COMMENT RESPONSE DOCUMENT (CRD) TO NOTICE OF PROPOSED AMENDMENT (NPA) 2008-22B & 2009-02D

for an Agency Opinion on a Commission Regulation establishing the Implementing Rules for Authority Requirements

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 Authority Requirements

"Authority Requirements"

CRD c.1 – Comments received on Part-AR

I. Comments received on NPA 2008-22b

(General Comments) -

comment *55* comment by: *David Bowden*

This may be the wrong place to put this comment but .....

I am a Glider pilot and rightly proud of the BGA and the regulatory structure that it has created.

In any change the BGA should be the "competent authority" when it comes to ensuring that regulations are applied and that safe standards are maintained through out the gliding movement.

Gliding clubs are usually "not for profit" organisations. Any increase in costs or administrive burdens are not welcome and where necessay should geninuely and demonstrably contribute to safety.

comment *86* comment by: *Baden-Württembergischer Luftfahrtverband*

Introduction

The Baden-Württembergischer Luftfahrtverband (BWLV) is the association of about 200 aviation clubs in the state of Baden Württemberg in the south west of Germany. About 160 of these clubs instruct on aeroplanes, sailplanes, micro lights, balloons and parachutes.

The quite high number of clubs of which some are quite small are spread across the country and therefore most people interested in flying can find a club close by giving access to flying at very low cost. This is especially important so that also young people still at school interested in aviation have the possibility to start flying. This scheme is only possible because all functions are executed by volunteers.

By far the most activity in general aviation is happening in these clubs. Here pilots are under close observation and exchange lots of information. Aircraft belong to all members and are often not insured against damage or even complete loss. This leads to quite rigid supervision between the members. This setup contributes largely to the safety consciousness in general aviation.

It is important to maintain this infrastructure and make sure it is supported by the regulations. This importance is also emphasized in the *„An A genda for Sustainable Future in General and Business Aviation* COM(2007) 869".

We have structured our comments to the various paragraphs in up to four parts as appropriate:

Full reference to the passage (FCL.nnnn.XX (x)(n)(n))
Wording in the NPA
Here we repeat the passage from the NPA which we are specifically commenting

Our proposal
Here we specify how to change the wording of the NPA. This is either:

Add: for an addition of a passage
Change: changes in the original wording marked in red
Delete: delete a passage

Issue with current wording
A one sentence description of the problem

Rationale
A detailed reasoning why we think the change is needed or perhaps why we support the proposal in the NPA.

Our following general comments apply to many of the rules in this proposal. We therefore gather them here with detailed rationales and will then refer to them in our comments to the individual rules. This avoids repeating the rationales in multiple comments.

General Comments

1. Umbrella ATO for clubs
Issue with current wording
The NPA proposed regulation has provisions to support non commercial training organizations and therefore supports the *„An Agenda for Sustainable Future in General and Business Aviation* COM(2007) 869" . We need to ensure that the multitude of small flying clubs can maintain their training without significant increase in management overhead and additional cost. In Germany a concept of umbrella training organizations at state level exists so that small clubs can provide training for their members . The regulation must support this concept.
Rationale
Germany has a long and good experience in putting private pilot licensing completely into the hands of non profit organizations (clubs and their associations). The multitude of small non commercial clubs allow individuals interested in flying and especially young people to find a club in their vicinity and start flying at affordable cost. It is extremely important to get young people involved at this age so that they do not drift off, into computer games, unreal worlds or even worse alcohol or drugs. If they do not find access at young age, when still at school but with a small available budget the next chance will be at a much later age. This kind of offering is only possible with volunteers in all functions. An appropriate infrastructure has to be maintained and strengthened to achieve the goals of the above mentioned agenda.
The essential parts in this concept are our state aero clubs as federations of the member clubs across the state running a non profit training organizations at state level. Under the umbrella of the state aero club the member clubs run their training courses as subsidiaries of the training organization of the state aero club. The state aero club executes the following **functions of the umbrella ATO** for the clubs:

1. Approval of new subsidiaries and of changes in existing subsidiaries
2. Approval of the training courses held by specific subsidiaries
3. Auditing of the subsidiaries
4. Standardization across subsidiaries with standard training programs
5. Interface to the competent authority

The state aero club reports changes to the competent authority in an agreed process e.g. a shared database. The competent authority audits the processes of the state aero club and executes spot audits of the subsidiaries. The functions of the state aero club are carried out by volunteers to a great extent. The **advantages** of this concept are

- Ø The competent authority is relieved of many tasks which would be necessary if each subsidiary where a separate ATO
- Ø Fees and charges by the competent authority can be kept quite low
- Ø Instructors and training aircraft can be easily shared between the subsidiaries allowing to save resources and local specialized trainings e.g. aerobatic flying.
- Ø Very small subsidiaries can be maintained allowing training facilities close to the interested pilots. The close relationship to the towns or cities also helps soerce financial support from the towns they belong to.
- Ø A high training standard is maintained due to close monitoring and an intense communication between the club members..

The final regulation must insure the continuation of this scheme or another model allowing similar advantages without excessive processes. We will point out which regulations to our understanding support this concept or where we think the wording should be modified so that the intention is expressed more clearly.

comment *194* comment by: *DGAC FRANCE*

The principles set out by the "*Joint Practical guide of the European Parliament, the Cou ncil and the Commission for pe rsons in volved in the dr afting of legislation within the Community institution*" states that the legislation must be "clear, easy to understand and unambiguous" which is not the case in the whole document "NPA 22".

The scope of Part AR is not well defined. There are doubts throughout the text about the applicability of different provisions, about the frame of the different concepts introduced (continuing oversight and monitoring of activities). Legal uncertainty is indicated throughout the comments hereafter.

Review th e text when it is necess ary to reach the goal o f le gal certainty.

comment *195* comment by: *DGAC FRANCE*

This part establishes penalties ; what is the articulation between the article 68 of Basic regulation which set out the principle that the Member states shall lay down penalties and this paragraph ?

comment *228* comment by: *AECA(SPAIN)*

EASA has no legal basis to overrule national sovereignity. No included in basic regulation.

comment *229* comment by: *AECA(SPAIN)*

Some texts taken over from other EASA regulations are no applicable to FCL matters

comment *233* comment by: *Susana Nogueira*

EASA has no legal basis to overrule national sovereignity; not in basic

regulation.

comment *234* comment by: *Susana Nogueira*

Some text take over other EASA regulations are not applicable to FCL matters.

comment *235* comment by: *Susana Nogueira*

A new paragraph containing 'Definitions' shall be added.
In other comments we make indications about his content

comment *248* comment by: *Susana Nogueira*

We propose to create a separated document including all definitions related with FCL to avoid repetitions in different parts and to facilitate the use (e.gr. definitions contained in OR.GEN 010 are necesary in AR.ATO 200)

comment *428* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

General Comment:

1) The GERT structure chosen by EASA is by far more complicated than the well structured JAR rules. Most users are not able to cope with the modular approach. The present draft is in conflict with the basic principles of understandable rule setting of the Community and must be changed entirely, in order to be user friendly and more coherent for the regulated organisations and authorities.

2) EASA should base its current rulemaking on the JARs. The proposed rules go much further than what the common market and a level playing field in Europe demands. EASA is not entitled to regulate purely domestic affairs. The IR should not go beyond the necessary minimum which has well been defined by the JARs and needs no further enlargement.

3) The mechanism of AMCs is not based on the basic regulation and, therefore, to be considered illegal and has to be entirely revised or fully abrogated. The present draft would lead to a derogatory situation where industry and NAAs will not know any more what is possible and what is forbidden. The AMC mechanism, therefore, will jeopardise safety and legal security. Furthermore, it will hamper European competitiveness in the global market.

comment *460* comment by: *European CMO Forum*

General Comment

There is no proposal for a central database of applicants assessed as long term unfit for Class 1 medical certification. This topic was raised by the FCL.001 Medical sub-group during the preparation of the EASA proposals as a safety risk for EASA.

Justification
There is no means for an AeMC or Authority to check whether an applicant has been previously assessed as unfit Class 1 by another AeMC or State. With increasing mobility of applicants between States this risk increases. If there is

doubt about the veracity of an applicant's medical history or it is suspected that there may be incomplete or non-disclosure of medical history it is important for the AeMC or Authority to check whether the applicant has been denied elsewhere. Although this occurs infrequently it presents a safety risk as these applicants present an unacceptable level of medical risk and are prepared not to disclose relevant medical information.

Proposed Text:
This risk can be mitigated by the free exchange of information about Class 1 long term unfit status between States by access to a central database containing the name, date of birth, State of denial and date of denial.

comment *601* comment by: *DGAC FRANCE*

Competent authority should encompass article 13 because the task of certification can be allocated to a qualified entity as it is possible with the article 13 of BR.

comment *602* comment by: *DGAC FRANCE*

The BR doesn't contain any provision which permits the european commission to rule the activities of competent authorities. Therefore, EASA, in our point of view can't propose to the Commission to adopt such measures since it infringes the sovereignty ot member states ;
This sovereignty is recognised by the Whereas (13) of the BR which states that it is primarily the responsibility of the member states to implement the EU regulations.

Therefore, it could be only permitted if the BR 216/2008 would contain requirements to do so like it is the case for regulation CE 549 2004 Single sky.

comment *622* comment by: *ALSIM Simulateurs*

Implementation of a Mutual acceptance process and/or a Type Qualification for lower level devices including FNPTs

We believe, for the sake of common sense and to ensure simplification, that a type of a simulator, having already been qualified by one Authority, should give rise to implicit qualification for subsequent units, specially for lower level of devices. Then, We strongly suggest that a mutual acceptance and/or a Type Qualification be implemented for FNPTs, such as already exists for aircraft. In effect, when a simulator has already undergone one JAA-EASA qualification, its qualification procedure in another JAA-EASA counterpart should only involve a compliance check between the FNPT serial number and the Type Certification document. This provision exists in United States, without any adverse effect on the quality of training, for the Advanced Aviation Training Device (AATD=equivalent to FNPT in Europe) where qualifications are carried out by the "*General Aviation & Commercial Division*" under AC n°61-136 regulation. It is clearly stated that "*the approval will be valid for all serial numbers that are part of that configuration, provided there is no change in that configuration or in a value for a criterion in paragraph 8*" [AC 61-136 issued the 14th of July 2008, Appendix 2, paragraph 3]. While the EASA has the willing to harmonise the regulation, some National Aviation Authorities keep on claiming that they are required under local and European rules for FSTD qualification. They clearly

want to take advantage of the lack of provision for approval of a type or for mutual acceptance in European regulatory process to reinforce their position. This is not acceptable for both operators and the industry world. **Then the provision in AMC to AR.ATO.210 for BITDs stating that "*the qualification should be valid for all serial numbers of this model without further technical evaluation*" should be extended to FNPT devices.**

comment *623* comment by: *ALSIM Simulateurs*

Distinction between FSTD qualification and ATO qualification

The FSTD qualification should be issued independently of any management system approval. A double qualification should be given, one for the FSTD and another for the management system. This would avoid some confusion when it is not clear if revoking an FSTD qualification is due to FSTD non compliance or ATO non compliance. This confusing would not exist at any time if an FSTD Type Certification was possible (see remark about : "Implementation of a Mutual acceptance process and/or a Type Qualification for lower level devices including FNPTs").

comment *624* comment by: *ALSIM Simulateurs*

Distinction between higher level simulators and lower level devices

A distinction between higher level simulators and lower level devices (FNPT & BITD) should be made in terms of requirements. In United States, the distinction is clearly made using two different regulations: the Full Flight Simulator qualifications are carried out by the "*National Simulator Program Staff*" under Part. 60 regulation whereas the Advanced Aviation Training Device (equivalent to FNPT) qualifications are carried out by the "*General Aviation & Commercial Division*" under AC n°61-136 regulation. Regarding the AATDs, the regulation is far less restrictive and far more pragmatic in terms of requirements. In the same way, we suggest that a distinctive approach be made in Europe between FFSs and FNPTs. This distinction may be similar to the one made between the commercial and general aviation regarding the aircraft maintenance (refer to the discussion process with the EASA MD032 working group).

comment *625* comment by: *ALSIM Simulateurs*

Relaxing of Validation data and Validation Tests substantiation for FNPT & BITD

The Validation Data and Validation Tests substantiation should be in a more relax form compared to what is required for bigger simulators.
Validation Data: An acceptable mean to substantiate the objective tests would be to subjectively check the FNPT device with a qualified pilot, and determine whether or not the FNPT device is relevant of the aircraft or class of aircraft simulated. Hence subjective assessment from both the operator and the manufacturer could be accepted as Validation Data, as it is under FAA regulation for AATDs (see paragraph 1-2).
Validation Test: The current regulation requires for FNPTs no more than 45 objective tests. It is huge compared to the FAA regulation for AATDs [AC 61-136 issued the 14th of July 2008], where no objective test at all is required for qualification process. We think that a compromise could be found between 0

and 45. For example, there are only 19 objective validation tests required for FNPTs under Canada regulation.

comment 626 comment by: *ALSIM Simulateurs*

Pragmatic approach

A strict application of the pragmatic approach of what a qualification process is (as specified in the current regulation) is urgently required: "*The Civil Aviation Authorities of certain European co untries have a greed (…) aviation requirements (…) with a view to* ***minimizing Type Certification*** *problems or joint vent ures,* ***to facilitate the export and import of aviation products*** *(…) in one European country to b e accepted by t he Civil Aviation Authority in another European country (…)* " [First paragraph of the foreword of the JAR-FSTD(A)].
The use of the phrase "*Unacceptable*" for serious defect, which holds up qualification and prevents operators from using their operational equipment, must be regarded as a serious issue and therefore used in a restrained and extremely well-targeted manner.

comment 627 comment by: *ALSIM Simulateurs*

Creation of a supervisory Authority with appeal procedure

In cases where an Operator or a Manufacturer does not completely agree with some remarks, are the Manufacturer and/or the Operator allowed to put forward their point of view? If the answer is no, this would imply that they have no room for manoeuvre. Is this truly within the spirit of the regulations? Finally, in the event of any disagreement, which is the legitimate Authority capable of taking decisions in an objective manner?
If an identified serious defect is subject to be challenged, an appeal process should be possible with independent competent expert or third EASA member state Authority before downgrading or revoking the qualification level. In the interim, an FSTD temporary certificate shall be released unless a duly legitimate serious defect induces a clearly identified negative training.
We therefore request that a supervisory Authority be able to carry out the role of coordinator and moderator, in order to harmonise the rules and to defend the interests of Operators and Manufacturers objectively in the event of a disagreement with a NAA. We would like this role be provided during the interim phase between the dissolution of the JAAs and the actual publication of the new Part FSTD by the EASA in 2010.

comment 628 comment by: *ALSIM Simulateurs*

Reformatting of the EASA part FSTD

The reformatting from JAR-FSTD(A) to EASA regulation has resulted in a too much voluminous document. It is quite difficult to link the parts AR and OR with the part CS-FSTD.

comment 629 comment by: *ALSIM Simulateurs*

All our comments (both general and specific) are supported by a lot of Operators:

UCO AVIACION, Spain
STAPLEFORD FLIGHT CENTRE, UK
OATC, Portugal
AEROTEC ESCULA DE PILOTOS, Spain
SILVAIR, Poland
PROFESSIONAL AIR TRAINING, UK
DUTCH FLIGHT ACADEMY, The Netherlands
AVIATOR FLIGHT CENTER, Cyprus
43 AIR SCHOOL, South Africa
AUNIS AIR EUROPE, France
MIDEAST AVIATION ACADEMY, Jordan
DONAU-AIR-SERVICE, Germany
AVIATION TRAINING & TRANSPORT CENTER, Germany
I.S.Aer.S., Italy
AERODYNAMICS, Spain
EGNATIA AVIATION, Greece
MET-AIR, Turkey
AYJET, Turkey
MARTINAIR FLIGHT ACADEMY, The Netherlands
CRM EUROPE, UK
TAYSIDE AVIATION, UK
TURKISH AERONAUTICAL ASSOCIATION, Turkey
AERO PYRENNEES, France
ESMA AVIATION ACADEMY, France
STELLA AVIATION, The Netherlands
CABAIR, UK

comment *813* comment by: *AEA*

Relevant Text:
Entire NPA 2008-22
Comment:
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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *814* comment by: *AEA*

Relevant text: General Comment
Comment:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal:
Add such a statement

comment *815* comment by: *AEA*

General Comment
Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *816* comment by: *AEA*

General comment.
Comment:
NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not be realigned with those other NPAs taking into account that some elements are still missing (f.e. the NPA for TCO).
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *840* comment by: *bmi REGIONAL*

bmi regional having reviewed the submission made by the Association of European Airlines (AEA) on NPA 2008-22b - (Authority Requirements) fully support their comments and these should be adopted as the position of bmi regional.

comment *849* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Attachment #1

On one hand, FNAM fully recognizes the value added and quality of work delivered by EASA within the certification range (Article 5 of Basic Regulation 216/2008). FNAM will continue supporting the efforts of the Agency in this field.

