure that the current (safe) arrangements continue until such time as the "process" is complete. In addition, operators will need time to incorporate the new rules into their operations. Clear and unambiguous legal guidance is needed for the interim and final FTL provisions.

Justification: Clear guidance.

comment 370

comment by: *barry birch*

Flight duty times of the type proposed here should not apply to balloons as they are far too rigorous for the sport activity of ballooning. Barry Birch Balloon Pilot/Instructor, Italy.

comment 399 comment by: BALPA

In the final sentence of Section 36, it states that the Basic Regulation requires the Agency to issue FTL Certification Specifications. As stated earlier in this document, these have not been developed. Will Subpart Q remain the European standard until such time as new CS are written?

comment 400 comment by: BALPA

Para 48 - Unable to find a definition of "Break" in OR.OPS.010.FTL

comment 401 comment by: BALPA

Paragraph 54 - There is no section (f) in OR.OPS.335.FTL relating to the extension of flight duty due to in-flight rest.

comment 443 comment by: DGAC

§ 35 :

Proposal : Delete "The proposed Implementing Rules related to FTL requirements are concordant with the ICAO provisions"

Justification : there are no such provisions for the moment

comment 444 comment by: DGAC

§ 41 – First sentence:

There seems to be a consistency problem in the EASA approach to FTL in NPA 2009-02: how comes actually that NPA 2009-02 considers the two highlighted sentences below as equivalent ("moving substantive provisions into the IR" and "moving them into a CS") ?

Indeed, there seems to be a contradiction in terms in § 41 which states the following :

"41. FTL certification specifications for commercial air transport operations are in the Section VIII. FTL *certification specifications*; they are based on Subpart Q requirements and contain all substantive provisions of Subpart Q as it is required by the Article 22(2)(a) of the Basic Regulation. **It is the understanding of the Agency that "substantive provisions" are figures and therefore all figures of Subpart Q were moved to FTL certification specifications"**

whereas article 22 of R216/2008 states the following :

Article 22

Air operation certification

"[...]

"2. With regard to flight time limitation:

(a) the Agency shall issue the applicable certification specifications to ensure compliance with essential requirements and, as appropriate, the related implementing rules. **Initially, the implementing rules shall include all substantive provisions of Subpart Q of Annex III to Regulation (EEC) No 3922/91**, taking into account the latest scientific and technical evidence;"

The Agency can not say that, according to Article 22, substantive provisions shall be moved in the CS, when article 22 says that substantive provisions shall be in the IR! This is nonsense, as CS and IR do not have the same status. Indeed, IR is "hard law" whereas CS is "soft law" just like AMC & GM (our understanding is that the only difference with an AMC or GM is that NAAs are not entitled to develop/approve CS, the initiative stays on the Agency's side).

comment

445

comment by: DGAC

§ 41 – 4th bullet point (page 51) :

Proposal: Delete the whole sentence contained in bullet point number 4 of the explanatory note ("~~Minimum rest periods [...] 14 hours [...] is added~~").

Justification: This sentence describes something that does not stick to the actual text of CS FTL.1.155 whose (a) and (b) are not very different from point 1.1 & 1.2 of EU-OPS 1.1110 while the explanatory note says the contrary. Besides, the requirement in CS FTL.1.155 does not provide a minimum rest period away from home base of at least 14 hours but of at least 10 hours.

comment

446

comment by: DGAC

§ 46: From our point of view, it seems clear that the **IR section** should contain **both** :

- **the numeric values** which are the result of years of negotiation to reach a political agreement at EU level and, as reminded by the Agency itself in NPA 2009-02-a (page 51, §41), are understood as "substantive provisions" of sub-part Q, to be therefore included in IR according to article 22 of BR216, **and**
- **the principle of the five points specified in article 8.4^(*)** of Regulation (EEC) No 3922/91,

while **CS** should be developed to define **the conditions for the application of**

those 5 points:

- As provided in article 19 of BR216, the CS “shall reflect the state of the art and the best practices in the fields concerned and be updated taking into account worldwide aircraft experience in service, and scientific and technical progress”. The Agency should therefore consider the national provisions developed and notified to the Commission according to article 8.4 of Regulation (EEC) No 3922/91, all the more when those provisions have been developed according to the principle laid down in article 19 of BR216. For instance the provisions developed in France and notified to the Commission before 16 July 2008 answer those criteria as they are based on years of experience in France and scientific studies, the latest ‘STARE’ being mentioned in Moebus Final Report (<http://www.biomedicale.univ-paris5.fr/LAA/STARE/index.htm>).

(*) 8.4. Notwithstanding the provisions of paragraphs 1, 2 and 3, a Member State may adopt or maintain provisions relating to OPS 1.1105 point 6, OPS 1.1110 points 1.3 and 1.4.1, OPS 1.1115, and OPS 1.1125 point 2.1 of Subpart Q in Annex III until Community rules based on scientific knowledge and best practices are established.

comment

455

comment by: BALPA

Paragraph 59 - Please confirm that the scientifically proven data within the Moebus Scientific Review will be implemented without delay.

The paragraph suggests that economics will be taken in account when the rulemaking task is being undertaken. We feel that it is fundamentally wrong to suggest economics will have any effect on the outcome of the scientific review assessment. We feel that any rule offsetting economics against flight safety will be flawed.

We feel the results obtained from the assessment should not be left to the discretion of the local authority but should been introduced as a pan-European ruling.

comment

472

comment by: TAP Portugal

P54 paragraph 60

‘The requirements in this section (Section IX of Subpart OR.OPS) address disruptive passenger behaviour, security and security training programmes, aircraft search procedure checklists and cockpit security’.

Association comment

1. Security training programmes are already mandated in Chapter 11 of EU300/2008 – EASA section IX should be amended to reflect this.
2. Aircraft search procedures are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.
3. Aircraft cockpit security should be included in Chapter 10 of EU

comment 473 comment by: TAP Portugal

P54 paragraph 64

'The aircraft search procedure checklist of OR.OPS.030.SEC follows the requirements of EU-OPS 1.1250/JAR-OPS 3.1250'

Association comment

This should be renamed 'Specific threat event – search procedure checklist' in order to not be confused by Aircraft search procedures that are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.

comment 481 comment by: ERA

European Regions Airline Association Comment

- Recent EASA presentations regarding options for future FTL scheme for CAT operations [RM task OPS 055] means this section remains under review. A lack of response at this time should not be interpreted as tacit acceptance of Section VIII. ERA reserves the right to come back to EASA on Section VIII once the options issue has been settled.
- The ERA Directorate understand that the Agency are planning separate Rule making activity in regard to FTL and wish to re-iterate that the Directorate would welcome Industry participation in providing 'expert' input.

comment 551 comment by: FSC - CCOO

Comment to 41.

Article 22(2)(a) requires that all substantive provisions of Subpart Q of Annex III shall be included in Implementing Rules, if the Agency understands that all figures of Subpart Q are substantive provisions they all should be included in Implementing Rules.

comment 555 comment by: cfdt france

The CFDT france feels that all FTL measures & limits should be IR material because they are essential elements to flight safety.

comment 556 comment by: cfdt france

The FRMS system remains a vague concept that needs to be explicit --- if FTL material is left as CS then it is to be feared that various types of flight schemes will be adopted and safety endangered in the name of "flexibility".....This is the main reason that the CFDT requests all FTL material to be IR and NOT CS.

comment 557 comment by: FSC - CCOO

A FRMS is an integral part of an operator's established management system and should be based on a partnership approach between the operator, competent authority and crew member representatives.

Comment to 43.

OPS, AMC and GM should establish how crew member representatives have to be elected. In carriers that don't allow their crew members to be organized in unions the partnership approach is rather useless.

comment 558 comment by: cfdt france

COMMENT CFDT /

If STANDBY is not "a task that crew members are required to carry out associated with the business of an AOC holder" then what is it?? This phrase is in contradiction with NPA -02C OR OPS 050 and OR OPS 350 FTL Standby duty. As such it should be revised to avoid interpretation.

comment 566 comment by: FSC - CCOO

Comment to 48.

The definition of duty as '*any task that a crew member is required to carry out associated with the business of an AOC holder*' should be reflected as proposed here in

OR.OPS.010.FTL Definitions.

Leaving questions related to standby to competent authorities does not achieve harmonisation.

comment 647 comment by: Ryanair

The Moebus Report is not a scientific and medical evaluation of the provisions of Subpart Q therefore must not form the basis of any FTL Agency proposals, current or future.

comment 670 comment by: Ryanair

There is no requirement for a 14 hour rest period away from home base - this reference must be removed.

comment 673 comment by: ANE (Air Nostrum) OPS QM

Recent EASA presentations regarding options for future FTL scheme for CAT operations [RM task OPS 055] means this section remains under review. A lack

of response at this time should not be interpreted as tacit acceptance of Section VIII. We reserve the right to come back to EASA on Section VIII once the options issue has been settled.