On the other hand, operational aspects are rather a different issue, though contributing to the same aim of safety enforcement. For years, thousands of flights are daily operated demonstrating the efficiency of the current regulations (JAR-OPS, OPS-1/3 and EU-OPS) applicable for flight safety.

To that extend, FNAM highlights the issue raised by the Commission within COMMISSION OPINION on the final recommendations issued by the Management Board of the European Aviation Safety Agency following the external evaluation on the implementation of Regulation 216/2008, dated 05MAY09 (C2009-3220 final)

" Having this in mind, the Commission is concerned by the potential consequences of the provisions of the "Notice of proposed amendments" on air operations (OPS) recently published by the Agency. The Commission believes that it is of a paramount importance to guarantee that the implementing rules to be adopted in this field reproduce the existing relevant legislation (EU-OPS Regulation 3922/91[1]). This will ensure continuity and coherence with such legislation and therefore more certainty for the industry. It will also allow the Agency to immediately start carrying out the related standardisation inspections. All efforts should be deployed to avoid any delay in the adoption of the implementing rules."

FNAM performed a wide analysis of NPAs that EASA already published

according to Basic Regulation 216/2008. First sights demonstrate that there are many major changes, new concepts and questions that are worth additional work and consultation:

- Proposed regulation is widely different from EU-OPS. Its content is not a simple transfer of EU-OPS while Basic Regulation 216/2008 states that "with regards to commercial transportation by aeroplane, [measures shall be] developped initially on the basis of the common technical requirements and administrative procedure specified in Annex III to Reg EEC 3922/91"(Article 8 §6.);
- The structure forbids any comparison or cross-analysis with the currently applicable regulation;
- The legal structure of NPAs (GM/AMC/CS) seems confusing especially regarding implementation processes and legal certainty. Some key safety elements have still not been published or downgraded to soft-law which may be counter-productive.

To that extend, FNAM asked for "globally extending delays related to these NPAs until end of summer 2010, to successfully face this great change, jointly with EASA." This request was formally applied to M. Kneepkens through a letter dated 28APR2009, referenced 13198 (enclosed). At the time this comment his made, FNAM has not received any answer from EASA. Consequently, FNAM renews this official request through the CRT process and awaits a circumstanced answered from EASA, as some other third-parties are known to have express similar requests.

For all these reasons, FNAM considers that it is not possible to comment the proposed regulation in its current state.

Nevertheless, FNAM has proposed to EASA to "to settle a common and constructive approach between the Agency, the NAAs and the industry. Such an approach shall identify and discuss the issues of the proposed regulation. It appears as a timely and efficient way to cope with these topics, theme by theme, instead of dealing with various standalone but interconnected NPAs. FNAM aims to be an active actor of this work to support Agency's achievement."

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 216/200, giving mandate from the Commission and Parliament to EASA.

[1] OJ L 373, 31.12.1991, p. 4.

comment *852* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Changes in comparison with the current regulation are both dealing with contents and presentation; as the current regulation provides an acknowledged and proved experience level of safety.

PROPOSAL
We would recommend as a first step to limit changes to copying current regulation within the EASA rulemaking framework with NO CHANGES.
At least, major changes shall be clearly identified, stated, explained and justified by EASA.

JUSTIFICATION
Current regulation (considered as a whole and a comprehensive set) has demonstrated, through the experience of the million-hours flown up to now, the level of safety it complies with.
There is no evidence of a non-regression induced by the IR-OPS

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet -established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment

comment *882* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
It is very difficult to assess the proposals of the various NPAs since the IR-OPS regulation big picture has to be considered as a whole, in particular regarding the global level of safety.
Nevertheless, you ask third parties to comment on pieces of regulations, with

major lacks in cross-references, completeness, and consistency; we highlight all the comments hereafter are to be limited to that concern.

PROPOSAL
We recommend a new consultation period to occur when the totality of the draft regulation is published, to deal with consistency, completeness & cross-references
At least, regulation shall not be frozen after its entry in force, but assessed in a timely manner to have feedback and corrective actions.

JUSTIFICATION
Obvious

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Disclaimer :
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The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment

comment *883* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
We regret the way the NPAs are sliced by EASA before submitted to third parties, since it might appears as a disguised mean to hide and dilute changes.

PROPOSAL
EASA may publish an explanatory guide of all changes (as compared to current legislation) implied by IR-OPS before their entering in force.

JUSTIFICATION
Obvious

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited

to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment

comment *884* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Please note that any comment hereafter about SMS shall be understood as applying also to FRMS as we consider FRMS is fully part of SMS, and shall be included within SMS, shall a FRMS be needed.

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COMMENTS
For consistency reasons, please chose between the unit to express delays and deadlines, eg "1 month delay" and "4 weeks"
(This is a general comment applying to all articles of part OR / AR. We also tried to notify it for each article.)

PROPOSAL
Express every delay in weeks

JUSTIFICATION
Consistency

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Disclaimer :
These comments are limited to the part of the proposed article they refer to.
Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment

comment *905* comment by: *bmi*

Comment:
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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *906* comment by: *bmi*

Relevant Text:
General comment
Comment:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR
Proposal:
Add such a statement

comment *907* comment by: *bmi*

Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *908* comment by: *bmi*

Relevant Text:
Entire NPA 2008-22
Comment:
NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not be realigned with those other NPAs taking into account that some elements are still missing (f.e. the NPA for TCO).

comment *934* comment by: *Virgin Atlantic Airways*

This NPA is over-complicated, confusing and in places contradictory.

The Aviation Industry requires legal certainty in the requirements and this is not being achieved through this NPA

comment *942* comment by: *Virgin Atlantic Airways*

There should be a process for an Approved Organization to escalate to EASA should a Competent Authority not be acting in compliance with the requirements stated in the AR material.

comment *945* comment by: *Virgin Atlantic Airways*

Comment:
With regards to this NPA and all of the other NPA's incorporating policies as published in "EU-OPS" there are many instances where items have been added or changed without justification. There appears to be no legal or safety basis to most of these instances and we believe that there is not enough transparency in the manner in which EASA is acting. We are led to believe that the goal of these NPA's was not to change any of the fundamental EU-OPS requirements.

Suggestion:
If any material changes are to be made to the current system these need to be highlighted, justified and subject to a specific consultation.

Alternative:
Realign entirely with EU-OPS

comment *996* comment by: *Dassault Aviation*

GENERAL
The following DASSAULT AVIATION comments aim at including in the Authority Requirements and Organization Requirements the need for audits related to Change Management, Change Notification and Standardization Processes.
Note
The Change Management process is a documented process using standardized methods and procedures that provides effective and immediate management of all changes to courseware, hardware, software, firmware, training content and documentation. This process of controlling changes ensures that :
any changes or proposed changes are accountable in each step of the change or revision process;
a configuration control is maintained and all changes are traceable;
the training program(s) are protected against improper modification of courseware, implementation and use.

Dassault considers that these topics should also be addressed in the requirements that will be developed for Training Organizations approval.

comment *999* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
Entire NPA 2008-22
Comment:
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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal:
Reconsider the entire NPA and realign with EU-OPS

comment *1000* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant text:
General Comment
Comment:

There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal:
add such a statement

comment *1001* comment by: *Swiss International Airlines / Bruno Pfister*

General Comment
Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the enire NPA and realign with Eu-OPS

comment *1002* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
General comment.
Comment:
NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not been realigned with those other NPAs taking into account that some elements are still missing (e.g. the NPA for TCO).
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1030* comment by: *Deutsche Lufthansa AG*

Relevant Text:
Entire NPA 2008-22
Comment:
The entire NPA is extremely complex, confusing and at some places even contradicting in itself or wioth other NPAs like 2009-02. It therefore does not meet the requirements of drafting a European legislative act. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS.

comment *1031* comment by: *Deutsche Lufthansa AG*

Relevant text: General Comment
Comment:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal:
Add such a statement

comment *1033* comment by: *Deutsche Lufthansa AG*

General Comment
Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1034* comment by: *Deutsche Lufthansa AG*

General comment.
Comment:
NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not been realigned with those other NPAs taking into account that some elements are still missing (e.g. the NPA for TCO).
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1067* comment by: *KLM*

Relevant Text:
Entire NPA 2008-22
Comment:
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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1068* comment by: *KLM*

Relevant text: General Comment
Comment:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal:
Add such a statement

comment *1069* comment by: *KLM*

General Comment
Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1072* comment by: *KLM*

General Comment
Comment:
NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not been realigned with those other NPAs taking into account that some elements are still missing (f.e. the NPA for TCO).
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1077* comment by: *Virgin Atlantic Airways*

Comment:
NPA 2008-22 cannot be commented on in isolation as it is linked to other NPA's (NPA 2009-2, NPA TCO etc).

It is therefore unacceptable that the comment period for NPA 2008-22 has not been realigned with those other NPA's.

Proposal: Extend and allign the comment periods.

comment *1127* comment by: *SAS*

SAS complies with the comments made by AEA.

comment *1182* comment by: *BMVBS (MoT Germany)*

There is no need to rush into a bold venture Europe’s aviation sector will later regret!

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. 2008-22, however, is far from mature. It contains major conceptual mistakes, as it relies on an essentially flawed RIA. 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. Some of the proposed authority requirements are considered illegal, as the basic regulation does not contain a mandate for the development of such detailed Authority Requirements which interfere with Member States’ sovereignty.

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 advice 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 order to substantiate the statement that the RIA is essentially flawed and therefore inappropriate to justify the conceptual decisions taken an independent RIA has been performed by our aviation industry which can be found attached. The conclusions on the suitability and advantages of the GERT system (or even its "spirit") are utterly wrong. What is being presented as "readers oriented structure", thereby suggesting the notion of a customer friendly system is perceived by readers as big disarrangement. What could testify more to this fact than the necessity to use an "e-tool" to find the requirements applicable to a specific case in what looks like a confusing "pile" of requirements? To make it clear: The e-tool does not fix the problem! The fact that an e-tool search might in some cases produce incomplete or erroneous results can not be simply addressed by a disclaimer stating that the actual set of rules are relevant and not the search result. This constitutes in our view a major problem that can only be solved by complete restructuring of the whole set of rules. The structure of the set of regulations is not only illogical it has also been found wanting with respects to its numbering system. The numbering system of paragraphs as presented makes it extremely difficult to navigate through the set of regulations.

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 itself basic risk management principles with regard to the creation of any new regulatory concept based on regulation no. 216/2008. The way and extent in which the Agency is proposing fundamental and far reaching changes is staggering. Any fundamental conceptual change on the regulatory side must take into consideration that there is a real world out there, that has to be able and willing to adjust, otherwise the process will end in disarray.

Due to the extent and complexity of this rulemaking proposal the deadline of 28.05.09 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 *1191* comment by: *AIR FRANCE*

This NPA and other NPA introduce a new complex regulation structure and new concepts which we aren't familiar with. The EU OPS regulation hasn't been strictly copied, leading to some fundamental changes. All those changes combined make the comments very difficult as they raise many questions.
In the explanatory note, the 43rd remark states: "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."
We doubt those aims have been achieved.
All NPAs are linked together and have been published separately. Some part are still missing (like the part TCO or CSs). There is a clear need for more time in order to get more understanding on new concepts and avoid changes not based on safety justification.
There is a high risk that only a part of the issues are discovered during the

limited commenting period. The other issues will probably appear lately during the implementation phase.
There is a need to ensure continuity of operations as they are performed today on the basis of EU OPS.
If those NPAs are considered as advanced NPA, it would allow stakeholders to ask for questions and have a better understanding leading to more finalised comments to the final NPA.

comment *1195* comment by: *AIR FRANCE*

Comment:
There is a need for more definitions. For instance are not defined: activities, indirect approval, etc.
Moreover whether there is a definition, its use is limited to a part or sub part, even if the term is used again in an other part. This may lead to uncertainty.

Proposal:
Provide generic part for definition of terms used in different parts.

comment *1208* comment by: *British Airways Safety & Security*

It is quite difficult to comment on NPA 2008-22 (all sections) in isolation from reviewing/commenting NPA 2009-02. It has not been possible, given the size of the NPAs to conduct these reviews together in the timescales provided by EASA, even though the comment periods have been extended, they do not correspond with each other.

comment *1275* comment by: *Fédération Française Aéronautique*

The "Fédé ration Fr ançaise 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 *1286* comment by: *Civil Aviation Authority Finland*

Comment:
There is no proposal for a central database of Medical Certificate applicants assessed as long term unfit for Class 1 or 2 medical certification. This topic was raised by the FCL.001 Medical sub-group during the preparation of the EASA proposals as a safety risk for EASA.

Grounging:
There is no means for the Authority, an AeMC or AME to check, whether an applicant has been previously assessed as unfit for Class 1 or 2 by another NAA-AMS, AeMC or AME. With increasing mobility of applicants between States this risk increases. If there is doubt about the veracity of an applicant's medical history or it is suspected, that there may be incomplete or non-disclosure of medical history, it is important for the AeMC, AME or Authority to check, whether the applicant has been denied elsewhere. Although this occurs infrequently, it presents a real safety risk as these applicants present an unacceptable level of medical risk and are prepared not to disclose relevant medical information.

We have noticed that some applicants, who have got a denial for medical certificate from an AME or AeMC, have gone to another AME or AeMC in another State and are not telling of their health or medical problem, and this way have got a medical certificate. The revoking of this kind medical certificate is a difficult and time consuming prosedure.

This risk can be mitigated by the free exchange of information about Class 1 and 2 long term unfit status between States by access to a central database containing the name, date of birth, State of denial, date of denial and the reason for denial.

comment *1305* comment by: *International Air Transport Association (IATA)*

Relevant Text:
Entire NPA 2008-22
Comment:
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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1306* comment by: *International Air Transport Association (IATA)*

Comment:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal:
Such a statement should be added

comment *1307* comment by: *International Air Transport Association (IATA)*

Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1308* comment by: *International Air Transport Association (IATA)*

Comment:
NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not be 5realigned with those other NPAs taking into account that some elements are still missing (f.e. the NPA for TCO).
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *1342* comment by: *EUROCOPTER*

Please be advised that Eurocopter have no comments.

comment *1351* comment by: *ACI EUROPE*

Overall presentation of the NPA
The precedential impact of the GEN Parts contained in NPA 22 on the regulation of aerodromes lacks of sufficient transparency. The consultation process for the GEN provisions is considerably impeded if GEN provisions that are considered to be equally applicable to other aviation domains, currently not in the scope of EASA, are hidden in an NPA that is obviously only addressed to approved training organizations, aeromedical centres, licensing and medical certification of flight crew. Most airports might not have realized that this NPA has a considerable impact on the future regulation applicable to them.

The Comments made to this NPA by ACI EUROPE and its members only reflect a small membership due to the fact that it is not clearly outlined by EASA what may be applicable for aerodromes and what not. ACI EUROPE would like to stress that we found it extremely difficult to give statements on the NPA without having a clear outline of what might impact aerodromes in the future.

comment *1377* comment by: *Luftfahrt-Bundesamt*

The overall impression with regard to the implementing rules according to NPA 2008-22 is that the Agency infringes the sovereignty of the Member States by proposing authority requirements which are not mandated by Community Law. It is well agreed on the benefit of documented policies and descriptions of procedures that national aviation authorities do apply, but it is also understood that the Treaty still leaves the organisation of national aviation authorities in the sovereignty of the Member States. Accordingly, a provision on authority requirements is neither found in the Basic Regulation (EC) 216/2008 nor in the essential requirements. Thus, establishing authority requirements must be considered as being out of the scope of EASA's activities and, in conclusion, trying to establish authority requirements has to be regarded as an action far beyond EASA's competencies. Therefore, the entire authority requirements are not accepted.

Furthermore, the structure of the EASA requirements as laid down in NPA 22a appears to be in conflict with the system of the German national law, especially with regard to the AMC concept in respect to the German system of jurisdiction. From the view of German administrative courts AMCs will not appear to be applicable, thus leaving no chance for authorities to enforce any measures and/or penalties according to AR.GEN.350.

Also, a lot of the postulated implementing rules lead to the impression that apparently EASA is lacking the experience of day to day administration business. For instance, a requirement like 'mutual exchange of information' might appear appealing and logic, but its conversion into day to day live is considered completely unfeasible. Another example might be the licence format according to Appendix III to Annex 1 of Part AR, because the format is not suited to contain all the information which the Agency wants it to contain.

comment *1418* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

Overall presentation of the NPA
The precedential impact of the GEN Parts contained in NPA 22 on the

regulation of aerodromes lacks of sufficient transparency. The consultation process for the GEN provisions is considerably impeded if GEN provisions that are considered to be equally applicable to other aviation domains, currently not in the scope of EASA, are hidden in an NPA that is obviously only addressed to approved training organizations, aeromedical centres, licensing and medical certification of flight crew. Most airports might not have realized that this NPA has a considerable impact on the future regulation applicable to them.

The Comments made to this NPA by ADV and its members only reflect a small membership due to the fact that it is not clearly outlined by EASA what may be applicable for aerodromes and what not. ADV would like to stress that we found it extremely difficult to give statements on the NPA without having a clear outline of what might impact aerodromes in the future.

comment *1463* comment by: *MOT Austria*

Generic comment to the concept of NPA 2009/22b
The new concept is different from the existing part B and includes regulation for the Member States under which conditions the Basic regulation and his Implementing rules has to be implemented and applied. We do not completely opposed the concept to adopte Authority requirements, but it should be noted, that the Basic Regulation does not include a direct mandate for the Commission to regulate that in the Implementing Rules. The conntent of the Authority Requirements has to be very carefully evaluated and provide a minimum standard to be followed, but shall not restrict the MS in his obligation, but should be in line with ICAO SARPs with regard to NAA requirements.
Detailed comments will be provided.

comment *1509* comment by: *Civil Aviation Authority Finland*

General comments:

The entire NPA (AR/OR/IR-FCL/IR-OPS) is extremely complex, confusing and in some aspects contradicting.
The new rules require arranging the authority work differently from the arrangements today and requires changes in most prosesses and prosedures of the Authority, and even many new posedures.

Compared to existing ICAO Standards (Annexes 1, 6, 8, 14 etc.) the combined approval of the whole big organisation (Organisation Manual) including AOC (OM), ATO (TrgM), FSTD, Part 145 (MOE), Part 147 (MTOE), even Airport, AeMC etc. via one Organisation Approval is really a complex thing to put together. ICAO and earlier JAA system consists for each different branch of the concern clearly separate approvals AOC, FTO/TRTO, FSTD, etc. based on different regulations EU-OPS, JAR-FCL, JAR-FSTD, Part 145, Part 147 etc.

The initial approval and continued surveillance of the big organisation may be really challenging.

When original the target was to transform the earlier EU-OPS and JARs into the new EASA regulations, ERs and IRs, there have been in many aspects fundamental differences introduced compared to the earlier requirements.
There are no safety justification to alter these requirements and the changes are causing really big workload and costs to the operators changing their

prosedures and manuals and to the Authorities to inspect and approve these.

comment *1520* comment by: *Fraport AG*

Attachment #2

All comments on NPA 2008-22b are listed in the attached pdf-file.

Boris Wilke

comment *1539* comment by: *ERA*

This NPA is tied with NPAs 2009-01 and 02. The size of these individual NPAs has made it almost impossible to fully understand the changes proposed. In addition the different phraseology used makes it very difficult to carry out comparison between new and old regulations.

For example how can a full review of this NPA be carried out when the additional AMCs to the IRs of this NPA 2008□22 are published in NPA 2009□02. No sound comment can be given before a complete review of all the NPAs has been completed.

In addition it is difficult to make comments without having read the whole NPAs 2009-01 & 2008-17. Therefore, all comment periods should be aligned and sufficient time should be left in order to:

Familiarize with this totally new structure

Read every part in detail and find all the links between the different subparts

Get the missing documents (for example, NPA on TCO, CS-MMEL, CS-Pilot Type Rating

Ask questions to EASA as many parts raise questions

Write comments.

This process cannot be fully implemented in the timeframe provided by the Agency.

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.

A co-operative way of working is needed to produce a better regulation. Would it not be an improvement to retain EU-OPS and apply IR changes to the individual subparts over a period of time? This would enable a greater understanding of the proposed changes and reduce confusion.

comment *1565* comment by: *Icelandair*

Relevant Text:
Entire NPA 2008-22
Comment

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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal

comment *1566* comment by: *Icelandair*

Relevant text:
General Comment
Comment
:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal
:
Add such a statement

comment *1567* comment by: *Icelandair*

General Comment
Comment
:
In many aspects (see detailed comments), 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.
Proposal
:

comment *1568* comment by: *Icelandair*

General comment.
Comment
:

comment *1605* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

The Deutscher Aero Club Landesverband Niedersachsen (LVN) is the association of 80 air sport clubs in the state Lower Saxony of Germany. The area of Lower Saxony covers 48000 km2, representing a size larger than Denmark.
The air sport clubs which are partially small with a mean size of 55 members, are spread widely across the state and therefore people interested in flying can easily find a club. In Germany young people at school interested in aviation have the possibility to start flying at very low costs due to the fact that the clubs are run by volunters and are non profit organisations.
A lot of general aviation activity is performed in these clubs. Pilots are under close supervision in a social environment. Ownership of the aircrafts by the members of the club ensures a high level of safety culture implemented in the air sport community. As aircrafts belong to all members a quite rigid and also social control between the members can be observed. This infrastructure

therefore contributes a lot to the safety in aviation.

It is important to maintain this infrastructure and make sure that the regulations support this established system, which is widely accepted by the air sport community. This importance is also emphasized in the *„An Agenda for Sustainable Future in General and Business Aviation* COM(2007) 869".

1. Umbrella ATO for clubs
Issue with current wording
The in the NPA proposed regulation has provisions to support non commercial training organizations and therefore supports the *„An Agenda for Sustainable Future in General and Business Aviation* COM(2007) 869" . We need to ensure that the multitude of small flying clubs can maintain their training offering without significant increased management efforts and additional cost. In Germany a concept of umbrella training organizations at association level exists since decades especially for gliding. This structure ensured that in Germany the costs for training in gliding are at very low level. The large number of glider pilots show that the structure is supportive and the regulation has to allow the further performance this concept to develop and strengthen the progress of air sports.
Rationale
Germany has a long and good experience in performing private pilot licensing nearly completely in the hands of non profit individuals (volunteers) and organizations (clubs and their associations). A high number of non clubs allows individuals interested in flying and especially young people to find a club in close distance to their home and start flying at affordable cost. It is extremely important to get young people involved in aviation at this age before other interests will overflow this intrinsic interest of humans for flying. If they do not find access at young age when still at school and with a small available budget the next chance will be at a much later age. This prerequisite of low costs is only possible with volunteers in all functions. An appropriate infrastructure has to be maintained and strengthened to achieve the goals of the above mentioned agenda.
An essential part in this infrastructure is our training organization at association level. Under the umbrella of the association the member clubs run their training courses as subsidiaries of the training organization of the association LVN. The association executes the following **functions of the umbrella ATO** for the clubs:

1. Approval of new subsidiaries and changes in existing subsidiaries
2. Approval of the training courses held by specific subsidiaries
3. Auditing of the subsidiaries
4. Standardization across subsidiaries with standard training programs

The association reports changes to the competent authority in an agreed process. The competent authority audits the processes of the association and executes spot audits of the subsidiaries. The functions of the association are carried out by volunteers to a great extent. The **advantages** of this concept are

- Ø 1.) The competent authority is relieved of many tasks which would be necessary if each subsidiary where a separate ATO
- Ø 2.) Charges by the competent authority can be kept quite low
- Ø 3.) Instructors and aircraft for training can be easily shared between the subsidiaries allowing to save resources and allows local specialized trainings e.g. acrobatic flying.
- Ø 4.) Very small subsidiaries can be maintained allowing training facilities

close to the interested pilots but also helps getting financial support from the towns they belong to.
- Ø 5.) A high training standard due to an intense monitoring of the clubs and an intense communication.

We need to make sure that the regulation allows such a model with comparable advantages without excessive processes to avoid the divestiture of the training organization in Germany. In general we think the intention of the regulation is supportive of the above concept.

comment *1626* comment by: *DGAC FRANCE*

It is difficult to comment this NPA properly because it is linked to other NPA, in particular NPA TCO that is not published yet.

comment *1653* comment by: *Norwegian Air Sports Federation, Gliding Section*

General comment:
The Gliding Section of the Norwegian Air Sports Federation agrees with the comments to NPA 2008-22b submitted by the European Gliding Union.

TITLE PAGE p. 1

comment *954* comment by: *TAP Portugal*

(General Comments)

Relevant Text:

Entire NPA 2008-22

Comment:
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. Industry needs legal certainty about the requirements to be met. This is not achieved through this NPA.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

comment *955* comment by: *TAP Portugal*

(General Comments)
Relevant text: General Comment
Comment:
There should be a possibility for the approved organization to escalate to EASA in case a competent authority is not acting in compliance with the requirements stated in AR.
Proposal:
Add such a statement

comment *956* comment by: *TAP Portugal*

(General

General comment.
Comment:

NPA 2008-22 cannot be commented in isolation since it is linked to other NPAs (i.a. NPA 2009-2, NPA TCO etc). It is therefore unacceptable and undemocratic that the comment period for NPA 2008-22 has not be 5realigned with those other NPAs taking into account that some elements are still missing (f.e. the NPA for TCO).
Proposal:
Reconsider the entire NPA and realign it with EU-OPSComments)

comment *957* comment by: *TAP Portugal*

(General Comments)
General Comment
Comment:
In many aspects (see detailed comments), 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.
Proposal:
Reconsider the entire NPA and realign it with EU-OPS

B. Draft Rules - I. Draft Opinion Part-AR p. 4

comment *56* comment by: *David Bowden*

The BGA has enjoyed the trust of the CAA and has regulated Gliding within the UK.

It is run by Glider Pilots who have over the years developed a regulatory and supervision framework that has resulted in a high standard of safety whilst at the sametime not overburdening the gliding movement.

It is vital to the success of Gliding that their role is not diminished. That the movement is not overburdened with regulations that do not directly contribute to safety.

comment *909* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.005 (Scope)
Relevant Text:
(a) The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
….
(d) oversight of persons and *organizations* excerising activities on the territory of the membeState
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AemC, TRTO etc

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN p. 4

comment *950* comment by: *Walter Gessky*

Generic comment to the concept of NPA 2009/22b
The new concept is different from the existing part B and includes regulation for the Member States under which conditions the Basic regulation and his Implementing rules has to be implemented and applied. We do not completely opposed the concept to adopte Authority requirements, but it should be noted, that the Basic Regulation does not include a direct mandate for the Commission to regulate that in the Implementing Rules. The conntent of the Authority Requirements has to be very carefully evaluated and provide a minimum standard to be followed, but shall not restrict the MS in his obligation, but should be in line with ICAO SARPs with regard to NAA requirements.
Detailed comments will be provided.
Walter Geßky
Ministry of Transport, Innovation and Technology

comment *1556* comment by: *EUROCONTROL*

Scope

As stated in the paragraph 23 of the NPA 2008-22a:
"the objective of the Agen cy [EASA] was to develop operational r ules t hat would be integrated in a global regulatory system for aviation safety, covering not only airworthiness, but also in the future the safety regulation of air traffic management / air na vigation services (ATM/ANS) and a erodromes. All thes e considerations lead the Agency [EASA] to conclude that changing the way rules are structured and presented could provid e for better consistency and facilitate their use by the regulated persons".

This is the main reason why this NPA is of particular interest to EUROCONTROL.

The EUROCONTROL comments on the NPA 2008-22 are however confined to its possible impact on the development of Implementing Rules (IRs) as part of the extension of EASA responsibilities in the ATM/ANS field.
Moreover, the comments do not prejudge on any future contribution of EUROCONTROL in the Formal Rulemaking Groups which will develop these implementing rules.

Therefore the comments will address only:
- The structure of the EASA Requirements - 2008-22a (pages 10-14).
- the Authority Requirements (2008-22b), subpart GEN (pages 4-11) and associated AMC
- the Organisation Requirements (2008-22c), subpart GEN (pages 4-10) and associated AMC

The comments do not cover all the details, as this will be the work of the Formal Rulemaking Groups.

Authority Requirements (2008-22b)

The general requirements of 2008-22b tackle a number of aspects already

covered by ESARRs / EC regulations/ directives in the ATM domain. This should not lead to conflicting provisions or departure from original wording.

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comment *72* comment by: *AECA(SPAIN)*

Introduce a **definitions paragraph** to define, a minimum:

Additional acceptable means of compliance
Indirect approval
Declaration
Level 1 and level 2 findings
Safety information
Field of activity

Justification: Are new concepts in Licensing requirements and is neccesary to know this means

comment *167* comment by: *DGAC FRANCE*

Comment : Subpart GEN
This part does not mention the requirement by ICAO for each state to implement a State Safety Programme. This is essential in order to appropriately manage safety related risks as well as coordinating the required operators' safety management systems required by this part. It is also essential that all subsequent paragraph are seen as one coordinated activity for safety purposes.
This is also important to change the BR and add a legal hook. We consider that article 2 of BR isn't sufficient.

Modification :

Add the following paragraph or insert it in the BR (preferred option):

Section 1 - AR.GEN.023 : **Safety programme**

The Agency and the Member States shall establish a safety programme consisting in an integrated set of regulations and activities aimed at improving safety. The different safety programmes shall be coordinated.

Add also an AMC to AR.GEN023 Safety programme

comment *630* comment by: *Irish Aviation Authority*

To be consistent with other Parts, there should be a list of definitions. DCr 200509

comment *880* comment by: *ECA- European Cockpit Association*

Comment: add new paragraph as follows:
AR.GEN.010 States Safet Program

Each States Authority shall establish a States afety programme, in order to achieve an acceptable level of safety in civil aviation.
The acceptable level of safety to be achieved shall be established by the State.

Note.— Guidance on defining acceptable level of safety is contained in the* Safety Management Manual (SMM) *(Doc 9859).

Note.— A framework for the implementation and maintenance of a State safety programme is contained in* AMC to AR.GEN. 01 0 States Safety Program and *Guidance on defining acceptable level of safety is contained* GM to AR.GEN.010 *Guidance on Acceptable Level of Safety

Justification:

Include a new paragraph to comply with the ICAO requirement of State Safety Program, already included in Annexes: 1, 6 Parts I & III, 8 Part II, 11, 13, and 14.

Present text included in NPA absolutely missed the ICAO SSP request.

This requirement is completed by an AMC and a GM: see comments 881 and 891.

comment *924* comment by: *DGAC FRANCE*

Add a paragraph AR GEN 001 Definitions
The competent authority should be defined in PART AR and not in PART OR. This paragraph will have to be modified when other domains enter in the scope of AR and OR.

AR.GEN.001
Competent authority
(a) For the purpose of Parts "Authority requirements", "Organisation requirements" and other applicable requirements, the competent authority shall be:
(1) In the case of organisations:
(i) for organisations having their principal place of business in a Member State, the authority designated by that Member State;
(ii) for organisations having their principal place of business located in a third ; country, the Agency.
(2) In the case of Flight Simulation Training Devices (FSTDs):
(i) For FSTDs used by training organisations certificated by the Agency, or FSTDs located outside the territory of the Member States or FSTDs located with in the territory of the Member States, if so requested by the Member
State concerned, the Agency;
(ii) In all other cases, the authority designated by the Member State where the training organisation using the FSTD has its principle place of business as defined in OR.GEN.001.

comment *963* comment by: *DCAA*

In general the Danish CAA question in general the legality of this NPA, as the basic regulation do not include requirement for issuing implementing rules in

regards to NAA's fulfilment of the basic regulation and implementing rules.

Further the Danish CAA disagrees with the setup established in NPA 2008-22 and 2009-02 in general. The changes proposed by EASA will introduce major uncertainty in the aviation business, create major cost to the whole aviation industry to change system and most important of all, create further risks regarding flight safety.