We understand that the Agency are planning separate Rule making activity in regard to FTL

Paragraph 38

Use of 12 consecutive calendar months:

We are uneasy with the use of the concept of "twelve consecutive calendar months" instead of "natural year" as this may have an impact as to when people take their holidays and any knock on effect.

Paragraph 41

Minimum rest periods in CS FTL.1.155 are more clearly divided in rest at home base and away from home base. In the case of a minimum rest period away from home base the requirement to provide **at least 14 hours rest** for crew members is added.

At least 14 is a typo, please delete it.

**A. VI. Appendices - Appendix II: Explanatory memorandum on Part-OR
Subpart OPS - Section IX: Security (OR.OPS.001.SEC)**

p. 54-55

comment

241

comment by: *Welcome Air*

Para 60

- Security training programmes are already mandated in Chapter 11 of EU300/2008 – EASA section IX should be amended to reflect this.
- Aircraft search procedures are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.
- Aircraft cockpit security should be included in Chapter 10 of EU300/2008

Para 64

- This should be renamed 'Specific threat event – search procedure checklist' in order to not be confused by Aircraft search procedures that are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.

comment

242

comment by: *Welcome Air*

Para 65

- Aircraft cockpit security should be included in Chapter 10 of EU300/2008
- Operators already have approved alternative means of compliance for surveillance requirements other than CCTV – this is ICAO & ECAC DGCA's 'preferred' means of compliance but must not be mandated as the 'only' means of compliance

comment

383

comment by: AEA

Relevant Text

60. Section IX of Subpart OR.OPS contains those aviation security requirements which relate to flight safety. These requirements are applicable to commercial operators and noncommercial operators of complex motorpowered aircraft. The requirements in this section address disruptive passenger behaviour, security and **security training programmes, aircraft search procedure checklists and cockpit security.**

Comment

- Security training programmes are already mandated in Chapter 11 of EU300/2008 – EASA section IX should be amended to reflect this.
- Aircraft search procedures are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.
- Aircraft cockpit security should be included in Chapter 10 of EU300/2008

comment

384

comment by: AEA

Relevant text:

64. The aircraft search procedure checklist of OR.OPS.030.SEC follows the requirements of EUOPS 1.1250/JAROPS 3.1250.

Comment:

This should be renamed 'Specific threat event – search procedure checklist' in order to not be confused by Aircraft search procedures that are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.

Proposal:

Rename 'Specific threat event – search procedure checklist'

comment

385

comment by: AEA

Relevant Text:

65. OR.OPS.035.SEC on cockpit security (aeroplanes) reflects the requirements of EUOPS 1.1255 on flight crew compartment security. The wording has been more closely aligned with the provisions in ICAO Annex 6 to ensure their proper implementation.

Comment:

Aircraft cockpit security should be included in Chapter 10 of EU300/2008 once Competence is decided for In 'Flight issues'

Operators already have approved alternative means of compliance for surveillance requirements other than CCTV – this is ICAO & ECAC DGCA's 'preferred' means of compliance but must not be mandated as the 'only' means of compliance

comment 453

comment by: *Ryanair*General

Although mentioned in paragraph 61 of this Explanatory Memorandum, the proposed Regulations/AMCs/GM make no reference to Regulation (EC) 300/2008 and the associated Implementing Legislation. In fact, on occasion, the proposal conflicts with Regulation (EC) 300/2008.

Any ambiguity in the area of aviation security regulation and responsibility for same could only be detrimental to the fundamental goals of Regulation (EC) 300/200 which are to "establish and implement appropriate Community measures" and "to provide a basis for common interpretation of the related provisions of the Chicago Convention, in particular Annex 17".

DG TREN Unit F.5, working in consultation with the AVSEC Committee, SAGAS and Implementing Legislation Working Groups has made great advancements in developing effective and practical security arrangements.

We believe that DG TREN Unit F5 has the full expertise necessary to develop effective and efficient security regulations.

Furthermore, in many Member States the authority with responsibility for aviation safety is different to the appropriate authority with responsibility for aviation security [Regulation (EC) 300/2008]. This conflict could lead to individual operators being subjected to two approval processes and regulatory regimes in the context of aviation security.

The security provisions currently included in this proposal go beyond those which relate to flight safety.

Aviation security measures are within the competence and should remain the sole remit of the European Commission DG TREN Unit F5.

Paragraph 60

The term "potentially disruptive passenger" in the context of Regulation (EC) 300/2008 means a "passenger who is either a deportee, a person deemed to be inadmissible for immigration purposes, or a person in lawful custody".

Although not defined in Regulation 216, it is clear that the term "disruptive passenger" is used in a much wider context. This anomaly must be addressed and any confusion removed.

Security Training and Security Training Programmes are already specified in and mandated by Regulation (EC) 300/2008, Chapter 11. OR.OPS SEC must be amended to reflect this.

Aircraft security check and search requirements are already specified in and mandated by Regulation (EC) 300/2008. There is no basis in security for an aircraft search procedures checklist nor does it add any benefit. OR.OPS SEC must be amended to reflect the Requirements of Regulation (EC) 300/2008.

With the exception of certification requirements for cockpit doors (where fitted) and associated safety procedures, aircraft cockpit security should be addressed in Regulation (EC) 300/2008.

Paragraph 62

Please refer to earlier comments in relation to disruptive passengers.

Paragraph 63

Security programme - Regulation (EC) 300/2008 already requires Operators to

develop and implement a security programme. To avoid conflict, any reference to an operators security programme or a requirement to include elements of this programme in the operations manual must be removed. Otherwise operators may be subjected to duplicated information and approval processes.

Please refer to earlier comments in relation to disruptive passengers.

Please refer to earlier comments in relation to security training requirements.

Paragraph 64

Please refer to earlier comments in relation to the "aircraft search procedure checklist".

comment 454

comment by: *Ryanair*

Paragraph 65

With the exception of certification requirements for cockpit doors (where fitted) and associated safety procedures, aircraft cockpit security should be addressed in Regulation (EC) 300/2008.

In accordance with current Security Legislation and as approved by the Appropriate Authority for Aviation Security [Regulation (EC) 300/2008, Article 9] operators have developed approved procedures for monitoring the entire door area outside the cockpit. Nothing in OR.OPS.035 SEC shall be interpreted as either preventing an operator from continuing with such approved procedures or mandating the installation and use of CCTV.

comment 474

comment by: *TAP Portugal*

P55 paragraph 65

'OR.OPS.035.SEC on cockpit security (aeroplanes) reflects the requirements of EU-OPS 1.255 on flight crew compartment security.' The wording has been more closely aligned with the provisions in ICAO Annex 6 to ensure their proposer implementation'

Association comment

1. Aircraft cockpit security should be included in Chapter 10 of EU300/2008 once Competence is decided for In 'Flight issues'
2. Operators already have approved alternative means of compliance for surveillance requirements other than CCTV – this is ICAO & ECAC DGCA's 'preferred' means of compliance but must not be mandated as the 'only' means of compliance

comment 482

comment by: *ERA*

European Regions Airline Association Comment

Paragraph 60.

- Please look at Section numbering you have two Section VIII
- 'Disruptive passengers' are addressed in more detail in sections

referenced below; conflict between Regulation (EC) 300/2008 and OR.OPS.SEC must be removed.

- Security training programme requirements are already specified in and mandated by Chapter 11 of EU300/2008 –Section IX of OR.OPS must be amended to reflect this.
- Aircraft search procedures are already specified in and mandated by Chapter 3 of EU300/2008 – Section IX of OR.OPS should be amended to reflect this.
- With the exception of certification requirements for anti intrusion reinforced cockpit doors (where required to be fitted), aircraft cockpit security should be included in Chapter 10 of EU300/2008.

Paragraph 62

- The term 'potentially disruptive passenger' in the context of Regulation (EC) 200/2008 means a "passenger who is a deportee, a person deemed to be inaccessible for immigration purposes or a person in lawful custody".
- Although not defined in Regulation 216, it is clear that the term 'disruptive passenger' is used in a much wider context. This anomaly must be clarified and any confusion removed.

Paragraph 63

- Regulation (EC) 300/2008 already requires Operators to develop and implement a security programme. To avoid conflict, any reference to the Operators Security Programme or a requirement to include elements of this programme in the operations manual must be removed. Otherwise Operators may be subject to duplicated information and approval processes. Inclusion of specific security provisions in the Operations Manual must remain at the discretion of the Operator.
- Please refer to earlier comments in relation to security training programmes.

Paragraph 64

- This should be removed. Aircraft search procedures are specified in and are mandated by Chapter 3 of EU300/2008 –Section IX of OR.OPS should be amended to reflect this.

Paragraph 65

- Aircraft cockpit security should be moved to Chapter 10 of EU300/2008 once competence is decided for 'In –Flight' issues
- In accordance with current security legislation and as approved by the Competent Authorities, Operators have developed approved means of compliance for surveillance requirements. Nothing in OR.OPS.035 shall be interpreted as either preventing an operator from continuing with such approved procedures or mandating the use of CCTV.

comment 508

comment by: *easyjet safety*

paragraph 60

'Disruptive passengers' are addressed in more detail in sections referenced below; conflict between Regulation (EC) 300/2008 and OR.OPS.SEC must be

removed

Security training programme requirements are already specified in and mandated by Chapter 11 of EU300/2008 –Section IX of OR.OPS must be amended to reflect this.

Aircraft search procedures are already specified in and mandated by Chapter 3 of EU300/2008 – Section IX of OR.OPS should be amended to reflect this.

With the exception of certification requirements for anti intrusion reinforced cockpit doors (where required to be fitted), aircraft cockpit security should be included in Chapter 10 of EU300/2008

paragraph 62

The term 'potentially disruptive passenger' in the context of Regulation (EC) 200/2008 means a "passenger who is a deportee, a person deemed to be inaccessible for immigration purposes or a person in lawful custody".

Although not defined in Regulation 216, it is clear that the term 'disruptive passenger' is used in a much wider context. This anomaly must be clarified and any confusion removed.

paragraph 63

Regulation (EC) 300/2008 already requires Operators to develop and implement a security programme. To avoid conflict, any reference to the Operators Security Programme or a requirement to include elements of this programme in the operations manual must be removed. Otherwise Operators may be subject to duplicated information and approval processes. Inclusion of specific security provisions in the Operations Manual must remain at the discretion of the Operator.

Please refer to earlier comments in relation to security training programmes.

paragraph 64

This should be removed. Aircraft search procedures are specified in and are mandated by Chapter 3 of EU300/2008 –Section IX of OR.OPS should be amended to reflect this.

Associations comment

ADD (e) The final decision to grant admission to the cockpit rests with the Pilot –

comment

509

comment by: *easyjet safety*

paragraph 65

Aircraft cockpit security should be moved to Chapter 10 of EU300/2008 once competence is decided for 'In –Flight' issues

In accordance with current security legislation and as approved by the Competent Authorities, Operators have developed approved means of compliance for surveillance requirements. Nothing in OR.OPS.035 shall be interpreted as either preventing an operator from continuing with such approved procedures or mandating the use of CCTV.

comment

525

comment by: *Swiss International Airlines / Bruno Pfister*

Security training programmes are already mandated in Chapter 11 of EU300/2008 – EASA section IX should be amended to reflect this.

Aircraft search procedures are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.

Aircraft cockpit security should be included in Chapter 10 of EU300/2008

comment 526 comment by: *Swiss International Airlines / Bruno Pfister*

This should be renamed 'Specific threat event – search procedure checklist' in order to not be confused by Aircraft search procedures that are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.

comment 527 comment by: *Swiss International Airlines / Bruno Pfister*

Aircraft cockpit security should be included in Chapter 10 of EU300/2008 once Competence is decided for In 'Flight issues'

Operators already have approved alternative means of compliance for surveillance requirements other than CCTV – this is ICAO & ECAC DGCA's 'preferred' means of compliance but must not be mandated as the 'only' means of compliance

comment 635 comment by: *Antonio Sousa*

1. Security programme and Security training - This issue is broadly covered by EC Reg. 300/2008 and National Aviation Security Training Programmes.

comment 636 comment by: *Antonio Sousa*

- Aircraft cockpit security should be included in Chapter 10 of EC Regulation n.º 300/2008.
- Air carriers already have approved alternative means of compliance for surveillance requirements other than CCTV - this is ICAO and ECAC DGCA's preferred means of compliance but must not be mandated as the only means of compliance.

comment 654 comment by: *Rui Sarmento*

Security programme and Security training - this issue is broadly covered by EC Reg. 300/2008 and National Aviation Security Training Programmes.

Aircraft cockpit security should be included in Chapter 10 of EC Regulation nº 300/2008.

Air carriers already have approved alternative means of compliance for surveillance requirements other than CCTV, this is ICAO and ECAC DGCA's

preferred means of compliance but must not be mandated as the only means of compliance.

comment 658

comment by: IATA

Fundamentally IATA believes that aviation **security** measures are within the competence, and should remain the sole remit of European Commission DG TREN F5 and should not be confused by those **safety** measures under the responsibility of DG TREN F.3 / EASA.

EU300/2008 will be implemented by April 2010 latest, EASA Part Operations will not have legal status to replace EU OPS 1 until April 2012, thus airlines and airports should not have to change their approved security programmes under EU300/2008 to accommodate EASA Part Operations.

Security measures to be applied by Commercial Air Transport should not be split between, duplicated or be contradictory in separate EU Regulations. Regulations (if required) and competence for 'In flight' security measures must be under a single legislative body (DG TREN F5, Aviation Security).

comment 659

comment by: IATA

Para. 60:

'Disruptive passengers' are addressed in more detail in sections referenced below; conflict between Regulation (EC) 300/2008 and OR.OPS.SEC must be removed

Security training programme requirements are already specified in and mandated by Chapter 11 of EU300/2008 –Section IX of OR.OPS must be amended to reflect this.

Aircraft search procedures are already specified in and mandated by Chapter 3 of EU300/2008 – Section IX of OR.OPS should be amended to reflect this.

With the exception of certification requirements for anti intrusion reinforced cockpit doors (where required to be fitted), aircraft cockpit security should be included in Chapter 10 of EU300/2008

Para. 62:

The term 'potentially disruptive passenger' in the context of Regulation (EC) 200/2008 means a "passenger who is a deportee, a person deemed to be inaccessible for immigration purposes or a person in lawful custody".

Although not defined in Regulation 216, it is clear that the term 'disruptive passenger' is used in a much wider context. This anomaly must be clarified and any confusion removed.

Para. 63:

Regulation (EC) 300/2008 already requires Operators to develop and implement a security programme. To avoid conflict, any reference to the Operators Security Programme or a requirement to include elements of this programme in the operations manual must be removed. Otherwise Operators may be subject to duplicated information and approval processes. Inclusion of specific security provisions in the Operations Manual must remain at the

discretion of the Operator.

Please refer to earlier comments in relation to security training programmes.

Para. 64:

This should be removed. Aircraft search procedures are specified in and are mandated by Chapter 3 of EU300/2008 –Section IX of OR.OPS should be amended to reflect this.

Para. 65:

Aircraft cockpit security should be moved to Chapter 10 of EU300/2008 once competence is decided for 'In –Flight' issues

In accordance with current security legislation and as approved by the Competent Authorities, Operators have developed approved means of compliance for surveillance requirements. Nothing in OR.OPS.035 shall be interpreted as either preventing an operator from continuing with such approved procedures or mandating the use of CCTV.

comment 667

comment by: *SATA Group*

Security Programme & Security trainings are prescribed by the EU 300/2008 (chapter 11). This EASA section IX should reflect this, as an extension or compliment.

comment 669

comment by: *SATA Group*

- Aircraft cockpit security - should be included in EU 300/2008 (Section 10, in Flight security). It is not necessary this EASA regulation.
- Operators have approved alternative means of compliance on surveillance of flight crew compartment security other than CCTV, that can not be understood as the **only** means.

comment 678

comment by: *ANE (Air Nostrum) OPS QM*

Paragraph 65.

'OR.OPS.035.SEC on cockpit security (aeroplanes) reflects the requirements of EU-OPS 1.255 on flight crew compartment security.' The wording has been more closely aligned with the provisions in ICAO Annex 6 to ensure their proposer implementation'

Operators already have approved, in accordance with current security legislation, alternative means of compliance for surveillance requirements other than CCTV – this is ICAO & ECAC DGCA's 'preferred' means of compliance but must not be mandated as the 'only' means of compliance

comment 679

comment by: *ANE (Air Nostrum) OPS QM*

Paragraph 64.

'The aircraft search procedure checklist of OR.OPS.030.SEC follows the requirements of EU-OPS 1.1250/JAR-OPS 3.1250'

This should be renamed 'Specific threat event – search procedure checklist' in order to not be confused by Aircraft search procedures that are already mandated in Chapter 3 of EU300/2008 – EASA section IX should be amended to reflect this.

**A. VI. Appendices - Appendix III: Explanatory memorandum to Part-AR
Subpart OPS**

p. 56-58

comment 40 comment by: *Reto Ruesch*

minor changes in OM without the approval of the authority.