It is therefore the opinion of the Danish CAA, that regulation 3922/91 in regards to EU-OPS, and further JAR OPS 2, -3 and -4 shall be followed as coming regulatory requirements in the EU.

comment *1197* comment by: *CAA CZ*

1. The proposal increases administrative burden on the NAAs highly above the current situation. This could lead to lack of personnel needed for oversight etc. The proposal should be reviewed in sense to maintain or decrease the amount of paper work (notifikation system for example) on the current level.
2. CAA CZ would recommend inclusion of following definitions:
Competent Authority
Indirect Approval
Additional AMC
Alternative AMC
Date of application
Person
Organization
Safety promotion programmes
Senior management
Broadly available
Necessary information
Field of activity
Product
FSTD, FTD, …

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comment *88* comment by: *DCA Malta*

AR.GEN.005 (d)
It is not possible for a Member State to know who are the persons, not authorised by its competent authority, exercising activities on its territory, unless those persons inform the competent authority.

comment *153* comment by: *DGAC FRANCE*

AR.GEN.005

Comment :

To be able to oversee the examiners' activities, arrangements are needed : See comment Part AR FCL 205

Modification :

(b) the arrangements for theoretical knowledge examination **and pr actical examination.**

comment *177* comment by: *DGAC FRANCE*

AR.GEN.005 (d)

Comment :

We propose to remove d) which not deals with competent authority as defined in GEN 001

Modification :

AR.GEN.005 Scope

This Part establishes the requirements to be followed by the competent authorities in charge of the implementation and enforcement of the Basic Regulation and its implementing rules, and specifically regarding :

(a) the issuance, continuation, change, limitation, suspension or revocation of :
1. organisation ~~approvals~~;**certificate ;**
2. flight simulation training device (FSTD) qualifications; and
3. personnel licences, ratings, certificates and attestations.
(b) the arrangements for theoretical knowledge examinations;
(c) medical certification; and
(d) see comment 198

comment *197* comment by: *DGAC FRANCE*

AR.GEN.005

Comment :

The scope should include the Agency when it is in charge of tasks of certification of an organisation or person, especially for reporting a mutual exchange of information. We understand that EASA is covered by the wording "competent authority" as defined in AR GEN 001

comment *198* comment by: *DGAC FRANCE*

AR.GEN.005

Comment :

The scope should include organisation and persons intending to carry out activities for which a declaration is required

Miscellaneous provisions of Part AR concerns persons and organisations intending to carry out activities for which a declaration is required (ex AR.GEN 340) whereas the scope doesn't mention it so explicitly

Modification :

Replace d) : "d) oversight of organisations and person s intending to carry out activities for which a declaration is required"

comment *419* comment by: *Civil Aviation Authority of Norway*

The paragraph states that Part-AR establishes the requirements to be followed by the competent authority etc..

This scope does not seem to be clearly reflected in The Basic Regulation 216/2008. It can therefore be argued that legal basis of Part-AR seems to be non existent, or at least weak.

We therefore propose to amend the scope of The Basic Regulation so that Part-AR will have a clear legal basis.

comment *500* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

For organisations other than ATO and OPS there are currently Sections B`s in force specifying detailed authority requirements. This is applicable for Part-21, M, 145, 147 and 66).

Proposal:

AR.GEN.005 should to be changed to address and define the actual applicability or the specific paragraphes of Section B have to be replaced by the new requirements.

comment *507* comment by: *UK CAA*

Page No: 4

Paragraph No: AR.GEN.005

Comment: There is no reference to the requirements to be followed by competent authorities regarding declarations.

Justification: For those organisations and persons subject to a declaration procedure the UK CAA supports provisions that would provide for proportionate oversight and enforcement measures. Greater clarity, however, is desirable on the responsibilities of competent authorities receiving declarations.

Since this requirement lists the scope "specifically" it should include a reference to "declarations"; there are specific measures related to declarations, and separate from measures related to the oversight of persons and organisations exercising activities on the territory of the Member State.

Proposed Text (if applicable): add a new sub-paragraph

"(-) the actions to be taken with regards to declarations".

comment *567* comment by: *CAA-NL*

Comment
It should be made clear in the Regulation at issue that the authority requirements in PART-AR as yet only apply to air operations and pilot licensing.

Text proposal
None

comment *631* comment by: *Irish Aviation Authority*

Under (d), this oversight will be extremely difficult if not impossible where people and organisations are exercising activities on territories other than that of the Competent Authority (CA) or Member State (MS) which certified the person or organisation, unless a procedure is put in place which requires that person or organisation to inform the CA or MS before such activity takes place. See also AR.GEN.025, AR.GEN.030, AR.GEN.355, GM to AR.GEN.030 in relation to Article 14. DCr 200509

comment *705* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

For the correct interpretation of this Subpart, it is necessary to define "competent authority", "organisation", "person", and "undertaking".

"Competent authority" is not defined in Part-AR, and has got a different definition in each of the other Parts (FCL, MED, OR). In Part MED there is a difference between "competent authority" and "licensing authority", where the first one only refers to the approval and oversight of AeMCs and AMEs, and the latter to the approval and oversight of individual licence holders/pilots.

In Part-AR "competent authority" is used also when referring to requirements in Part-MED where the definition requires the use of "licensing authority". This has lead to ambiguous meanings of certain paragraphs in Part-AR with possibilities for different interpretations, which should not appear in a Regulation.

Further, it is not evident if an AOC holder is to be considered as an organisation or a person, as in Regulation (EC) No 216/2008 an operator is defined as a legal or natural person.

Proposal:

Develop and include in this Part generic definitions of "competent authority", "organisation", "person", and "undertaking". Specific terms such as "licensing authority" etc. should be defined in the Part where the term is used.

comment *775* comment by: *CAA Belgium*

(d)

Proposal: Delete this paragraph

Reason: - ICAO gives this task to the State of Registry (e.g. for operation matters);
- A Member State is not always informed about activities on their territory executed by persons or organisations from other countries.

comment *817* comment by: *AEA*

Relevant Text:
(a) The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
….
(d) oversight of persons and *organizations* exercising activities on the territory of the member State.
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AemC, TRTO etc

comment *853* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
This article clearly refers to EASA part-FCL, EASA part-AeMD, EASA part-OPS, etc., though it is not stated.

PROPOSAL
We recommend to explicitly define the scope of the parts of the EASA framework the AR refers to.

JUSTIFICATION
Cross-references are unclear and may be a legal issue in terms of perimeter and applicability.

****
Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *885* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
At this step, terms and definitions appear unclear; eg what is an FSTD ? what is a Competent authority ?

PROPOSAL

We suggest a specific part or the EASA regulation framework may contain a comprehensive and exhaustive list of definitions, applicable to the whole EASA regulation, which is the best way to have consistent and non-redundant definitions.

JUSTIFICATION
Non-consistent, redundant or with a limited-applicability field definitions, might be a legal issue.
It might be a source of misunderstanding and cause problems of reading.
eg: it is written in 'OR.GEN.010' : "For the purpose of this part (part-OR), the following definitions shall apply : […] Flight simulation training devices […]" Does it mean this definition do not apply to part-AR and part-FCL ?What definition would so apply to part-AR? Would it be also consistent with part-FCL definition ?

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *925* comment by: *Walter Gessky*

AR.GEN.005
(C Change the text:
This Part establishes the ~~requ irements~~ procedures ~~to be followed by~~ for the competent authorities in charge when exercising its task and responsibilities of the implementation and ~~enforcement~~ of the Basic Regulation and its implementing rules, and specifically regarding:
(
Justification:
The basic regulation gives the Commission no power to establish requirement to be followed by the MS for the application of the basic regulation and the implementing rules and with regasrd to enforcement except the revocation of certificates.
*"With regard to enforcement, Article 68 of the basic regulation regulates that the M*ember States shall lay down penalties for infringement of this Regulation and its implementing rules. "
There is no power given to the COM in the basic regulation to regulate enforcement in the Implementing rules.
It is only acceptable to keep the text of the existing Section B.

Revise the text in (a) 1:
(a) 1. Training organisation and areo medical center approvals;

Justification:
It should be made clear that this IR is only effective for trainings organisation and medical center approvals.
For organisations other than ATO and OPS there are currently Sections B`s in force specifying detailed authority procedures. (Part-21, M, 145, 147 and 66).
(c Revise the text in (d)
(d) oversight of persons and organisations exercising these activities on the territory of the Member State.
Add "these" after organisation
Justification:
AR.GEN.005 should to be changed to address and define that AR.GEN is only applicable for the certification/approval mentioned under (a) applicability.

comment *926* comment by: *BMVBS (MoT Germany)*

General: It is necessary to identify the justification for the development of authority requirements for the competent authorities of the member states within the Basic Regulation. To our understanding, this is only the case in terms of standardisation audits (c. f. Articles 24 and 54 of the Basic Regulation). There is no legal provision within community law which mandates the community to regulate the details of member states' competent authorities and their organisational structures and processes.

comment *927* comment by: *BMVBS (MoT Germany)*

General: It is necessary to identify the justification for the development of authority requirements for the competent authorities of the member states within the Basic Regulation. To our understanding, this is only the case in terms of standardisation audits (c. f. Articles 24 and 54 of the Basic Regulation). There is no legal provision within community law which mandates the community to regulate the details of member states' competent authorities and their organisational structures and processes.

comment *997* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.005 Scope
Relevant Text:
(a) The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
….
(d) oversight of persons and *organizations* exercising activities on the territory of the member State.
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AemC, TRTO etc

comment *1004* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(a) "The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
…
(d) oversight of persons and *organizations* exercising activities on the territory of the member State.
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AeMC, ATO etc

comment *1036* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(a) "The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
…
(d) oversight of persons and *organizations* exercising activities on the territory of the member State.
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AeMC, ATO etc

comment *1054* comment by: *Ryanair*

AR.GEN.005 (d) – Scope

Comment

This Regulation introduces the concept of collective oversight. It is unreasonable to expect that a single operator could be subject to direct regulatory oversight by the Competent Authorities of currently 27 Member States. The administration resources and Accountable Manager availability to meet with this additional oversight would be significant without delivering any tangible benefits.
Proposal

Oversight of 'foreign' aircraft exercising activities on the territory of the member state.

comment *1074* comment by: *KLM*

Relevant Text:
(a) The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
….
(d) oversight of persons and *organizations* exercising activities on the

territory of the member State.
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AemC, TRTO etc

comment *1078* comment by: *Virgin Atlantic Airways*

Relevant Text:
(a) The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
(d) oversight of persons and *organizations* exercising activities on the territory of the member State.

Comment:
'Organizations' needs defining

Proposal:
Include indication of the organizations concerned e.g. AOC, AemC, TRTO etc

comment *1130* comment by: *Unique (Zurich Airport)*

a) - aerodrome certificate to be included
d) - add aerodromes

comment *1198* comment by: *CAA CZ*

AR.GEN.005 (d), System should be established by EASA how the NAAs will be informed about persons and organizations operating in their territory.

comment *1309* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(a) The issuance, continuation, change, limitation, suspension or revocation of
1. *Organization* approvals
….
(d) oversight of persons and *organizations* exercising activities on the territory of the member State.
Comment:
'Organizations' should be defined
Proposal:
It is proposed to indicate which organizations are concerned e.g. AOC, AemC, TRTO etc

comment *1330* comment by: *ACI EUROPE*

a) aerodrome certificate to be included
d) add aerodromes

comment *1362* comment by: *IACA International Air Carrier Association*

(d) The concept of "collective oversight" is not in compliance with the Basic Regulation 216/2008.

Delete the concept of "collective oversight" and replace by the known concept of "principal place of business".

Justification: Basic Regulation 216/2008 article 2 (c) specifies "duplication at national and European level shall be avoided". Additionally, whereas (10) thereof clearly specifies "…Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules."
The concept of "principal place of business" prevails already in Regulations 2042/2003 (Airworthiness) and 1702/2003 (Certification).

comment *1363* comment by: *IACA International Air Carrier Association*

AR.GEN.010 Definitions

IACA suggests adding definitions for "acceptance, approval, audit, competent authority, inspections, principal place of business, reviews…" to avoid confusion and to be consistent with OR.GEN.010 Definitions.

comment *1380* comment by: *Luftfahrt-Bundesamt*

The Agency is not entitled to establish requirements to be followed by national authorities.
The scope according to AR.GEN.005 is not covered by the Basic Regulation (EC) 216/2008.
Since there is no legal hook for the Agency to infringe the sovereignty of the Member States, we explicitly call for the deletion of AR.GEN.005, thus putting the whole Part 22b 'authority requirements' of this NPA into question.

comment *1395* comment by: *Glenn Cronin*

AR.GEN.005
This section introduces the concept that oversight of persons and organisations exercising activities on the territory of a Member State could be shared between the authority which issued the certificates to such persons and organisations and the authorities of the territory or territories on which the activities are carried out, not being the authority which issued the certificates.

The UK Department for Transport recognises that this proposal is responding to the reality of the European single market in aviation, in which persons and organisations certified in one state regularly exercise activities, in some case a considerable part of their activities, on the territories of other states. Under existing arrangements non-certifying states may exercise little or no oversight of the activities of such persons and organisations and rely to a very great extent on remote oversight by the authorities of the certifying state.

The Department for Transport has sympathy with this attempt by the Agency to get to grips with a situation which certainly gives rise to legitimate concerns about the adequacy of the oversight exercised on mobile personnel and multi-national organisations across the Union. At the same time, it must be recognised that a proposal for the sharing of regulatory oversight between different authorities marks a radical departure from the fundamental principle

of international aviation regulation, enshrined in the Chicago Convention, that responsibility for oversight and enforcement should vest primarily in the authority which issues the certificate. It is therefore essential that the proposal should be imbued with the greatest possible clarity and definition, so that no confusion should arise as to who is exercising oversight at any given time and to what extent the responsibilities are shared between different authorities.

Unfortunately, we consider that the current proposal falls some way short of the required degree of clarity and definition. For example, AR.GEN.005 refers to "the competent authorities in charge of the implementation and enforcement of the Basic Regulation and its implementing rules", but it does not specify whether these competent authorities are intended to be authorities issuing certificates to persons and organisations; or authorities on whose territories persons and organisations to whom they have not themselves issued certificates may be operating; or some combination of the two. Neither does it attempt to set out guidelines for such division of responsibilities Accordingly, it is not clear which authority is meant to be carrying out what degree of oversight of persons and organisations exercising activities on the territory of a particular Member State. We are concerned that this lack of clarity could lead to confusion as to the role of the competent authorities where persons and organisations are operating in more than one Member State. The result could actually be worse than at present, where there is at least clarity about the roles and responsibilities of the respective authorities.

The Department of Transport considers accordingly that the Agency must pay full regard to the concerns expressed about this proposal by the NAAs, including the UK CAA, and seek to achieve clearly defined and workable guidelines covering the roles of certifying and non-certifying authorities in those circumstances where persons and organisations are exercising significant aviation activities on territories other than the ones where they received their certificates.

In parallel with the discussions with NAAs just referred to, the Department for Transport suggests that the Agency might usefully concentrate its efforts on prosecuting its existing standardisation programme with rigour to ensure that all NAAs are equipped adequately to oversee the persons and organisations to whom they issue certificates.

There is some evidence that this is not universally the case at the moment. For example, EASA's Annual Standardisation report for 2008 found that, for flight operations, ICAO critical elements 6 (Licensing, Certification, Authorisation and Approval obligations) and 7 (Surveillance obligations) were the weakest areas where further improvements from the NAAs were required. Weakness in element 6 indicates an inability to demonstrate a systemic safety oversight in regard to pilot proficiency and the non-adherence to Standard Operating Procedures. Weakness in element 7 points to insufficient resources and the inadequate surveillance of operators whose activities either involve significant levels of wet leasing or are conducted to a significant extent outside the territory of the certificating authority.

The Department of Transport recognises the seriousness of these issues, especially concerning the effective regulation of extra-territorial activities, and the responsibility that the Agency is under to address them. We consider however that the simplest solution may well lie in more effective standardisation between NAAs across Europe. We do not dismiss the idea of

shared oversight, but we urge the Agency to consider carefully the implications, in close consultation with the NAAs.

comment *1419* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

a) aerodrome certificate to be included
d) add aerodromes

comment *1467* comment by: *MOT Austria*

AR.GEN.005
(C Change the text:
This Part establishes the ~~requ irements~~ procedures ~~to be followed by~~ for the competent authorities in charge when exercising its task and responsibilities of the implementation and ~~enforcement~~ of the Basic Regulation and its implementing rules, and specifically regarding:

Justification:
The basic regulation gives the Commission no power to establish requirement to be followed by the MS for the application of the basic regulation and the implementing rules and with regasrd to enforcement except the revocation of certificates.
*"With regard to enforcement, Article 68 of the basic regulation regulates that the M*ember States shall lay down penalties for infringement of this Regulation and its implementing rules. "
There is no power given to the COM in the basic regulation to regulate enforcement in the Implementing rules.
It is only acceptable to keep the text of the existing Section B.

Revise the text in (a) 1:
(a) 1. Training organisation and areo medical center approvals;

Justification:
It should be made clear that this IR is only effective for trainings organisation and medical center approvals.
For organisations other than ATO and OPS there are currently Sections B`s in force specifying detailed authority procedures. (Part-21, M, 145, 147 and 66).
(c Revise the text in (d)
(d) oversight of persons and organisations exercising these activities on the territory of the Member State.
Add "these" after organisation
Justification:
AR.GEN.005 should to be changed to address and define that AR.GEN is only applicable for the certification/approval mentioned under (a) applicability.

comment *1511* comment by: *CAA Norway*

AR.GEN.005(d)

Quote paragraph: *"oversight of persons and organizations exercising activities on the territory of the Member State".*

To have a systematic oversight over persons exercising activities on a member state's territory, it is necessary that they inform that competent authority prior

to exercising activities. If not so, then the competent authority may only learn of their activities retrospectively, making a systematic oversight impossible. This is enhanced by the proposal that examiners no longer act on behalf of the authority, but are private entrepreneurs, free to operate wherever they want within the member states.

In particular for examiners, if no registration with the local competent authority is required, the only way proactive oversight can be exercised under the proposed system is for EASA to maintain a central register, and use this for oversight purposes. Which one of these two options will be chosen by EASA?

comment *1569* comment by: *Icelandair*

Relevant Text:
(a) The issuance, continuation, change,
limitation, suspension or revocation of
1.
Organization
approvals
….
(d) oversight of persons and
organizations
exercising activities on the territory of the member
State.
Comment
:
'Organizations' should be defined
Proposal
:

comment *1629* comment by: *DGAC FRANCE*

The word "organisation" should be defined.
In some places, the word "undertaking" is also used. Is it necessary?

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comment *3* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Das neue Rechtsinstitut der "Acceptable Means of Compliance (AMC)" soll nach dem Willen der EASA ein flexibles Rechtssystem unter Wahrung der Chancengleichheit, Transparenz und Harmonisierung gewährleisten (Nr. 38). Ein Großteil der Entwürfe NPA No. 17a bis c, 22a bis c besteht daher aus AMC`s. Sobald eine "Organisaton", also z. B. eine Flugschule, einen begründeten Vorschlag macht, ein AMC, das Bestandteil der Genehmigung der Flugschule ist, zu ändern, da die Sicherheitsanforderungen der Implementing Rules gewahrt seien, ist die zuständige Behörde verpflichtet, diesen Antrag zu prüfen. Diese Prüfung und Verbescheidung hat nach AR.GEN.020 (c) binnen eines Monats nach Antragstellung zu erfolgen. Soweit die EASA nach Prüfung der Alternative Means zur Auffassung kommt, die Sicherheitsanforderungen seien nicht gewahrt, sind entsprechende Maßnahmen der zuständigen Behörde zu treffen.

Grundsätzlich halten wir es zwar für einen diskussionswürdigen Ansatz, den von den Regelungen betroffenen Organisationen künftig verstärkt die Möglichkeit einzuräumen, sich selbst aktiv am Normsetzungsprozess zu beteiligen. Möglichkeiten zur Änderung der AMC`s sollten in der Tat künftig möglichst flexibel und mit wenig Zeitaufwand gestaltet werden.
Wir halten es jedoch für den falschen Ansatz, die Hauptverantwortung für die Änderung von AMC`s zunächst auf die nationalen Behörden zu delegieren. Damit wird gewissermaßen ein Gesetzesinitiativrecht jeder Luftfahrt-Organisation eingeführt, dem eine Prüfungs- und Verbescheidungspflicht auf Seiten der nationalen Behörde korrespondiert.
Zum einen dürfte es den nationalen Behörden kaum möglich sein, die sicherheitsrechtlichen Erwägungen zu erfassen, die der Gesetzgeber (EASA) im Sinne hatte. Zum anderen erscheint die Prüfungspflicht binnen eines Monats als illusorisch: Zunächst sind etwaige technische oder medizinische Detailfragen zu klären, für die nicht in jeder (nachgeordneten) Behörde der notwendige Sachverstand vorhanden sein wird. Zum Anderen wird auch eine Abstimmung mit übergeordneten Behörden (auf Landes- und Bundesebene) erforderlich sein, um eine einheitliche Verwaltungspraxis zu gewährleisten.
Offentsichtlich wurde übersehen, der EASA auch eine Prüfungspflicht der vorgelegten AMC`s binnen einer bestimmten Frist aufzuerlegen.
Letztlich kann dieses System dazu führen, dass in den verschiedenen EASA-Mitgliedstaaten unterschiedliche alternative AMC`s gelten, was auch bei den betroffenen Organisationen und Piloten für Verwirrung und Rechtsunsicherheit sorgen dürfte.
Auch findet sich keine klare Aussage, um was für ein Rechtsinstitut es sich bei den AMC`s letztlich handelt: eine Verordnung, eine Verwaltungsvorschrift oder um ein Rechtsintitut sui generis. Auf der einen Seite soll den Organisationen der zivilen Luftfahrt (z. B. den Flugschulen, vgl. Nr. 36) größtmögliche Flexibilität gewährt werden; auf der anderen Seite gehört es zu den erklärten Zielen der EASA, dass die Rechtsvorschriften von den Luftfahrtbehörden der EASA-Mitgliedsstaaten einheitlich umgesetzt werden (vgl. hierzu Art. 24 Abs. 3, Art. 2 Abs. 3 d) der VO Nr. 216/2008.

Folgende Gestaltung des Rechtsinstituts der AMC`s würden wir daher für praktikabler und im Sinne einer Harmonisierung von Rechtsvorschriften zielführender halten:
Die nationale zuständige Luftfahrtbehörde prüft die von der Organisation vorgeschlagenen alternativen AMC`s auf ihre Sicherheitsrelevanz und übermittelt einen Entscheidungsvorschlag an die EASA. Diese prüft den Vorschlag anschließend und trifft dann eine Entscheidung über die Einführung eines neuen alternativen AMC. Erst wenn dieses veröffentlicht und damit allgemeinverbindlich ist, darf es von der Organisation (und allen anderen Organisationen in den Mitgliedstaaten !) umgesetzt werden. Damit wäre einer drohenden Rechtsunsicherheit und Rechts-"Zersplitterung" vorgebeugt.
Sollte die "vorgezogene" (also vor einer letzberbindlichen Entscheidung durch die EASA) Verbescheidungspflicht durch die "competent authority" beibehalten werden, sollte dringend ergänzt werden, dass eine Änderung der Genehmigung (z. B. für eine ATO) unter Widerrufsvorbehalt erfolgt und entschädigungslos (!) mit Möglichkeit der Rückwirkung (!) widerrufen werden kann, wenn die Prüfung seitens der EASA ergibt, dass die rechtlich erforderlichen Sicherheitsstandards nicht eingehalten sind. Nur so wird sichergestellt, dass etwaige alternative AMC`s auf eigenes Kostenrisiko der jeweiligen Organisation umgesetzt werden.

comment *63* comment by: *Luftamt Nordbayern*

Die "Acceptable Means of Compliance (AMC)" sollen nach dem Willen der EASA ein flexibles Rechtssystem unter Wahrung der Chancengleichheit, Transparenz und Harmonisierung gewährleisten (Nr. 38). Ein Großteil der Entwürfe NPA No. 17a bis c, 22a bis c besteht daher aus AMCs. Sobald eine "Organisation", also z. B. eine Flugschule, einen begründeten Vorschlag macht, ein AMC, das Bestandteil der Genehmigung der Flugschule ist, zu ändern, da auch mit dem alternativen AMC die Sicherheitsanforderungen der Implementing Rules gewahrt seien, ist die zuständige Behörde verpflichtet, diesen Antrag zu prüfen. Diese Prüfung und Entscheidung hat nach AR.GEN.020 (c) binnen eines Monats nach Antragstellung zu erfolgen. Soweit die EASA nach Prüfung der "Alternative Means" zur Auffassung kommt, die Sicherheitsanforderungen der Implementing Rules seien nicht gewahrt, sind entsprechende Maßnahmen der zuständigen Behörde zu treffen.

Grundsätzlich halten wir es zwar für einen guten Ansatz, den von den Regelungen betroffenen Organisationen künftig verstärkt die Möglichkeit einzuräumen, Verbesserungsvorschläge und Anregungen einzubringen. Die AMCs sollten in der Tat künftig möglichst flexibel und mit wenig Zeitaufwand fortgeschrieben werden.

Problematisch ist aus unserer Sicht aber der Ansatz, dass die nationale Behörde über die Abweichung binnen eines Monats nach Antragstellung entscheiden soll (AR.GEN.020 (c)) und diese dann direkt angewendet wird. Dies führt dazu, dass die Abweichung bei positiver Entscheidung der nationalen Behörde sofort angewendet wird. Damit gelten in einzelnen Mitgliedsstaaten zunächst abweichende Regeln, ohne dass dies anhand der Rechtsvorschriften transparent für den Bürger erkennbar wäre. Entscheidet die EASA schließlich nachträglich, dass diese Abweichung nicht mit den Sicherheitsanforderungen der Implementing Rules vereinbar ist, so stellt sich das Problem wie die Personen zu behandeln sind, die zwischenzeitlich von der vorläufigen Ausnahme Gebrauch gemacht haben. Wenn die Abweichung ein Sicherheitsrisiko darstellt, so wäre es geboten nachträglich den Ausbildungsabschnitt entsprechend den Implementing Rules zu wiederholen. Andererseits besteht insoweit ein gewisser Vertrauensschutz der Betroffenen. Die Rücknahme der gewährten Ausnahmen mit ex tunc Wirkung dürfte erhebliche rechtliche Probleme in den Mitgliedstaaten aufwerfen und bei den betroffenen Luftfahrern zur erheblichem Unmut und Schadensersatzforderungen führen.

Letztlich wird dieses System auch dazu führen, dass in den verschiedenen EASA-Mitgliedstaaten immer wieder unterschiedliche alternative AMCs angewendet werden, was auch bei den betroffenen Organisationen und Piloten für Verwirrung und Rechtsunsicherheit sorgen dürfte. Das vorgesehene System (Gewährung einer Abweichung von den AMCs und nachträglicher Einholung der Entscheidung der EASA) sollte daher überdacht werden.

Folgende Gestaltung des Verfahrens zur Abweichung von den AMCs würden wir daher für praktikabler und im Sinne einer Harmonisierung von Rechtsvorschriften und der Einheitlichkeit der Rechtsordnung innerhalb der EU für geeigneter halten:

Die nationale zuständige Luftfahrtbehörde prüft die von der Organisation vorgeschlagenen AMCs auf ihre Sicherheitsrelevanz und übermittelt einen Entscheidungsvorschlag an die EASA. Diese prüft den Vorschlag anschließend zeitnah (z.B. innerhalb eines Monats) und trifft dann eine verbindliche Entscheidung über die Einführung eines neuen AMC. Erst wenn diese

veröffentlicht und die AMC entsprechend aktualisiert sind, darf der Vorschlag inhaltlich umgesetzt werden. Damit wäre einer drohenden Rechtsunsicherheit und nicht transparenten unterschiedlichen vorläufigen Ausnahmen vorgebeugt. Dieses Vorgehen dürfte auch im Interesse der Betroffenen Piloten sein, die nicht Gefahr laufen Ausbildungsteile nachträglich wegen Nicht-Konformität mit den Sicherheitsanforderungen der Implementing Rules wiederholen zu müssen. Angesichts des Gewinns an Rechtssicherheit für die betroffenen Luftfahrer dürfte die hierdurch eintretende Verlängerung der Verfahrensdauer (z.B. maximal 4 Wochen bei der nationalen Behörde bis zur Vorlage bei der EASA und maximal weitere 4 Wochen bis zur Letztentscheidung der EASA) nicht erheblich ins Gewicht fallen.

Letztlich werden nur transparente Rechtsvorschriften und AMCs Akzeptanz bei den Luftfahrern finden. Es wäre einem Laien nicht vermittelbar, wenn neben den geschriebenen und veröffentlichten AMCs noch eine Reihe von zeitlich nicht erkennbar befristeten und inhaltlich nicht nachvollziehbar schriftlich fixierten alternativen Verfahren existieren würde.

comment *73* comment by: *AECA(SPAIN)*

(c) Question.
If the alternative means of compliance should be proposed by the Authority, who is competent to perform the procedure established in this paragraph?

comment *74* comment by: *AECA(SPAIN)*

(d) If our comment number 72 is not accepted, explain here the means of **additional acceptable means of compleance.**
In addition: what is the procedure to follow with this.

comment *80* comment by: *Nigel Roche*

(c) The competent authority shall within a month from the date of application evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.

If a 'competent authority' fails to meet the very reasonable time allowed (one month) for the evaluation of a proposed AMC. Which body will this non conformance be reported to, what 'action' if any, will be taken against the 'competent authority' , and where is this 'action' specified.

When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay:

The Competent authority is given a defined period to conduct the evaluation but has been left with the very woolly 'shall without undue delay' as the back stop for informing the applicant that they can or cannot use the proposed AMC.

I would recommend that this is altered to read 'shall within ten working days.' This would be a reasonable period of time for the Compentent authority to communicate acceptance or rejection after the evaluation. This would give clarity of a 'time line' to ATOs' whos planning for commercial operations or financial budgeting may be dependant on the outcome of the evaluation.

I also note that in paragraph (d) When the competent authority uses alternative or additional acceptable means of compliance, it shall immediately notify the Agency. However there is no time limit or ugency set in paragraph (e) for the Agency to inform the Competent authority.

For better governace and rule making and clarity the Agency should have a limit set on its admiunistration and i would recommend that para (e) is altered to read:

Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs above within a period of a month and notify the competent authority of its conclusion within ten working days.

comment *90* comment by: *DCA Malta*

AR.GEN 020(c)
A complex or voluminous AMC or simultaneous AMC applications can easily block the resources of a competent authority. It is suggested that the text is changed to have: the authority shall **begin to examine the new AMC within a month from the date of the application**.

Also, if not even EASA has a time limit to give its reply how can one month be expected, irrespective of the work required, from a competent authority?

AR.GEN 020 (e)
What happens to the licences/ratings/approvals/certifications issued if the new AMC is approved by the competent authority but is later not accepted by EASA?

Also, what is there to stop an organisation from taking action against the competent authority in such cases?

It is suggested that the new AMCs are sent to EASA, perhaps through the competent authority. EASA after examining the AMC, taking as much time as it requires, will then inform the competent authority whether the proposed AMC is accepted or not.

comment *126* comment by: *ECA- European Cockpit Association*

Comment: change text in (c) and (d) as follows:
(c) The competent authority shall ~~**within a mont h from the date of application**~~ evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.
When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay:
(1) **notify the Agency of t heir content, including copies of all relevant documentation an d the posit ive fi ndings by th e Nation al Authority;** ~~**notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.**~~
(2) publish the alternative acceptable means of compliance; and
(3) ~~**notify the Agency of t heir content, including copies of all relevant**~~

~~**documentation.**~~ **notify th e applican t th at they may i mplement them, only when EASA h as anal yzed positively the AM C, and, i f applicable, amend the approval or certificate of the applicant accordingly.**

(d) ~~**When**~~ **Before** the competent authority uses alternative or additional acceptable means of compliance, it shall ~~**immediately**~~ notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revisions to national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objective set out in the implementing rules is met.

Justification:

ECA cannot agree on deregulation by simply downgrading most of the current requirements and appendixes to AMCs. The flexibility requested by the Industry and given by this procedure of dealing with AMCs, needs to be balanced with a procedure that gives the necessary safety assurance of this soft regulation. Examples of very important requirements, like the approval requirements for ATOs.
There are other provisions on the Basic regulation in order to allow other flexible solutions to the industry in case of unforeseen events.