For minor changes in OM this shall be possible without approval of the authority conform to the appendix 3 article 5 page 56.

comment 102 comment by: *Heli Gotthard*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 113 comment by: *Stefan Huber*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 126 comment by: *Air Zermatt*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 135 comment by: *Air-Glaciars (pf)*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 170 comment by: *Heli Gotthard AG Erstfeld*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 181 comment by: *SHA (AS)*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 193 comment by: *Berner Oberländer Helikopter AG BOHAG*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 214 comment by: *Dirk Hatebur*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 228 comment by: *Heliswiss*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 232 comment by: *Heliswiss NV*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 249 comment by: *heliswiss ag, belp*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 264 comment by: *Jan Brühlmann*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 275 comment by: *Catherine Nussbaumer*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 291 comment by: *Walter Mayer, Heliswiss*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 322 comment by: *Philipp Peterhans*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 345 comment by: *UK CAA*

Page No: 56

Paragraph No: 4

Comment:

The CAA notes with concern the suggestion that competent authorities will have to verify compliance with Part-TCO in respect of code sharing and wet leasing. The CAA does not consider that these IRs should cover code-sharing arrangements but, if so, it does not understand why the Agency authorisations, expected to be described in Part-TCO, should not suffice for both that and wet leasing. It is of course not possible to assess the impact of this proposal in the absence of the NPA on PART-TCO.

comment 346 comment by: *UK CAA*

Page No: 57

Paragraph No: 10

Comment:

The CAA is **concerned** that the proposals on ramp inspections seem to confuse aircraft inspections that are carried out as part of the oversight of an operator by the competent authority responsible for the issue of a certificate to the operator with the inspections that can be carried out on any operator by an inspecting authority as part of what is currently known as the Safety Assessment of Foreign Aircraft (SAFA) programme. The proposals seem to confuse the roles of "competent authorities" and "inspecting authorities".

Justification:

The Agency seems to assume, incorrectly, that a Member State's "inspecting authority" is the same body as its "competent authority" for the oversight of operators under AR.GEN.300. Member States must retain the responsibility for deciding whom to designate as the authority for carrying out various tasks for the implementation of Regulation (EC) 216/2008. Member States may decide to appoint different bodies to carry out "ramp inspections". For operators that competent authorities oversee directly, ramp inspections are but one element of the oversight activities covered by AR.GEN.300.

- comment 359 comment by: *Pascal DREER*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 393 comment by: *HDM Luftrettung gGmbH*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 408 comment by: *Christophe Baumann*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 420 comment by: *Benedikt SCHLEGEL*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 452 comment by: *Helikopter Air Transport GmbH / Christophorus Flugrettungsverein*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 501 comment by: *Ph. Walker*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 518 comment by: *Hans MESSERLI*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.
- comment 542 comment by: *Trans Héli (pf)*
Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 559

comment by: DGAC

§9:

Comment: No mention is performed in this section on how this comprehensive Inspection Program will be consistent with the actual SAFA program which is performed by EU and non-EU but ECAC States. The SAFA programme has been implemented by all the ECAC states, and in particular all the Member States for more than 10 years. After having had many evolutions that lead to a satisfactory harmonisation of the implementation of the programme, it is now a recognized and more than ever useful programme that has to be undertaken also under this new regulation. The usefulness of the programme can not be denied as it serves as a basis for most of the decisions taken in view of the black list regulation 2111/2005. Therefore, the proposal would be that this new regulation takes the SAFA programme as such for the ramp inspection process of TCO, and more particularly, all the SAFA ramp inspection Procedures that have been defined and released by the EASA (Guidance Material on the SAFA ramp Inspection Procedures V1 from July 2009) to harmonize the correct implementation of the SAFA process.

Indeed, if the SAFA programme and procedures that have been defined and tailored for more than 10 years are not kept as such, all the harmonization work that has been performed by the EASA, the Commission and the Member states will be lost and several years will be necessary to achieve the same efficiency and implementation level. If NPA 2009-02-a and -d do not take into account this matter, it will consequently be a true waste of time, energy and all the ramp inspection harmonization process will have to start all over from scratch again.

comment 560

comment by: DGAC

§12 :

Comment: It is stated that a definition of 'third country aircraft' (TCA) and 'third country operators' (TCO) is introduced in AR-GEN 410. This is not the case as the AR-GEN 410 is only providing a definition of 'foreign aircraft' and 'foreign operator'.

comment 561

comment by: DGAC

§12 :

Comment: a mention is done to an AMC in direct link with the AR.GEN.410. This AMC does not exist.

Proposal: create the associated AMC.

comment 562

comment by: DGAC

Attachment [#5](#)

§16:

Comment: Presented as such, the choice to introduce a huge discrepancy between the numeration of findings of the SAFA programme and the one of the current NPA is only based on artificial and cosmetic purposes (to harmonize with other parts). It does not seem to be valid a reason to change everything in a system that is very efficient, shared by more than 40 states of the ECAC and daily implemented by more of 250 European ramp inspectors. It will introduce a major change in the "SAFA procedures" that will require lots of training and lots of time to be correctly implemented whereas a satisfactory level of implementation of the current harmonized SAFA procedures is being achieved. It will also definitively introduce a severe misunderstanding between the TCO and the Agency which is not serving the purpose of this regulation in enhancing the efficiency of the oversight activity of the Member states of the foreign aircraft operating on their territories.

These comments are shared by many Participating States of the SAFA programme and the Commission itself as it was underlined during the European SAFA Steering Group of June 23/24th 2009 in Norway (*extract from the official report*): "With regard to the proposed re-categorisation of ramp inspection findings, the COM and several PS expressed their disagreement in that such a change would upset unnecessarily a system which was now well-established and understood after years of training."

comment

563

comment by: DGAC

§16:

Comment: the transposition of actual SAFA programme rules (defined by the 2004/36) in the Implementing Rules is not indicated. The only indication is the following: "Nonetheless the content of the directive 2004/36 on the follow up actions has not been changed". As the categorisation of the findings proposed has totally changed from three categories to two and have been inversed (1 is supposed to be major in the future), this sentence is totally irrelevant and inconsistent with the terms of the Directive 2004/36, and more particularly the directive 2008/49 providing even more precisions on the follow up actions to be taken after the identification of categorized findings. There is absolutely no description as how the findings 1/2/3 are transformed in finding 2/1.

comment

564

comment by: DGAC

General Comment: it looks like the proposed IR are almost never taking into account the current harmonized and acted established procedures of the SAFA programme. The qualifications of ramp inspectors have been included (AR.GEN-430) but none of the ramp inspection procedures (GM of the EASA published in July 2009). As these procedures are already in place in the system of all the European Member States, it should constitute the base for the evolution of the future of the ramp inspection programmes that will be dissociated in two parts: the inspection on European air carriers (SACA) based on the European referential (EU-OPS or IR-OPS) and the inspection of TCO based on ICAO standards that should be the actual SAFA programme. This proposal will incredibly ease the correct implementation of these IR.

comment 591 comment by: *Heliswiss International*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 617 comment by: *Eliticino SA*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 624 comment by: *Christian Hölzle*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 643 comment by: *Swiss Helicopter Group*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

comment 649 comment by: *Ryanair*

Regulation 216/2008 does not establish a comprehensive framework for collective oversight

The concept of collective oversight of Community operators as described in current NPAs is unacceptable. It is entirely unreasonable to expect that a single Community operator could be subject to direct regulatory oversight by the Competent Authorities of currently 27 Member States. The administration resources (including availability of the Accountable Manager) to meet with these proposed additional oversight requirement would be significant without delivering any benefit.

comment 651 comment by: *Ryanair*

The Agency's intention for Competent Authorities to prioritise ramp inspections of third country aircraft is not clear. In its current format this proposal could be subjectively used by inspectorates. Proposals for change are detailed under the specific proposed regulations.

comment 663 comment by: *ADAC Luftrettung GmbH*

Art.5 : Minor changes in OM should be possible without approval of the authority and conform to appendix 3 article 5 page 56.

**A. VI. Appendices - Appendix IV: Explanatory memorandum relating to
Cabin Crew - Background**

p. 59-60

comment 347

comment by: UK CAA

Page: 59**Paragraph No:** Appendix IV**Comment:**

The UK CAA is very **concerned** that the proposed requirements for cabin crew attestations, in particular those related to the medical requirements, are disproportionate, over-burdensome and do not meet the principles of better regulation.

The CAA is particularly concerned that the cabin crew attestation **medical requirements** are not justified by any safety benefit, are disproportionate, will impose unnecessary costs on industry and may result in 'social' disbenefits for individuals. The CAA regards the medical proposals to be a matter of significant concern and contrary to the principles of aero-medical best practice as well as better regulation in general.