ECA considers the period of one month to approve an AMC by the NAA insufficient to properly analyse the compliance with the Implementing Rules, as some of them may be very complex AMCs. In other cases, the simplicity of the AMC may lead to direct approval. The amount of time given to the evaluating body should be related to the complexity of the task. In paragraph d), no timeline is proposed for the evaluation from EASA, whereas the competent authority has only one month to proceed an AMC request. ECA therefore requests to delete the month requirement and to set a realistic timeline requirements for EASA in paragraph e)

Regarding the argument of the explanatory note, the feedback mechanism behind the wording "action will be taken in accordance with the standardisation requirements and procedures" is unclear : does it mean that the AMC is maintained as approved by the competent authority until corrected, or are the AMC and its approval suspended ? Clarification is required.

This requirement, as it is written, does not assure safety during the period of time that the Agency analyses an alternate AMC. If the NAA considers the AMC compliant and notifies the operator the approval, and later on, EASA disagrees with the NAA on the assessment of compliance with the IR, and taking into account that the standardization process to correct that situation may take up to a year, this situation would allow an operator to apply a non compliant AMC, which would go against safety. As EASA is the final institution that has the power to approve an AMC, EASA should analyse the alternate AMC before it is used.
EASA has in their objectives to implement "state of the art" regulation, and allowing for as many different AMCs as operators is not a good way of harmonizing and safeguarding safety.

The agency shall check that there is no major derogation or abusive AMC accepted before any authority release an AMC, which will be valid for the whole community.

comment *178* comment by: *DGAC FRANCE*

1. Precise definition of AMC and CS is required. It is difficult to comment on concepts not clearly defined.

2. As AMC and CS seem to have the same status, it seems that the proposal should be extended to CS. In addition, it is important that EASA explains how the AMC and CS fulfil the safety objective, as it has to be done by other competent authorities. **Proposed modification of a) and b)**

3. It is the responsibility of the member state to check the compliance with the rules and consequently to accept or establish AMC for its own use. Relations between NAA and the regulated organisations should not be regulated. **Delete c) d) and e)**
This could however be included in a GM.

4. There is not legal hook in the BR to allow AESA to approve the AMC used by the NAA. (The only indirect legal hook could be regulation (EC) 736-2006 on inspections, but it itself linked to IR…)
What would happen if EASA disapproved an AMC already used by a NAA? This would lead to legal uncertainty. NAA should be able to request a prior approval by EASA in order to ensure legal certainty. **Proposed new c).**

5. The concept of "alternative AMC" can be understood as an AMC used by a NAA that has not been developed by EASA. But the concept of "additional AMC" is not clear: it should be removed.

6. The publication of the alternate AMC on a national basis (in the national language) is a national arrangement, and should not be regulated. Only AMC that AESA find interesting should be published widely, in a language understandable by all, or even "up-graded" as "regular AMC" through NPA process. **Proposed new e)**

7. The information on the alternate AMC should be sent to the Agency only on request. We don't want the Agency to gather a lot of information it cannot spend time on it. **Proposed new d)**

AR GEN 020 ACCEPTABLE MEANS OF COMPLIANCE and Certification spcecifications

(a) The Agency shall develop acceptable means of compliance (AMC) **and certification specifications (CS)** that may be used to establish compliance with the Basic regulation and**/or** its implementing rules.
These AMC and CS will only be adopted by the Agency when it is demonstrated that the safety objective set out in the basic regulation or the implementing rules is met.
When the AMC **or the CS** are complied with, the related requirements of the **basic regulation or** the implementing rules shall be considered as met.

(b) Alternative AMC **or CS** may be **developed by an applicant or a competent authority and** used to establish compliance with **the basic regulation or** its implementing rules.
These alternative AMC **or CS** shall only be used when it is demonstrated that the safety objective of the **basic regulation or its** implementing rules is met.

(c) A competent authority can request from the Agency the approval of

an alternate AMC or CS it intends to use. In this case the Agency shall, within two months from the date of the request, evaluate the alternate AMC or CS by analysing the documentation and safety assessment provided.

(d) When a competent authority uses an alternate means of compliance or CS, it notifies the Agency and sends to the Agency all relevant information on request.

(e) When the Agency considers that this alternate AMC or CS can be used by other competent authorities, it can publish it or use it as the basis of a new AMC or CS through the usual consultation process.

comment *230* comment by: *AECA(SPAIN)*

(c)
The timeframe of 1 month is too short for evaluation

This comment is complementary of our proposal related with the approval of all AMC by EASA

comment *236* comment by: *Susana Nogueira*

Proposal:
All AMCs must be approved by EASA.

Reason: The proposal is against the figure of harmonization

comment *237* comment by: *Susana Nogueira*

(c) The time frame of 1 month is to short for evaluation.

comment *247* comment by: *Susana Nogueira*

If our comment 236 is not accepted

Change the wording 'from the date of application' by ' from the date of evaluation start'

comment *249* comment by: *Susana Nogueira*

Definition of '**Alternative acceptable means of compliance**' and '**aditional means of complianace**'

comment *372* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Ziel der "Acceptable Means of Compliance (AMC)" soll es sein, dass ein flexibles Rechtssystem unter Wahrung der Chancengleichheit, Transparenz und Harmonisierung gewährleistet wird (Nr. 38). Ein Großteil der Entwürfe NPA No. 17a bis c, 22a bis c besteht daher aus AMCs. Sobald eine "Organisation", also z. B. eine Flugschule, einen begründeten Vorschlag macht, ein AMC, das Bestandteil der Genehmigung der Flugschule ist, zu ändern, da auch mit dem alternativen AMC die Sicherheitsanforderungen der Implementing Rules

gewahrt seien, ist die zuständige Behörde verpflichtet, diesen Antrag zu prüfen. Diese Prüfung und Entscheidung hat nach AR.GEN.020 (c) binnen eines Monats nach Antragstellung zu erfolgen. Soweit die EASA nach Prüfung der "Alternative Means" zur Auffassung kommt, die Sicherheitsanforderungen der Implementing Rules seien nicht gewahrt, sind entsprechende Maßnahmen der zuständigen Behörde zu treffen.

Grundsätzlich würde der Ansatz zwar begrüßt, wenn den von den Regelungen betroffenen Organisationen künftig verstärkt die Möglichkeit eingeräumt wird, Verbesserungsvorschläge und Anregungen einzubringen. Die AMCs sollten in der Tat künftig möglichst flexibel und mit wenig Zeitaufwand fortgeschrieben werden.

Problematisch erscheint aber der Ansatz, dass die nationale Behörde über die Abweichung binnen eines Monats nach Antragstellung entscheiden soll (AR.GEN.020 (c)) und diese dann direkt angewendet wird. Dies führt dazu, dass die Abweichung bei positiver Entscheidung der nationalen Behörde sofort angewendet wird. Damit gelten in einzelnen Mitgliedsstaaten zunächst abweichende Regeln, ohne dass dies anhand der Rechtsvorschriften transparent für den Bürger erkennbar wäre. Entscheidet die EASA schließlich nachträglich, dass diese Abweichung nicht mit den Sicherheitsanforderungen der Implementing Rules vereinbar ist, so stellt sich das Problem wie die Personen zu behandeln sind, die zwischenzeitlich von der vorläufigen Ausnahme Gebrauch gemacht haben. Wenn die Abweichung ein Sicherheitsrisiko darstellt, so wäre es geboten nachträglich den Ausbildungsabschnitt entsprechend den Implementing Rules zu wiederholen.

Andererseits besteht insoweit ein gewisser Vertrauensschutz der Betroffenen. Die Rücknahme der gewährten Ausnahmen mit ex tunc Wirkung dürfte erhebliche rechtliche Probleme in den Mitgliedstaaten aufwerfen und bei den betroffenen Luftfahrern zur erheblichem Unmut und Schadensersatzforderungen führen.

Letztlich wird dieses System auch dazu führen, dass in den verschiedenen EASA-Mitgliedstaaten immer wieder unterschiedliche alternative AMCs angewendet werden, was auch bei den betroffenen Organisationen und Piloten für Verwirrung und Rechtsunsicherheit sorgen dürfte. Das vorgesehene System (Gewährung einer Abweichung von den AMCs und nachträglicher Einholung der Entscheidung der EASA) sollte daher geändert werden.

Folgende Gestaltung des Verfahrens zur Abweichung von den AMCs würde daher für praktikabler und im Sinne einer Harmonisierung von Rechtsvorschriften und der Einheitlichkeit der Rechtsordnung innerhalb der EU für geeigneter gehalten werden:

Die nationale zuständige Luftfahrtbehörde prüft die von der Organisation vorgeschlagenen AMCs auf ihre Sicherheitsrelevanz und übermittelt einen Entscheidungsvorschlag an die EASA. Diese prüft den Vorschlag anschließend zeitnah (z.B. innerhalb eines Monats) und trifft dann eine verbindliche Entscheidung über die Einführung eines neuen AMC. Erst wenn diese veröffentlicht und die AMC entsprechend aktualisiert sind, darf der Vorschlag inhaltlich umgesetzt werden. Damit wäre einer drohenden Rechtsunsicherheit und nicht transparenten unterschiedlichen vorläufigen Ausnahmen vorgebeugt. Dieses Vorgehen dürfte auch im Interesse der betroffenen Piloten sein, die nicht Gefahr laufen, Ausbildungsteile nachträglich wegen Nicht-Konformität mit den Sicherheitsanforderungen der Implementing Rules wiederholen zu müssen.

Angesichts des Gewinns an Rechtssicherheit für die betroffenen Luftfahrer dürfte die hierdurch eintretende Verlängerung der Verfahrensdauer (z.B. maximal 4 Wochen bei der nationalen Behörde bis zur Vorlage bei der EASA und maximal weitere 4 Wochen bis zur Letztentscheidung der EASA) nicht erheblich ins Gewicht fallen. Auch wäre damit einer drohenden Rechtszersplitterung vorgebeugt.

Letztlich werden nur transparente Rechtsvorschriften und AMCs Akzeptanz bei den Luftfahrern finden. Es wäre einem Laien nicht vermittelbar, wenn neben den geschriebenen und veröffentlichten AMCs noch eine Reihe von zeitlich nicht erkennbar befristeten und inhaltlich nicht nachvollziehbar schriftlich fixierten alternativen Verfahren existieren würde.

Sollte die "vorgezogene" (also vor einer letztverbindlichen Entscheidung durch die EASA) Verbescheidungspflicht durch die "competent authority" jedoch beibehalten werden, sollte dringend ergänzt werden, dass eine Änderung der Genehmigung (z. B. für eine ATO) unter Widerrufsvorbehalt erfolgt und vor allem entschädigungslos mit Möglichkeit der Rückwirkung widerrufen werden kann, wenn die Prüfung seitens der EASA ergibt, dass die rechtlich erforderlichen Sicherheitsstandards nicht eingehalten sind. Nur so kann sichergestellt werden, dass etwaige alternative AMC`s auf eigenes Kostenrisiko der jeweiligen Organisation umgesetzt werden.

comment *389* comment by: *Civil Aviation Authority of Norway*

Comment to (c);
The time frame of one month may in some cases be inadequate, especially for complex issues.

comment *390* comment by: *Civil Aviation Authority of Norway*

Comment to (c)(2);
It should be described in what way the alternative AMC shall be published.

comment *391* comment by: *Civil Aviation Authority of Norway*

Comment to (e);
What procedures will apply if the Agency’s conclusion is contrary to the competent Authority? The current draft procedure may lead to a situation where an operator is granted deviations from the requirements until the competent authority are forced to revoke the approval, a process that may take several months.
Such an unpredictable situation should be avoided, and we suggest that the competent authority are not allowed to grant an approval for an alternative AMC until EASA has acknowledged and published the AMC

comment *420* comment by: *Civil Aviation Authority of Norway*

Comment to section (c):
The one month time limit for the Competent Authority to evaluate an application of alternative acceptable means of compliance will probably be to short considering the estimated work that such an evaluation will need.

We therefore propose to withdraw the time limit, or at least consider extending

the time limit.

comment *430* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

General Comment:

The AMC concept presented in this NPA appears to be in conflict with the jurisdictions (or the national law) established in certain Member States. AMC material might be considered binding for NAAs, but because the AMC material is missing the status of 'real' orders or regulations, respectively, a judge at an administrative court might consider them as not applicable and therefore might disregard them. Apart from the Agency trying to set rules beyond its competencies as depicted by the basic regulation, we do not see the often quoted 'level playing field' here, but a steady source of inefficient paper work and legal claims distracting the national authorities. Apparently, the legal hook for AR.GEN.020 does not seem provided by the basic regulation and the whole requirement must be put into question.

How can applicants be prevented from forwarding their alternative AMC proposals to more than one national aviation authority? For the applicants this could be considered very efficient in hope to get their proposals accepted by at least one aviation authority, but for the aviation authorities it will most probably not be efficient because the assessment work will be done multiple times by different authorities. Even if a notification procedure amongst authorities might be established (which again causes administrational work beyond the core competencies) it might be time consuming and difficult for authorities to find out which one of them is the competent authority in case of world wide operating consolidated companies and trusts. Thus, each proposal should only be assessed by one authority. **Alternative AMC p roposals should be sent to a a single competent contact point (preferably EASA) from where it migh t for warded to a n ational aviation au thority for assessment.** Procedures/AMC material is necessary to ensure a standardized approach of each CA.

Specific Comment:

AR.GEN.020 Acceptable Means of Compliance
AR.GEN.020 (b) – (e)
"Alternative" acceptable means of compliance are not covered by the Basic regulation. Delete the word "alternative" and change text as proposed.

AR.GEN.020 (c)
The implementation of an AMC proposed by an applicant should be only possible after positive conclusion of the Agency (AMC is compliant) This is necessary to give the applicant and the competent authority the necessary legal certainty

AR.GEN.020 (c)(2)
The publication of an AMC shall be required only after receiving a positive conclusion/notification of the Agency.
AR.GEN.020 (d)
One month is unacceptable.
One month is too short for full analysis of an proposed AMC.
Safety assessment AR.GEN.020 (d) versus OR.GEN.020 (a)? No detailed procedure / requirement of the content of the Safety assessment is available. The CA should have the freedom to accept a safety assessment provided by an

applicant if acceptable.

AR.GEN.020 (e)
There shall be also a limit for the Agency to respond, a decision should be expected within a specified timeframe. For the reason of reasonableness and transparency a justification shall be provided by the Agency.
Based on the comments above AR.GEN.020 should be changed – see proposed text.
In addition to that it is strongly recommended to add AMC material to ensure a standardized approach throughout Europe.

Proposal:
*(b) ~~Alternative~~ **A**cceptable means of compliance **proposed by an applicant or by the competent authority** may be used to establish compliance with the implementing rules. These ~~alternative~~ acceptable means of compliance shall only be used when it is demonstrated that the safety objective set out in the implementing rules is met.*

*(c) The competent authority shall within ~~a~~ six months **s** from the date of application evaluate all **alternative** means of compliance proposed by an applicant **or by the competent authority**, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant. When the competent authority finds that the ~~alternative~~ acceptable means of compliance are in accordance with the requirements of (b) above, it shall ~~without undue delay:~~*
~~(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.~~
~~(2) publish the alternative acceptable means of compliance; and~~
~~(3)~~ notify the Agency of their content, including copies of all relevant documentation.
~~(d) When the competent authority uses alternative or additional acceptable means of compliance, it shall immediately notify the Agency.~~ The competent authority shall provide the Agency with a full description of the ~~alternative or additional~~ proposed acceptable means of compliance, including any revisions to national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objective set out in the implementing rules is met.
(~~e~~d) Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall within six months assess compliance with the paragraphs above and notify the competent authority of its conclusion with justification of the reasons of the Agency's decision.

(~~f~~e) After notification of the Agency that it has been demonstrated that the safety objective set out in the implementing rules are met by the proposed acceptable means of compliance the competent authority shall
(1) notify the applicant that they may implement them
(2) publish the acceptable means of compliance;

(~~g~~f) After notification of the Agency that it has not been demonstrated that the safety objective set out in the implementing rules are met by the proposed acceptable means of compliance the competent authority shall
(1) notify the applicant about the conclusion
(2) not use them in the case they have been proposed by the competent authority.

comment *438* comment by: *European CMO Forum*

AR.GEN.020 (c)

Comment:
One month is unacceptable.

Justification:
One month is too short for full analysis of an alternative proposal.

Proposed Text:
delete 'one month' and change to **'four months'.**

comment *439* comment by: *European CMO Forum*

AR.GEN.020(d)

Comment:
Additional AMC should not exist.

Justification:
Additional AMC goes against principle of standardisation.

Proposed Text:
Delete 'or additional'.

comment *440* comment by: *European CMO Forum*

AR.GEN.020 (e)

Comment:
a)Additional AMC should not exist.
b)No timescale is stated for a response from EASA.
c) The reasons for disagreement with the acceptance of the alternative AMC should be stated.

Justification:
a)Additional AMC goes against principle of standardisation.
b)A decision should be expected within a specified timeframe.
c) Reasonableness and transparency.

Proposed Text:
Delete 'or additional' and …'the Agency shall, **within four months,** assess compliance…' and '…'of its conclusion **with justification of the reasons for the Agency's decision'**.

comment *508* comment by: *UK CAA*

Page No: 4/5

Paragraph No: AR.GEN.020

Comment: General: The UK CAA's comments on Part A, paragraph 41, set out its general approach to the proposed requirements for the development of more AMC material. That comment concludes that if alternative AMCs are to

be widely developed and promulgated throughout the Community, the Agency and the NAAs should explore urgently what processes could be developed to provide that, as far as possible, the Agency is able to carry out its assessment before alternative AMCs are authorised for use by an applicant. UK CAA considers that a pragmatic way forward must be found and urges the Agency to discuss this widely with all stakeholders before developing the Comment Response Document and its Opinion on the Implementing Rules.

The following detailed comments are offered as contributions to that further work, rather than stand alone comments on the requirement as drafted.

Justification:
Opening up the possibility of a wide range of alternative AMCs to be published and used throughout the Community before the Agency can assess their validity in a potentially wide range of applications and with an even longer lag before standardisation audits can suggest remedial action, carries significant safety and business risks.

comment *509* comment by: *UK CAA*

Page No: 4/5

Paragraph No: AR.GEN.020(b)

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

With 27+4 member states, there is a risk that a large amount of AMC material will be presented causing response time issues.

If an alternative AMC is found to be satisfactory by EASA, is there is an obligation to introduce it as an NPA? If so, that offers a risk of amendment or rejection, which may then require revisiting the qualification(s), to which it has been applied. The NPA process can take years and the impact of potential amendment after a long interval would be considerable.

Justification:
This process introduces a significant risk element to the applicants that needs to be reviewed and mitigation provided wherever possible.

comment *510* comment by: *UK CAA*

Page No: 4

Paragraph No: AR.GEN.020(c)

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

Publishing the AMC before assessment by EASA widens the risk that other authorities and operators will use the AMC and increase the burden of any rejection or amendment. The Agency should explore possibility of NAA's proposing publication only after EASA acceptance.

Justification: Avoidance of unnecessary burden on applicants and competent authorities.

comment *511* comment by: *UK CAA*

Page No: 4

Paragraph No: A.R. GEN.020 (c) Acceptable means of Compliance

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

The one-month period for a competent authority to evaluate and decide upon the suitability of all alternative means of compliance material proposed by an applicant is not practical in many circumstances e.g.:

- if multiple interlinked proposals are submitted for consideration.
- the competent authority might need more than one month to assess the proposal, particularly if it is necessary to validate a quantitative risk assessment and/or conduct an on-site visit.
- New medical proposals may require extensive literature searches, analysis and possible convening of a specialist panel for evaluation.

Justification: The one-month evaluation period is not practical in most cases and could easily lead to an NAA being out of compliance with the proposed requirement, even if the competent authority is acting in a diligent and appropriate way. There is no corresponding requirement placed on the Agency in AR.GEN.020 (e), when considering the suitability of alternative AMC accepted by a competent authority. This is not an equitable situation.

Proposed Text (i f applicable): (c) The competent authority shall *without undue dela y* evaluate all alternative means of compliance proposed by an applicant, …

comment *512* comment by: *UK CAA*

Page No: 4

Paragraph No: AR.GEN.020(c) (2)

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)
Publication of alternative means of compliance could create intellectual property rights issues, as the additional AMC would belong to the applicant, unless the competent authority initiated the creation of the additional AMC itself. In such cases, the agreement of the applicant to publish agreed additional AMC should be sought.

Justification: Protection of intellectual property rights.

Proposed Text (if applic able): (note: subject to further consideration by Agency and stakeholders of timing of publication)

A.R.GEN.020 (c)(2) publish the alternative means of compliance, when agreed by the applicant.

comment *513* comment by: *UK CAA*

Page No: 4 of 77

Paragraph No: AR.GEN.020 (c) ((d) and (e))

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

Reading paragraphs (c), (d) and (e) together, it seems that (c) applies to AMC to Part-OR that the industry has proposed to the competent authority, and that (d) and (e) apply to AMC to Part-AR that the competent authority wishes to use and proposes to the Agency. In addition, paragraphs (b) and (c) refer to alternative AMCs, but paragraph (d) refers to alternative or additional AMCs. It is unclear how "additional" is meant to be different from "alternative".

Justification:

Confirmation of intent is requested.

comment *514* comment by: *UK CAA*

Page No: 4

Paragraph No: AR.GEN.020 (d)

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

Timing should be made more flexible, notably for when the competent authority may wish to adopt a trial of an AMC, or where the AMC is not safety-critical. A GM could be introduced to give further guidance.

Proposed Text (if applicable):
….it shall ~~immediately~~ notify the Agency *without undue delay*.

comment *515* comment by: *UK CAA*

Page No: 4

Paragraph No: AR.GEN.020 (d)

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

Guidance will need to be provided as to how the equivalent level of safety can be demonstrated qualitatively when safety objectives are not set numerically.

Justification: AMC will need to be provided

comment *516* comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.020 (e)

Comment: (The following comment should be considered in the light of the UK CAA's general comment on AR.GEN.020)

What process will be implemented should the Agency find that an AMC is not satisfactory? Currently this is not contained within the NPA. A suitable timescale should be established; suggest that the Agency should notify the competent authority without undue delay.

Proposed Text (if applicable): (note: subject to further consideration by Agency and stakeholders of timing of publication)

(e)…and notify the competent authority of its conclusion without undue delay.

comment *568* comment by: *CAA-NL*

Comment
"As it is understood, AMCs published by EASA are non-exclusive means of demonstrating compliance with the implementing rules (IRs). They illustrate a means, but not the only means, by which a specification contained in an implementing rule can be met. Instead of these AMCs alternative means may be used to establish compliance with the IRs. This is in line with the proposition of performance-based rulemaking. However, the procedure as currently described in AR.GEN.020 seems to be very lengthy and leads to legal insecurity for the applicant (because of the evaluation of the alternative by EASA after the agreement by the Competent Authority). In order to minimize this insecurity, a shorter procedure should be developed where the assessment by the Competent Authority and the evaluation by EASA are combined or are parallel in time. This should be reflected in AR.GEN.020."

comment *632* comment by: *Irish Aviation Authority*

Under (c), the period of one month from the date of application to evaluate all alternative means of compliance proposed by an applicant etc. is unrealistic for example where an applicant or applicants could swamp a CA unwittingly or otherwise by multiple or complex applications. Under (e) there is no such restriction on the Agency and so there should be no such restriction on a CA.

> It is suggested that within 2 weeks of receipt of an application the Competent Authority must write to the applicant advising of the timescales involved in assessing that particular proposal.

Furthermore, if there is a restriction placed on the CA then the same restriction should be placed on the Agency, otherwise, in the case where the Agency decides that the Alternative AMC is not in accordance with the requirements then the Applicant may be operating illegally for an indefinite period, and the CA would appear to be incompetent. In order to avoid this, the AAMC with a recommendation from the CA should be passed to the Agency as soon as practicable after the date of application, so that the CA and the Agency can agree before a decision is made, and then the applicant is allowed to operate in full compliance.

Also, there is no rule for when the Application is not deemed to comply with the requirements. For consistency, this should be added.

Therefore, I suggest that (c) should be rewritten as follows:

The competent authority shall without undue delay evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.
When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall :
(1) notify the Agency of their content, including copies of all relevant documentation. Upon receiving a notification from the competent authority that alternative or additional acceptable means of compliance are being proposed, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
(2) on receipt of the Agency's conclusion, notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.

The Agency shall publish the alternative acceptable means of compliance.

When the competent authority finds that the alternative acceptable means of compliance are not in accordance with the requirements of (b) above, it shall without undue delay:
(3) notify the applicant that they may not implement them;
(4) notify the Agency of their content, including copies of all relevant documentation.

(e) should then be deleted.

Re Paragraph (d)Additional AMC is not right. Additional AMCs are against the principle of standardisation. **Delete 'or additional'.**

(e)
a)Additional AMC should not exist.
b) EASA Has no timescale for a response
c) The reasons for disagreeing with the alternative AMC should be stated.
a)Additional AMCs are against principle of standardisation.
b)A decision is to be expected within a specified time
c)being Reasonable and transparent.
Delete 'or additional' and …'the Agency shall, **within a period of XXXX months,** assess compliance…' and '…'of its conclusion **with justification of the Agency's decision'**.

comment *645* comment by: *ENAC TLP*

a month could be not sufficient to evaluate deeply a proposed AMC. It could be added in the paragraph the possibility for the Authority to notify, within a month, that it needs more time for notifying the possibility of implementation, even specifying the reasons of the extention required.

comment *647* comment by: *ENAC TLP*

AR GEN 020 letter (d): it should be specified what can be considered "immediately", to avoid different interpretations.

comment *660* comment by: *Light Aircraft Association UK*

Para c)2) The LAA strongly supports the quick publishing of accepted AMC: this needs to be done in the order of weeks, not months, for each proposed AMC.

Para e) The LAA proposes that this paragraph should be amplified to give a timescale and/or process by which EASA will adopt and publish new AMC.

comment *665* comment by: *CTC Aviation Services Ltd*

AR.GEN.020 Acceptable Means of Compliance
(c) The competent authority shall within a month from the date of application evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.
When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay:
(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.
(2) publish the alternative acceptable means of compliance; and
(3) notify the Agency of their content, including copies of all relevant documentation.

(e) Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.

Comment

Sequence of events results in notification, publication and implementation of the proposed AMC in advance of the Agency approval.
If the Agency approval has any meaning, it should be secured to support the Competent Authority evaluation before the AMC is put into practice.
To allocate executive oversight to the Agency and then permit activity without approval is an invitation to conflict.

Re arranged text should be:
(c) The competent authority shall within a month from the date of application evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.

(d) When the competent authority **(~~uses~~) proposes** alternative or additional acceptable means of compliance, it shall immediately notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revisions to national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objective set out in the implementing rules is met.

(e) Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being **(~~used~~) proposed**, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.

(f) When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, **and is supported by the Agency**, it shall without undue delay:
(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.
2) publish the alternative acceptable means of compliance; and
(3) notify the Agency of their **implementation. (** ~~content, including copies of all relevant~~.)

comment *690* comment by: *Boeing*

AR.GEN.020
Para *(c)(2)*
Page 4

CONCERN: Publication of alternative means of compliance might entail disclosing proprietary issues/materials.

REQUESTED CH ANGE: Either proprietary items included as part of the alternative acceptable means of compliance should be addressed under a separate procedure, or a statement should be included to indicate that proprietary items will not be published.

JUSTIFICATION: In developing alternatives to specific procedures or requirements, organizations spend time and money to gain competitive advantages. Without the option to keep these issues proprietary, organizations may elect not to develop them, and thus safety will not be advanced. This will inhibit investment into new technology and improvements of processes by negating competitive advantage.

comment *691* comment by: *Boeing*

AR.GEN.020
Para (c)
Page 4

CONCERN: EASA will be the Competent Authority for organizations outside the EU. However, the process for this has not been defined.

REQUESTED CHANGE: Please clarify:
How will EASA assign second party responsibility?

Who will arbitrate disagreement?

JUSTIFICATION: Clarification is needed for better understanding of these requirements.

comment *706* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

1. It is already in the Basic Regulation that the Agency shall issue Acceptable Means of Compliance. In accordance with the EU Member States' obligation to implement EU law, also Member States are obliged to issue advisory material as needed for implementation purposes.

2. Acceptable Means of Compliance (AMC) are non-binding rules. The proposed procedure would give the Agency the right to accept or reject AMCs that have already been accepted by the competent authorities.

3. In the text several different terms are used for the same thing, such as acceptable means of compliance, alternative acceptable means of compliance, alternative means of compliance, additional means of compliance, which should be replaced by one term: acceptable of means of compliance.

4. The time limits proposed in the text must be extended considerably and include time limits also for actions taken by the Agency.

5. According to OR.GEN.020 an organisation may implement an alternative AMC that has been accepted by the competent authority. The proposed procedure in AR.GEN.020 does not create legal certainty, as the AMC may later be rejected by the Agency, although it is not explicitly detailed in the text what will happen after the competent authority has been notified. This implies that Agency AMCs are more or less binding, and there is an obvious risk that the competent authority would be held liable if an organisation implements an AMC accepted by the authority that is later rejected by the Agency. This would also be in contradiction with the prevalent principle in Swedish law, namely that a favourable decision may not be changed.

Proposal:

The proposed AMC procedure must be amended considerably to address our above concerns, or be withdrawn. For the purpose of harmonising the application of rules, we would welcome the establishment of networks for specialists within EASA and the national aviation authorities.

comment *776* comment by: *CAA Belgium*

(c)

Proposal: to change the words "within a month from the date of application" by "without undue delay".

Reason: - this wording is also used in paragraph d
- in some cases this time frame can be too short to be able to evaluate if the safety objective of the new AMC is met.

comment *777* comment by: *CAA Belgium*

(c)

Proposal: - delete (1), renumber (3) as (1);
- add "EASA" in front of the text under (2) and delete the word "and" at the end of the text.

Reason: this is the only way to ensure that there is a level playing field in the use of AMC's between the Member States.

comment *818* comment by: *AEA*

Relevant Text:
(c)

When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly
2. Publish the alternative acceptable means of compliance; and
3. Notify the Agency of their content, including copies of al relevant documentation.

Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.
Proposal:
Delete (c)(2) of AR.GEN.020

comment *819* comment by: *AEA*

Relevant Text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.
Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *820* comment by: *AEA*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.

Proposal:
Delete the para (e) of AR.GEN.020

comment *821* comment by: *AEA*

Comment:
The terms 'alternative AMC' and 'addittional AMC' are not defined. In addition, there is no legal basis for Competent Authorities to impose additional AMCs.
Proposal:
Delete 'addittional AMC' and clearly define 'alternative AMC'

comment *854* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comments also related to OR.GEN.020
(a)
COMMENTS
The aim of the BR is to enforce a certain level of safety (BR, Art. 2, Objectives)
The process for applying alternative AMC seems very subjective and complex. In no way, any of the proposed AMC states a comprehensive quantification or assessment of any level of safety.

PROPOSAL
We request the alternative AMC safety assessment process to be defined and documented in part-AR / OR, including ways of recourse.
An AMC to AR.GEN.020 "AMC", defining precisely the process to submit (for organizations), to assess (for Competent authorities) and to validate (for EASA), may be elaborated.
Guidelines shall be given to both parties to assess the required level of safety.
A working group, consistuted of NAAs and Professionals representatives may assist EASA in conducting this work.

JUSTIFICATION
Homogeneous treatment amongst the Member states, in order to obtain a level playing field.
Complexity or subjectivity may not prevent organizations to use alternative AMCs

****
Disclaimer :

These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *886* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

(c)
COMMENTS
(c) "*Competent authority*" is not consistently defined. "Competent authority" is defined in OR-GEN.001, but the definition is restricted to "the purpose of this part (part-OR).

See comment AR.GEN.005 :
"Comment: *At this step, terms and definitions appear unclear.*

Proposal: *We suggest a specific part or the EASA regulation framework may contain a comprehensive and exhaustive list of definitions, applicable to the whole EASA regulation, which is the best way to have consistent definitions.*

Justification *this might be a legal issue regarding the scope of understanding and cause problems of reading*."

****
Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment 888 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

(c)
COMMENTS
"undue delay" is not timebound.

PROPOSAL
"undue delays" shall be precised, with a quantitative maximum limit, e.g. 2 weeks max.

JUSTIFICATION
This would be consistent with the 4-week delay before, and other similar delays stated elsewhere in part-OR (for instance AMC OR.GEN.030/035/040)
Also, a 2-week maximum delay is provisioned within AMC1 to AR-ATO200 (a)(1). Any other values shall be consistent or justified.