Justification:

The CAA recognises that Article 8.5(e) of Regulation (EC) 216/2008 specifies conditions to be included in the implementing rules, but is concerned that the Agency has not given sufficient attention to ensuring that the conditions are proportionate, not overly burdensome and minimise the changes operators will be forced to make. The CAA notes also that there is no ICAO requirement for a cabin crew attestation or licence. The Agency proposals would therefore go considerably beyond the Member States' ICAO Annex I obligations. The CAA urges the Agency to review all its proposals in this area to ensure that they do not impose unrealistic burdens (for example, the proposed requirement that cabin crew must carry their attestations on board) and that operators and competent authorities are given sufficient flexibility to ensure that current arrangements made in accordance with EU-OPS are not unnecessarily disturbed.

The 'medical' Essential Requirements in Annex IV of the Basic Regulation are very similar to those currently applicable under EU-OPS. Cabin crew must be periodically assessed for medical fitness to safely exercise their assigned safety duties and compliance must be shown by appropriate assessment based on aero-medical best practice. However, EU-OPS does not specify any minimum "standards" required for "medical fitness" and allows Member States to decide on an acceptable and appropriate assessment method. The draft requirements in NPA 2009-02, on the other hand, set down mandatory medical standards very close to Class 2 pilot standards (required for a PPL under proposals in NPA 2008-17) and require that assessment to include regular medical examinations.

There is no evidence in any accident safety report or scientific study that has shown that flight safety, or the safety of passengers during emergency evacuation, has ever been compromised as a result of cabin crew incapacitation. Moreover, almost all cabin crew incapacitation is of acute onset (e.g. gastro-enteritis or on-board accidents) and would not be found or predicted by a routine medical examination. The standards would potentially discriminate against cabin crew with a number of chronic conditions, which

have to be disclosed, but which could be resolved or controlled satisfactorily.

comment

348

comment by: UK CAA

Page No: 59

Paragraph No: 5 referring to Appendix IV – Explanatory memorandum relating to cabin crew: Part-CC, Part-MED (Subpart E), Part-OR (Subpart OPS – Section VI) and Part-AR (Subpart AR.CC)

Comment:

It is unreasonable to prescribe standards before the "Scientific and medical evaluation of the EU OPS provision for cabin crew" has been completed.

Justification:

Enhances regulatory burden without evidence of safety benefit.

Proposed Text (if applicable):

Proposals should be formulated once the results of the '*Scientific and medical evaluation of the EU OPS provisions for cabin crew*' required to be conducted by Regulation (EC) 1899/2006 are available which are expected by the end of 2009. It is appropriate to await these results before formulating standards.

comment

349

comment by: UK CAA

Page No: 60

Paragraph No:

6 referring to Appendix IV – Explanatory memorandum relating to cabin crew: Part-CC, Part-MED (Subpart E), Part-OR (Subpart OPS – Section IV) and Part-AR (Subpart AR.CC)

Comment:

Since cabin crew are not required in non-commercial operations it is not reasonable to set medical standards.

Justification:

This is excessive regulation. Furthermore, the EU OPS requirements only apply to cabin crew in commercial air transport. Para 6 states that the scope of the Basic Regulation is wider but facilitating 'the free movement of goods, persons and services' and providing a 'level playing field for all actors in the internal aviation market' apply to commercial activities.

Proposed Text (if applicable):

Delete all references to medical requirements for cabin crew in non-commercial operations.

comment	<p>376</p> <p>comment by: <i>Elaine Allan Monarch</i></p> <p>Page No. 64</p> <p>Ref No. NPA 2009 -02a Appendix IV (23)</p> <p>Summary of EASA Proposed Requirement: Cabin Crew Training – being divided between Part CC for Cabin Crew Training and Part OR for Operators.</p> <p>Comment: Conversion training CC TRA to include all generic subjects and non operator specific procedures with operator specific procedures covered in OR OPS CC.</p> <p>Justification: The proposal to divide training into several areas seems to overcomplicate a tried and tested method of Cabin Crew Training. The content of the proposal appears to require operator specific subjects in the generic training, which may compromise standards, as they may not be covered sufficiently during training. Implementing rules for CC TRA are not detailed enough to ensure that training organisations and operators have an exact understanding of the requirements. It is likely that operators will repeat the training to ensure that standards are maintained.</p> <p>Proposed Text (if applicable) As per EU Ops - 1.005 Initial Training 1.1010 Conversion Differences training covered in detail by the Operator.</p>
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A. VI. Appendices - Appendix IV: Explanatory memorandum relating to Cabin Crew - Content

p. 61-65

comment	<p>6</p> <p>comment by: <i>Virgin Atlantic Airways Ltd</i></p> <p>Comment. Para 13: Notwithstanding the lack of evidence to support blanket medical standards for cabin crew, if no medical certificate is to be issued, how will the examiner notify the competent authority of an applicant's fitness?. If it is simply by word of mouth or "non-official" paperwork, it will be open to fraudulent activity</p> <p>Proposal. If medical examinations are to be introduced, there must be a safe, secure and effective means of the examiner communicating that to the competent authority, such as a certificate.</p>
comment	<p>7</p> <p>comment by: <i>Virgin Atlantic Airways Ltd</i></p> <p>Comment Paras 15-19. That cabin crew should be capable of performing a wide variety of safety roles within the cabin is not in dispute. Blanket medical</p>

standards and exclusions of certain conditions do not achieve this aim.

Justification The 1% rule has been used successfully for many years in assessing acceptable incapacitation risks for Class 1 pilots in a multi-crew environment. What is the equivalent acceptable/unacceptable rate for crew?

The unnecessary adverse social consequences to existing crew who have previously been able to work safely and who are no longer able to, may not be within EASA's remit but should not be ignored.

Response. Medical fitness to work as cabin crew should be an Occupational Health assessment based on individual risk assessment of the applicant's medical condition, capability and the specific nature of the airline's operation and the regulatory requirement for assessment should be removed.

comment 8

comment by: *Virgin Atlantic Airways Ltd*

Comment Blanket medical restrictions are inappropriate and may conflict with national laws, e.g. the Disability Discrimination Act in the UK, where a clear safety risk would have to be demonstrated.

Justification Exclusion of crew with well controlled conditions (such as diabetes or epilepsy) is unjustified. There is no demonstrable negative impact on flight safety.

Proposal All assessments should be made on an individual risk assessed basis.

comment 9

comment by: *Virgin Atlantic Airways Ltd*

Comment Para 21. The proposal that the examiner only reports cases of unfitness is impractical. How is the competent authority to know that an applicant has attended his/her examination?

Proposal If this requirement is imposed, there must be a reliable, safe and fraud proof means of communicating fitness or unfitness with the competent authority, such as a certificate (perhaps similar to that used by flight crew) printed on "secure" paper.

comment 83

comment by: *Virgin Atlantic Airways Ltd*

Table (a)

Comment. Colour blindness is listed as disqualifying, without any reason

Justification. There is no reason why colour blind crew cannot work safely. Depending on the racial mix, around 4% of males will be colour blind and will needlessly lose their employment for no good reason.

Proposal. The colour vision requirement should be removed

comment 84

comment by: *Virgin Atlantic Airways Ltd*

Table (a)

Comment Diabetes and epilepsy are two conditions which are excluded on a "blanket" basis. This should be subject to individual assessment

Justification , If well controlled and assessed on an individual basis, there should be no significant impact on flight safety. Our airline has had a number of crew flying with these conditions for some years. Each case has been individually assessed and there have been no adverse consequences. At the same time, we have also **excluded** people with diabetes or epilepsy, which demonstrates that individual risk assessment based on good occupational health practice is taking place. Finally, under UK law (the Disability Discrimination Act) precludes denying employment on health grounds unless there is a clear safety risk, which has not been demonstrated in the case of crew.

Proposal Diabetes and epilepsy should both be removed from the "unfit assessment" criteria.

comment 90

comment by: *Virgin Atlantic Airways Ltd*

Table (a) "Severe Health conditions"

Comment. The conditions listed below do not automatically indicate a "severe health condition".

- Systemic anticoagulation
- Anti tachycardia pacemaker
- Partial pneumonectomy
- Diabetes requiring insulin (referred to in more detail in comment 84)
- Epilepsy
- Refractive error >9/6
- Diplopia
- Colour blindness (referred to in more detail in comment 83)

Justification. These "conditions" may or may not cause an individual functional impairment, however, each case should be reviewed on an individual basis to see to what extent it impacts on that individual and to the safe performance of the role.

Proposal. These conditions should be removed from the list of exclusions and placed in a separate list as requiring individual assessment. With regard to refractive error, account must be taken for the use of glasses or contact lenses and to a lesser standard such as 6/12.

comment 91

comment by: *Virgin Atlantic Airways Ltd*

Table (a)

Comment. It is accepted that the following are all "severe health conditions":

- Aneurysm of ... the aorta .. after surgery
- Heart or heart/lung transplantation

- Automatic implantable defibrillating system

but that does not mean that they will automatically interfere with safe performance of crew duties

Justification. The conditions listed **may** be stable and **may** have little likelihood of interference with duties

Proposal. These conditions should not be automatically excluded and should be assessed on an individual basis, subject if necessary to regular review.

comment

158

comment by: *British Airways*

Comment:

Paragraph 19 describes the basis used by the Agency to determine criteria for temporary unfitness or unfit assessment of cabin crew. No detail is given of who carried out the medical analysis, the criteria and methods to be used, etc.

The absence of such detail makes it impossible to evaluate the level of objectivity, relevance or robustness of the analysis. It should therefore be disregarded.

Justification:

The imposition of specific medical standards for cabin crew by EASA - responsible only for regulating safety - can only be justified on the basis of clear, objective evidence of the validity of such standards, i.e. that they are both adequately specific and sensitive to adequately differentiate those individuals who are safe and unsafe to operate as cabin crew.

Any such criteria must be based on an adequate risk assessment, i.e. the likelihood of the condition leading to impaired performance and the likely safety consequences of that impairment.

comment

159

comment by: *British Airways*

Comment:

The medical conditions identified in table a, paragraph 19 are arbitrary and lacking any evidence based on risk assessment. The table should be disregarded.

Justification:

Some of the medical conditions specified are unduly specific, e.g. surgical operations on particular body systems - it is self-evident that any surgical procedure could lead to a period of temporary unfitness until satisfactory recovery has taken place.

Some of the medical conditions said to require an unfit assessment, such as a requirement for systemic anticoagulant therapy or diabetes requiring insulin, cannot be justified. Many airlines allow cabin crew with these conditions to continue operating, with no evidence of any adverse impact on either their personal safety or the safety of the aircraft, other crew or passengers.

comment

160

comment by: *British Airways***Comment:**

Paragraph 20 refers to the evidence of paragraph 19 and table a and to the objectives of the Basic Regulation as the basis for the development of medical requirements.

As indicated in previous comments the medical analysis is not evidence based, risk based or transparent and should be disregarded. There is no indication that the intent of the Basic Requirements was to require the imposition of additional regulatory medical standards, i.e. standards that are more rigorous or detailed than those of EU-OPS.

Justification:*Compliance with basic EASA 216/2008 Regulation*

The intent of the EU legislator has not been to change the cabin crew medical fitness requirements of EU-OPS when migrating to EASA-OPS.

International requirements

There are no ICAO SARPS relating to cabin crew medical requirements. Most major regulatory authorities do not require cabin crew periodic medical screening and/or devolve responsibility for cabin crew medical fitness to operators. The FAA has no regulatory requirements for cabin crew medical fitness.

Despite this absence of regulation, we can find no report of an incident where cabin crew incapacitation has endangered the safety of an aircraft or its occupants. Imposition of the proposed requirements would therefore expose EASA regulated airlines to an expensive and complex additional burden, creating a competitive disadvantage, for no safety benefit.

No safety justification for a detailed medical for cabin crew

Cabin Crew Medical Fitness Requirements have no safety justification. Incidents of cabin crew incapacitation do occur, typically as a result of minor illness such as gastroenteritis, or accidental injury due to burns/scalds or other trauma e.g. as a result of turbulence (none of which are amenable to prevention by periodic medical screening) but they have no direct impact on flight safety. One AEA member reported 676 events over a 3-year period to 31 Dec 07, a rate of 1.27/10,000 sectors. One of these events, the result of an acute traumatic incident, resulted in a diversion. There were no other operational / safety implications

A survey of 4 international airlines (one from Europe) identified 3 diversions following incidents of cabin crew incapacitation in 2007, none of which could have been prevented by periodic medical screening. The total rpk for the 4 airlines was 305.1 billion, giving a rate of 0.01 diversion per billion rpk.

This data is further evidence that there is no safety issue associated with cabin crew medical fitness which would justify the imposition of additional medical requirements.

comment

307

comment by: *Virgin Atlantic Airways*

Comment. Para 13: Notwithstanding the lack of evidence to support blanket medical standards for cabin crew, if no medical certificate is to be issued,

how will the examiner notify the competent authority of an applicant's fitness?. If it is simply by word of mouth or "non-official" paperwork, it will be open to fraudulent activity

Proposal. If medical examinations are to be introduced, there must be a safe, secure and effective means of the examiner communicating that to the competent authority, such as a certificate.

comment 308

comment by: *Virgin Atlantic Airways*

Comment Paras 15-19. That cabin crew should be capable of performing a wide variety of safety roles within the cabin is not in dispute. Blanket medical standards and exclusions of certain conditions do not achieve this aim.

Justification The 1% rule has been used successfully for many years in assessing acceptable incapacitation risks for Class 1 pilots in a multi-crew environment. What is the equivalent acceptable/unacceptable rate for crew?

The unnecessary adverse social consequences to existing crew who have previously been able to work safely and who are no longer able to, may not be within EASA's remit but should not be ignored.

Response. Medical fitness to work as cabin crew should be an Occupational Health assessment based on individual risk assessment of the applicant's medical condition, capability and the specific nature of the airline's operation and the regulatory requirement for assessment should be removed.

comment 309

comment by: *Virgin Atlantic Airways*

Comment Blanket medical restrictions are inappropriate and may conflict with national laws, e.g. the Disability Discrimination Act in the UK, where a clear safety risk would have to be demonstrated.

Justification Exclusion of crew with well controlled conditions (such as diabetes or epilepsy) is unjustified. There is no demonstrable negative impact on flight safety.

Proposal All assessments should be made on an individual risk assessed basis.

comment 310

comment by: *Virgin Atlantic Airways*

Comment Para 21. The proposal that the examiner only reports cases of unfitness is impractical. How is the competent authority to know that an applicant has attended his/her examination?

Proposal If this requirement is imposed, there must be a reliable, safe and fraud proof means of communicating fitness or unfitness with the competent authority, such as a certificate (perhaps similar to that used by flight crew) printed on "secure" paper.

comment 311

comment by: *Virgin Atlantic Airways*

Table (a)

Comment. Colour blindness is listed as disqualifying, without any reason

Justification. There is no reason why colour blind crew cannot work safely. Depending on the racial mix, around 4% of males will be colour blind and will needlessly lose their employment for no good reason.

Proposal. The colour vision requirement should be removed

comment

312

comment by: *Virgin Atlantic Airways*

Table (a)

Comment Diabetes and epilepsy are two conditions which are excluded on a "blanket" basis. This should be subject to individual assessment

Justification , If well controlled and assessed on an individual basis, there should be no significant impact on flight safety. Our airline has had a number of crew flying with these conditions for some years. Each case has been individually assessed and there have been no adverse consequences. At the same time, we have also **excluded** people with diabetes or epilepsy, which demonstrates that individual risk assessment based on good occupational health practice is taking place. Finally, under UK law (the Disability Discrimination Act) precludes denying employment on health grounds unless there is a clear safety risk, which has not been demonstrated in the case of crew.

Proposal Diabetes and epilepsy should both be removed from the "unfit assessment" criteria.

comment

313

comment by: *Virgin Atlantic Airways*

Table (a) "Severe Health conditions"

Comment. The conditions listed below do not automatically indicate a "severe health condition".

- Systemic anticoagulation
- Anti tachycardia pacemaker
- Partial pneumonectomy
- Diabetes requiring insulin (referred to in more detail in comment 84)
- Epilepsy
- Refractive error >9/6
- Diplopia
- Colour blindness (referred to in more detail in comment 83)

Justification. These "conditions" may or may not cause an individual functional impairment, however, each case should be reviewed on an individual basis to see to what extent it impacts on that individual and to the safe performance of the role.

Proposal. These conditions should be removed from the list of exclusions and placed in a separate list as requiring individual assessment. With regard to

refractive error, account must be taken for the use of glasses or contact lenses and to a lesser standard such as 6/12.

comment

314

comment by: *Virgin Atlantic Airways***Table (a)**

Comment. It is accepted that the following are all "severe health conditions":

- Aneurysm of the aorta .. after surgery
- Heart or heart/lung transplantation
- Automatic implantable defibrillating system

but that does not mean that they will automatically interfere with safe performance of crew duties

Justification. The conditions listed **may** be stable and **may** have little likelihood of interference with duties

Proposal. These conditions should not be automatically excluded and should be assessed on an individual basis, subject if necessary to regular review.

comment

350

comment by: *UK CAA*

Page No: 62

Paragraph No:

14 to 19 inclusive referring to Appendix IV – Explanatory memorandum relating to cabin crew: Part-CC, Part-MED (Subpart E), Part-OR (Subpart OPS – Section IV) and Part-AR (Subpart AR.CC)

Comment:

The medical incapacitation standard for pilots is based on a critical period (take off and landing) during **every routine normal** flight when incapacitation of the pilot immediately hazards the aircraft, its passengers and third parties. There is no critical period for cabin crew during any routine flight. **The potential for cabin crew incapacitation to be the primary cause of a public transport incident or accident is zero.**

Justification:

The proposed standard would produce an increased regulatory burden without clear evidence of significant safety benefit.

Proposed Text (if applicable)

See UK comments on the proposed medical requirements for cabin crew in Part-CC, Part-MED (Subpart E), Part-OR (Subpart OPS – Section IV) and Part-AR (Subpart AR.CC).

comment

351

comment by: *UK CAA*

Page No: 62 to 64 inclusive

Paragraph No:

Paras 19 and 20, including Table (a) referring to Appendix IV – Explanatory memorandum relating to cabin crew: Part-CC, Part-MED (Subpart E), Part-OR (Subpart OPS – Section IV) and Part-AR (Subpart AR.CC)

Comment:

If the “medical analysis” forms the basis of the proposals, it is **essential** for the **analysis to be presented in detail**, for the **authors to be stated** and for the **scientific evidence underpinning it to be referenced** to enable stakeholders to comment objectively on the proposals. The analysis should therefore be presented as part of this consultation proposal. The applicability of the contents shown in Table (a) on page 63, to cabin crew, is questionable.

Justification:

The detailed “medical analysis of each and every of the medical conditions already identified by aero-medical specialists” is not outlined.

Proposed Text (if applicable):

Amend Table (a) with the missing information as described in ‘Comment’.

comment

352

comment by: UK CAA

Page No: 64**Paragraph No:** 21**Comment:**

This process is not required by ICAO or the Basic Regulation. This process should be an operator responsibility.

Justification

Unnecessary regulatory burden.

Proposed Text (if applicable):

See UK comments on the proposed medical requirements for cabin crew

comment

362

comment by: Thomas Cook Airlines

23. Justification:

The proposal to divide training into numerous areas appears to overcomplicate what is a proven method of completing Cabin Crew Training for little benefit.

The content of the proposal appears to include some operator specific subjects in the generic training which could compromise safety standards if not thoroughly covered in training. Implementing rules for CC TRA are not sufficiently prescriptive to ensure that training organisations and operators have an exact understanding of the requirements. Any perceived benefits from these changes would be negated as operators are likely to repeat this training to ensure that their standards are maintained.

Proposal:

As per EU Ops

1.005 Initial Training

1.1010 Conversion Differences training covered in detail by the Operator.

comment

363

comment by: *Thomas Cook Airlines*

24.

Justification

The purpose of Implementing Rules is to improve safety standards, by issuing an additional attestation would increase an administration workload for little significant increase in safety standards

Proposal:

Attestations to be issued on completion of initial training as per current EU-Ops requirement

comment

378

comment by: *Elaine Allan Monarch*

Page No. 64

Ref No. NPA 2009 -02a Appendix IV (24)

Summary of EASA Proposed Requirement:

The current attestation is only evidence of training. To enable free movement of holders of an attestation to operate as crew with other EU Operators.

Comment:

Would audits of attestation issuers be required to ensure that training standards are adequate and comparable?

Justification:

The purpose of Implementing Rules is to improve safety standards .Issuing an additional attestation would increase workload for no benefit to safety standards

Proposed Text (if applicable)

Attestations to be issued on completion of initial training as per current EU-Ops requirement

comment

605

comment by: *Swedish Transport Agency, Civil Aviation Department
(Transportstyrelsen, Luftfartsavdelningen)*

Relevant text:

13. Part AR – Subpart Cabin crew:

. . .

As regards to the procedures for amending, limiting, suspending or revoking the cabin crew attestations, they are similar to those applicable for other certificates, except for the specific case of medical fitness since the Basic Regulation does not require the issuing of a medical certificate. It is therefore

proposed that cases of suspected unfitness and of unfit assessment be reported to the competent authority thus ensuring that action can be taken as appropriate as regards the cabin crew attestation.

Comment:

For pilots the individual AME shall take action regarding the medical certificate, while for CC the authority has to be involved regarding the CC attestation, possibly not even issued by the authority.

If CC are not issued a medical certificate or similar document the procedures in case of medical problems would be more complicated for CC than for pilots, resulting in an additional administrative burden and costs. This seems inappropriate and could be avoided by using the same procedures as for pilots.

Proposal:

EASA should consider the use of a standard medical certificate or similar document for CC with administrative procedures similar to those applicable for pilots.

comment

609

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Relevant Text:

19.

. . .

Table (a) - Medical conditions leading to . . .

The following severe health conditions have been evaluated as rendering a person unable to:

(a) undergo crucial parts of the training required from cabin crew to acquire and maintain competence (e.g. actual firefighting, slide descending, using a Protective Breathing Equipment (PBE) in a simulated smokefilled environment); and/or:

(b) manipulate the aircraft systems and/or emergency equipment (e.g. exits, rafts, fireextinguishers) ; and/or

(c) sustain the aircraft environment (e.g. altitude, pressure, circulated air, noise); and/or perform the required duties and responsibilities efficiently, particularly those relating to emergency situations and psychologically demanding circumstances (e.g. assistance to passengers in case of decompression; crew coordination, stress management and decisionmaking in case of safety hazard or emergency, management of disruptive passengers and security threats)

Comment:

A deletion of (a) should be considered as this is not part of the flight safety requirements. Any person unable to undergo crucial parts of the training required will fail the training criteria and lose her/his CC attestation, regardless if this is due to a medical condition or any other cause.

The table of medical conditions rendering a CC member unfit has been used as the basis for the proposals for CC medical requirements. However, the table on page 63 is incomplete as it does not cover all conditions that would be incompatible with CC duties and also contains mistakes, e.g. partial

pneumonectomy is acceptable for pilot duties but is proposed to be unacceptable for CC duties.

Proposal:

The Table (a) on page 63 should be revised.

comment

611

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Relevant Text:

21. Since the Basic Regulation does not specifically require the issuing of medical certificates, even though medical fitness is a condition to maintain valid the cabin crew attestation required by Article 8(5)(e), there is no such requirement in the proposed Implementing Rules. To ensure that the authority is informed and can take action when necessary, it is proposed that the aeromedical examiner conducting the medical examination and assessment only reports cases of suspected unfitness and unfit assessment to the competent authority in writing in a form and manner established by that authority.

Comment:

Many CC change their employment between different operators and different member states. If each member state will establish its own documents and procedures this would be complicated and create additional administrative burden and costs. It would be better to have a standard medical document used and accepted all over Europe in order to facilitate the free movement of CC within EU.

Proposal:

EASA should consider the use of a standard medical certificate or similar document for CC with administrative procedures similar to those applicable for pilots.

A. VI. Appendices - Appendix I: Explanatory memorandum on Part-OPS - Attachment A: Draft regulatory impact assessment - retrospective application of selected requirements to provide for improved seat/restraint system installations on transport category (passenger) aircraft with a maximum takeoff weight of less than 5700 kg p. 66-69

comment

395

comment by: *HDM Luftrettung gmbH*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment

450

comment by: *Fédération Française Aéronautique*

Applicability of this attachment must be clarified:

French FFA asks EASA to explain in which category are aircrafts with a MTOW

below 5,700 kg, and specifically below 2,000 kg ? Are they in "transport category"?

Do EASA considers that a single piston engine, as a Cessna 172 for example, VFR operated in a non profit organisation (Aero-clubs or associations) belongs to the "Transport Category" ?

Example page 67 :

FFA considers that the different options presented on page 67 and 68 to increase the *standard passenger weight* from 77 kg to 98 kg, unadapted to sports and recreational aviation.

Justification : In sport and recreational aviation, actual weight of people on board is used, not a standard one. Use of a standard weight will conduct to reduce possible fuel on board and, of course, will consequently reduce flight safety.

comment

575

comment by: *EPFU is the European Union of national powered flying organisation from the 10 main European countries*

EPFU is not in favor of the proposed increase of standard passenger weight from 77 kg to 98 kg in non commercial operation of non complex aeroplanes.

EPFU would like to have confirmation that this rule is not applicable to non commercial operations on non complex aeroplanes

A. VI. Appendices - Appendix I: Explanatory memorandum on Part-OPS - Attachment B: JAA NPA-OPS 70 (JAR-OPS 3) Dangerous Goods

p. 70-107

comment

35

comment by: *French SAMU using helicopters for medical transport*

AFHSH - Post NPA 38

HEMS operation to/from a public interest site

HEMS operation to from a hospital public interest site in a congested hostile environment may be conducted in accordance with the procedure presently developed in the post NPA 38 document. An alternative procedure which limit the risk to the crew or the persons on board but excluding any risk to third parties could be used.

The procedure is the following:

The take off mass shall be limited to the category A helipad maximum mass, the exposure time limited to the vertical climb segment up to the rotating point (DPATO) and there after clear all obstacles by an adequate margin. The Rotating Point (DPATO) is at the level of the corresponding CAT A TDP, the height may be increased in order cope with the obstacle clearance.

Justification:

The existing JAR OPS 3 alleviation was adopted in 2002 in order to cope with the helicopters operating in HEMS operations such as the BO 105, BK 117, 365 N, 109 A&B, of an old generation and which where underpowered. The replacement of those helicopters has already taken place. The new generation

being having more performance could easily adopt such a flight profile

In addition a proper risk analysis and management should recommend that all operations conducted with an exposure time should only be granted in HEMS operations for helicopters equipped with crash absorbing seats for the pilots and crash resistant fuel cells.(See additional requirement in OPS.SPA 005SFL(3))

comment

149

comment by: ECA - European Cockpit Association

Comment on the removal of paragraph Subpart B, JAR-OPS 3.080: replace cancelled text by:

An Operator shall not accept any Dangerous Goods for transport by air packaged by third parties unless assured that such goods is correctly packaged and labelled.

This assurance may be either in the form of an individual approval, or by an approval for a named provider.

Such an approval may be issued by a single operator, a group or, industry wide body. It should ensure compliance with the Technical Instructions and acceptable to the Regulator.

Justification:

<![endif-->Simply deleting this paragraph does not solve the problem. Operators do need to be assured that no dangerous goods are carried. Control of directly employed personnel is straightforward. Control of outside agencies and individuals is far less so. There should be an obligation on an operator to ensure that where goods are supplied by a forwarder, that the operator is assured that the forwarder has procedures and training in place to ensure that all goods will be correctly packaged and labeled.

comment

150

comment by: ECA - European Cockpit Association

Comment on the removal of Subpart D, JAR-OPS 3.42, Occurrence reporting0,(d)(4):replace cancelled text by:

In the case of an in-flight emergency, the Commander shall inform ATC of any Dangerous Goods on board that may have an impact on the safety of persons and the conduct of any fire rescue operations that may arise after landing.

Justification:

Removing this in entirety is unhelpful and although it makes no contribution to safety in flight, post flight safety of personnel may be compromised. It is suggested that a statement is retained to ensure that relevant information is passed on if the situation permits.

comment 104 comment by: *Heli Gotthard*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 115 comment by: *Stefan Huber*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 128 comment by: *Air Zermatt*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 137 comment by: *Air-Glaciers (pf)*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 172 comment by: *Heli Gotthard AG Erstfeld*

Hoist certification NPA OPS 69 JAA / Attachement C to Appendix 1

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 195 comment by: *Berner Oberländer Helikopter AG BOHAG*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 207 comment by: *Heliswiss AG, Belp*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 216 comment by: *Dirk Hatebur*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 233 comment by: *Heliswiss*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 238 comment by: *Heliswiss NV*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 251 comment by: *heliswiss ag, belp*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 269 comment by: *Jan Brühlmann*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 277 comment by: *Catherine Nussbaumer*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 293 comment by: *Walter Mayer, Heliswiss*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 325 comment by: *Philipp Peterhans*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 361 comment by: *Pascal DREER*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 396 comment by: *HDM Luftrettung gGmbH*

Hoist certification NPA OPS 69 JAA/AttachementC to Appendix 1
There is no justification not allowing Performance Class
2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment

comment 413 comment by: *Christophe Baumann*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 422 comment by: *Benedikt SCHLEGEL*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 503 comment by: *Ph. Walker*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 521 comment by: *Hans MESSERLI*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 530 comment by: *SHA (AS)*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 544 comment by: *Trans Héli (pf)*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 596 comment by: *Heliswiss International*

There is no justification not allowing Performance Class 2 and 3 helicopter
operating in SAR-HEMS-AW-CAT over hostile environment.

comment 626 comment by: *Christian Hölzle*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 645 comment by: *Swiss Helicopter Group*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS-AW-CAT over hostile environment.

comment 666 comment by: *ADAC Luftrettung GmbH*

There is no justification not allowing Performance Class 2 and 3 helicopter operating in SAR-HEMS over hostile environment.

A. VI. Appendices - Appendix I: Explanatory memorandum on Part-OPS - Attachment D: HSST-WP-07-03.4 Proposal for the amendments of HEMS performance requirements post NPA-OPS 38 p. 113-123

comment 34 comment by: *French SAMU using helicopters for medical transport*

AFHSH - Post NPA 38

HEMS operation to/from a public interest site

HEMS operation to from a hospital public interest site in a congested hostile environment may be conducted in accordance with the procedure presently developed in the post NPA 38 document. An alternative procedure which limit the risk to the crew or the persons on board but excluding any risk to third parties could be used.

The procedure is the following:

The take off mass shall be limited to the category A helipad maximum mass, the exposure time limited to the vertical climb segment up to the rotating point (DPATO) and there after clear all obstacles by an adequate margin. The Rotating Point (DPATO) is at the level of the corresponding CAT A TDP, the height may be increased in order cope with the obstacle clearance.

Justification:

The existing JAR OPS 3 alleviation was adopted in 2002 in order to cope with the helicopters operating in HEMS operations such as the BO 105, BK 117, 365 N, 109 A&B, of an old generation and which where underpowered. The replacement of those helicopters has already taken place. The new generation being having more performance could easily adopt such a flight profile

In addition a proper risk analysis and management should recommend that all operations conducted with an exposure time should only be granted in HEMS operations for helicopters equipped with crash absorbing seats for the pilots

and crash resistant fuel cells.(See additional requirement in OPS.SPA 005SFL(3))

comment

368

comment by: *Bond Air Services*

OPS.SPA.025 (b) (2) proposed text states:

Helicopters conducting operations to/from an HEMS operating site located in a hostile environment shall be operated in accordance with Performance Class 2

This Para which is a change from JAR-OPS 3.005(d) (c) (2) (b) which states

Helicopters conducting operations to/from a HEMS operating site located in a hostile environment shall as far as possible be operated in accordance with Subpart G (Performance Class 1).

The commander shall make every reasonable effort to minimise the period during which there would be danger to helicopter occupants and persons on the surface in the event of failure of a power unit (See ACJ to Appendix 1 to JAR-OPS 3.005(d) sub-paragraph (c)(2)(i)(B)).

The rationale behind this change is explained in Attachment D to Appendix 1 and gives 4 options

1, 2(a), 2(b) and 2 (c)

The preferred option is **2(b)** which would leave HEMS Operations as they are today without the requirement to show compliance with JAR-OPS 3.517(a) - Operations without a safe forced landing capability.

The justification for this is that European HEMS Operations are now mature and have shown little incidence, if any ,of critical power unit failure at the HEMS operating site.

Whilst many new generation light twin helicopters will be able to show UMS compliance if required, helicopters such as the BO105 will require the fitment of UMS and its' associated costs. By the time that EU OPS is implemented circa 2012 it is anticipated that the BO105 fleet will be coming to the end of its' service life and it would not be economic to fit UMS for such a short period.

This coupled with the safety record of HEMS in general at the HEMS operating site lead to the request for the inclusion of option 2(b) from Bond Air Services based on our considerable HEMS experience with the BO105

comment

397

comment by: *DRF Stiftung Luftrettung gemeinnützige AG*

1.2.7 We vote for option 2b.

comment

477

comment by: *ALFA-HELICOPTER*

Prefered option is 2(b)

comment

506

comment by: *Norsk Luftambulanse*

1.2.7 Options

Norsk Luftambulanse votes for option 2(b)

comment

655

comment by: *European HEMS & Air Ambulance Committee (EHAC)*

PROPOSAL FOR THE AMENDMENT OF HEMS PERFORMANCE REQUIREMENTS
POST NPA-OPS 38

1.2.7 Options


EHAC votes for option 2(b)

"no requirement to show compliance with Appendix 1 to JAROPS 3.517(a). This would leave HEMS operations as they are today – i.e. no need to seek additional approval for operations with exposure (albeit now with the ability to show compliance with the operating rule)."

Appendix A – Attachments to comments received for NPA 2009-02a

 [Manufacturers flight categories WP5.pdf](#)

Attachment #1 to comment [#522](#)

 [arrete 24 juillet 91 consolid26dec08.pdf](#)

Attachment #2 to comment [#522](#)

 [Training Structure Outline V1.0 - To EASA FCL NPA 2009-02.pdf](#)

Attachment #3 to comment [#577](#)

[2009 06 23-24 Bodo Summary Report FINAL.pdf](#)

Attachment #4 to comment [#562](#)