***
(d)
COMMENTS
(d) While a maximum delay is imposed to Competent authority. EASA has no time-constraint to assess compliance and notify its conclusion. This process shall be timebound.

PROPOSAL
We propose the following wording :
"the Agency shall *within 4 weeks from the date of notification* assess compliance with the paragraphs above and notify the competent authority of its conclusion"

JUSTIFICATION
Since the 4-week delay is considered as reasonable by EASA for Competent authority to assess AMC, there is no reason for EASA to claim for more time to do the same thing. This shall be précised in an AMC to AR.GEN.020. A working group may be settled up to define this

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment 889 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Specific to maintenance industry

« (2) publish the alternative acceptable means of compliance; and »

Where should the competent auhority publish the alternative AMC? In a equity concern regarding eEropean organizations, all alternative AMCs should be published through the same tool, accessible from all.

« Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion. »

What happens if the alternative AMC is refused ? Is there a delay to go back to an acceptable configuration for the organization ? In this case, may the organization propose a new alternative AMC ? Does the whole process go back to the start / is it the competent authority that should propose to EASA a change to AMC ?

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment 901 comment by: *CAA Belgium*

(e)

No deadline for EASA to notify its decision to the competent authority.

comment 910 comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.020 (Acceptable Means of Compliance), c (2)
Relevant Text:
(c)

When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

(1) Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly
(2) Publish the alternative acceptable means of compliance; and
(3) Notify the Agency of their content, including copies of al relevant documentation

Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking
Proposal:
Delete (c)(2) of AR.GEN.020

comment *912* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.020 (Accpetable Means of Compliance) (e)
Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal
Proposal:
Delete the para (e) of AR.GEN.020

comment *913* comment by: *bmi*

Section:

NPA 2008-22B, AR.GEN.020 (Accpetable Means of Compliance) (e)
Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal
Proposal:
Delete the para (e) of AR.GEN.020

comment *914* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.020 (Acceptable Means of Compliance
Relevant Text:
AR.GEN.020
Comment:
The terms 'alternative AMC' and 'addittional AMC' are not defined. In addition, there is no legal basis for Competent Authorities to impose additional AMCs
Proposal:
Delete 'addittional AMC' and clearly define 'alternative AMC'

comment *915* comment by: *bmi*

Section:
NPA 2008-22B, GM to AR.GEN.020(b) Acceptable Means of Compliance
Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not

with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020
Proposal:
Delete GM to AR.GEN.020(b)

comment *929* comment by: *Walter Gessky*

AR.GEN.020(a)
Delete (a) or as an alternative change the wording

~~(a) The Agency shall develop acceptable means of compliance (AMC) that may be used to establish compliance with Basic Regulation and its implementing rules.~~
~~The Agency **or the NAA of the MS may** shall develop acceptable means of compliance (AMC) **to assist the Member State and the applicant in the implementation** that may be used to establish compliance with **of the** Basic Regulation and its implementing rules.~~

Justification:
The first sentence can be deleted as it is or replace by another wording, because this is a duplication to the Basic Regulation Art. 18 c), 19(2).

When ~~the~~ acceptable means of compliance are be complied with **by the applicant on a volunt ary basis,** the related requirements of the implementing rules shall be considered as met.
Justification:
In according the basic regulation the Agency issue AMC material for the implementation of the basic regulation and its implementing rules.
It is a basic principle in the community that MS has to implement and apply the rules. AMC`s even when issued by the Agency are by definition non-binding material and assist the applicant to show compliance with the rules. Compliance is on a voluntary basis. AMC`s and GM can be issued either by EASA or the MS. MS are also free to develop AMC material . This should be reflected in the IR.

comment *930* comment by: *Walter Gessky*

Delete (b),
Justification:
Alternative AMC are not mentioned in the Basic Regulation. MS are free to develop AMC and GM material to assist the applicant in the application of the rules.
According to Art 5(5) of the basic regulation only non-essential elements of this Article, shall be regulated by the Implementing Rules.
Even when EASA is issuing an AMC, safety related issues can not be regulated with an AMC. The Implementiung Rules shall contain all safety related issues.

comment *932* comment by: *Walter Gessky*

AR.GEN.020(c)
Change the text in (c), delete the text of (d) and (e) and add a new (d):
(c) The competent authority shall ~~within a month from the date of application evaluate all alternative~~ **only acc ept** means of compliance proposed by an applicant, **when jus tified** by analysing the documentation and ~~safety~~

~~assessment provided and~~, if considered necessary, conducting an inspection of the applicant or **require that a safety assessment is provided.**
When the competent authority finds that the ~~alternative~~ **proposed** acceptable means of compliance are in accordance with the requirements ~~of (b) above, it shall without undue delay~~:
(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.
(2) publish the ~~alternative~~ acceptable means of compliance; and
(3) notify the Agency of their content, ~~including copies of all relevant documentation.~~

((d) and (e) should be deleted.
New (d)
AMC`s published by the competent authority of a Member State requires endorsement of the Agency to be commonly used in all Member States.

Justification:
a. The time limit to evaluate applicants AMC has to be deleted, because the applicant rights are usually regulated in a national administration act. The basic regulation gives the COM no power to overrule national acts with regard to authority procedures.
b. Safety assessments are only required in case of safety related AMC`s. Generally safety related task should not be regulated by AMC`s. Power is given to the COM to amend non-essential elements of the basic regulation, supplementing it by Implementing Rules. Therefore a safety assessment to an AMC shall be required in very rare cases. If i is possible to regulate safety related tasks by AMC and GM, than something is wrong and the Implementing Rule has to be amended. We recommend to be very carefully to regulate safety related tasks by AMC`s.
c. There is no power given to the COM in the basic regulation to mandate these procedures.
d. A new d) was added to clarify that national AMC`s cannot automatically be used by applicants of all MS when not endorsed according to the rulemaking procedures by the Agency.
e. AMCs are non-binding material and only one way to show compliance with the IRs. For harmonisation reasons guidance material might be helpful that all NAAs will accept AMC material under similar conditions. But the basic principle shall be safety related tasks shall be regulated in the IRs in a descritive manner.

comment *964* comment by: *DCAA*

AR.GEN.020

(a) The last sentence indicates that fulfilling the AMC material always means that the implementing rules are met. This will change the AMC material to "hard law" without any legal reference in the basic regulation.

(c) (3) The basic regulation do not include requirement that EASA shall approve alternative means of compliance, therefore this article is not acceptable and shall be removed.

(d) Referring to (c) (3) above, this article is not acceptable either.

(e) Referring to the above, this article shall be removed too

comment *965* comment by: *DCAA*

Clarification of terms:

The following terms need clarification:
- Theoretical knowledge Examination,
- Examinations,
- Assessments of pilots skills.

comment *998* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.020 AMC

Text:

When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly

2. Publish the alternative acceptable means of compliance; and

3. Notify the Agency of their content, including copies of al relevant documentation.

Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.
Proposal:
Delete (c)(2) of AR.GEN.020

comment *1005* comment by: *TAP Portugal*

B.Draft Rules - I. Draft Opinion Part-AR - Subpatt GEN - SectionI

Relevant text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.

Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *1006* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(c)
When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall
without undue delay
1. Notify the applicant that they may implement them and, if applicable,
amend the approval or certificate of the applicant accordingly
2. Publish the alternative acceptable means of compliance; and
3. Notify the Agency of their content, including
copies of al relevant documentation.
Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA
rulemaking.
Proposal:
Delete (c) (2) of AR.GEN.020

comment *1007* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.
Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *1009* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.
The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking. In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC. We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.
Proposal:
Delete the para (e) of AR.GEN.020

comment *1010* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
The terms 'alternative AMC' and 'addittional AMC' are not defined. In addition, there is no legal basis for
Competent Authorities to impose additional AMCs.
Proposal:
Delete "additional AMC" and clearly define "alternative AMC"

comment *1027* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.020 AMC

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.
Proposal:
Delete the para (e) of AR.GEN.020

comment *1032* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.020 AMC
Comment:
The terms 'alternative AMC' and 'addittional AMC' are not defined. In addition, there is no legal basis for Competent Authorities to impose additional AMCs.
Proposal:
Delete 'addittional AMC' and clearly define 'alternative AMC'

comment *1040* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(c)
When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly
2. Publish the alternative acceptable means of compliance; and
3. Notify the Agency of their content, including copies of all relevant documentation.

Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.
Proposal:
Delete (c)(2) of AR.GEN.020

comment *1041* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.
Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *1042* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets

the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.

Proposal:
Delete the para (e) of AR.GEN.020

comment *1043* comment by: *Deutsche Lufthansa AG*

Comment:
The terms 'alternative AMC' and 'additional AMC' are not defined. In addition, there is no legal basis for Competent Authorities to impose additional AMCs.
Proposal:
Delete 'additional AMC' and clearly define 'alternative AMC'

comment *1056* comment by: *Ryanair*

AR.GEN.020 (c) – Acceptable Means of Compliance

Comment

To ensure uniformity Operators require guidance material on the safety assessment process described in (c)

Proposal

Add GM to AR.GEN.020. (c)

comment *1058* comment by: *Ryanair*

AR.GEN.020 (d) – Acceptable Means of Compliance

Comment

To ensure uniformity Operators require a definition of "additional acceptable means of compliance"

Proposal

Add GM to AR.GEN.020 (d)

AR.GEN.020 (d) – Acceptable Means of Compliance

Comment

The reference to 'national' procedures should be redundant in the context of a Common European Standard for Aviation. Any national regulations will require Agency approval and will therefore become a European Standard.

Proposal

DELETE any reference to 'national procedures' in this and other Regulations/AMCs/GM

comment *1059* comment by: *Ryanair*

AR.GEN.020 (e) – Acceptable Means of Compliance

Comment
There is no defined timeline for the EASA response to the Competent Authority . Competent Authorities should be given some time line limit for formal response .

Proposal
(e) Upon receiving a notification from a competent authority that alternative or additional
acceptable means of compliance are being used, the Agency shall assess compliance
with the paragraphs above and notify the competent authority *within 14 days.*

comment *1076* comment by: *KLM*

Relevant Text:
(c)
When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly

2. Publish the alternative acceptable means of compliance; and

3. Notify the Agency of their content, including copies of al relevant documentation.

Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.

Proposal:
Delete (c)(2) of AR.GEN.020

comment *1079* comment by: *KLM*

Relevant Text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.
Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *1080* comment by: *KLM*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.

Proposal:
Delete the para (e) of AR.GEN.020

comment *1081* comment by: *KLM*

Comment:
The terms 'alternative AMC' and 'addittional AMC' are not defined. In addition, there is no legal basis for Competent Authorities to impose additional AMCs.
Proposal:

Delete 'addittional AMC' and clearly define 'alternative AMC'

comment *1084* comment by: *Virgin Atlantic Airways*

Relevant Text:

(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediately notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.

Comment:
This paragraph is, in essence, a duplication of para (c) (3)
Proposal:
Delete (d) of AR.GEN.020

comment *1090* comment by: *Virgin Atlantic Airways*

Comment:

The terms 'alternative AMC' and 'additional AMC' are not defined.

Proposal:

Delete 'additional AMC' and clearly define 'alternative AMC'

comment *1117* comment by: *CAA Finland*

(c): Time limit impossible

The competent authority shall ~~within a month from the date of~~ **without undue delay after fully completed** application evaluate all...

comment *1120* comment by: *CAA Finland*

(c): Amend. Reason: Level playing field; all will have the information available at the same time. The legal effect will be considered before any pilot has got unacceptable training.

When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay:
(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.
~~(2) publish the alternative acceptable means of compliance; and~~
~~(3)~~ (2) notify the Agency of their content, including copies of all relevant documentation.

EASA shall publish the alternative acceptable means of compliance on their websites.

(d) When the competent authority **notifies the Agency** of alternative or

additional acceptable means of compliance, the...

comment *1131* comment by: *Unique (Zurich Airport)*

a) - establishment certification basis will require lots of work from aerodromes (as well as national authorities) à grandfathering and transition period will be very important
- it is not forseen that certification specifications contain AMC's
- Cs are not IR's

General: discussions at EASA still open about AR.GEN.020, specific AGNA meeting on (d) is planned

comment *1147* comment by: *BMVBS (MoT Germany)*

The evaluation time of one month after the application may be too short for complex alternative AMCs.
Paragraph (d) should be deleted since it is an repetition of paragraph c 2) without new contents.
Paragraph (e) should be deleted since the evaluation of alternative AMCs is not within the remit of the agency. Alternatively, a new paragraph (d) might describe how the Agency should adopt alternative AMCs according to Article 19 (2) of the BR if it considers them as universally valid.
Recommended amendment of the text:

(c) The competent authority shall ~~within a month from the date of application~~ evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant. When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay:
(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.
(2) publish the alternative acceptable means of compliance; and
(3) notify the Agency of their content, including copies of all relevant documentation.
~~(d) When the competent authority uses alternative or additional acceptable means of compliance, it shall immediately notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revisions to national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objective set out in the implementing rules is met.~~
~~(e) Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.~~
Alternative Wording for Paragraph (d):
(d) Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess whether these means have a general character. If the Agency concludes that an alternative or additional acceptable means of compliance is universally valid it might initiate a rulemaking task to issue it in accordance with Article 19 (2) of the Basic Regulation.

comment *1185* comment by: *British Airways Safety & Security*

Section (c) (2) requires the authority to publish the alternative AMC but there is no specification of where or how this is to be accomplished. There is no AMC to this section (only GM).

comment *1196* comment by: *AIR FRANCE*

Relevant Text:
(c)

When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly

2. Publish the alternative acceptable means of compliance; and

3. Notify the Agency of their content, including copies of al relevant documentation.

Comment:
As the Alternative AMCs are linked to individual organizations, there is no need for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.

Proposal:

Delete (c)(2) of AR.GEN.020

The whole alternative AMC process is not clear, further explanations are needed.

comment *1199* comment by: *CAA CZ*

AR.GEN.020, page 4
The proposal should also specify the steps when NAA is unable to assess the AMC in 1 month. The possibility to shift this task to EASA in this case should be considered.
Procedure to be followed should be specified in case when NAA assess the AMC as acceptable and EASA not afterwoods. It is doubtful to say yes first and then when the thing is implemented to say no. This might cause financial expenses also. Question who will be responsible for this situation and financial losses should be considered.
The possibility to assess the AMC directly by EASA should be considered.
Furthermore, the AMC assessment/approval procedure (process) within the authority should be specified.

comment *1201* comment by: *CAA CZ*

AR.GEN.020 (c), The text „from the date of application" should be replaced by

„from the date of receiving an application".
The time in which EASA has to assess the AMC approved by NAA should be specified. The proposal is very unbalanced when specifies time limits for NAAs only.

comment *1202* comment by: *CAA CZ*

AR.GEN.020 (d),
Difference between "alternative" and "additional" AMC is not cleared. Should be defined.

comment *1237* comment by: *AIR FRANCE*

Comment
(d) There is no definition of an additional AMC. It seems to be different from an alternative AMC.

Proposal:
Define additional AMC and identify the status of an AMC after its title: ie alternative or additional.

comment *1262* comment by: *AIR FRANCE*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.

Comment:
Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA may become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions if the organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative AMC, this shall provide legal certainty. On top of that there should be a clear procedure of appeal.

Proposal:
Reformulate the para (e) of AR.GEN.020 to clarify the Agency role, which must not duplicate the one performed by the CA. Clarifications are needed on the whole AMC process and the procedure of appeal.

comment *1266* comment by: *CAA CZ*

The NAA has evaluated alternative or additional AMC and according to the requirement of the provision AR.GEN.020 (c)(1) notifies the applicant that he may implement them. Subsequently the NAA publishes them in compliance with AR.GEN.020 (c)(2) and notifies the Agency in compliance with AR.GEN.020(c)(3). It is not clear how may proceed the NAA concerned, if the conclusion of the Agency will be negative and the notified AMC will be not subject of rulemaking procedure.How can be than employed the approved AMC by the applicant?

comment *1273* comment by: *Ornulf LIEN*

Comment:
This AR.GEN introduces the term "safety assessment".

Proposal:
Replace "safety assessment" with "risk assessment" in this IR and in the corresponding OR.

If that is not accepted, alternative proposal:
Develop AMC/GM for development of a "safety assessment" and for analysing it for the Authorities.

Justification:
The only other instance of the term I have found in the regulation is in the associated OR.GEN. I have found no definition or explanation of "safety assessment". It is similarly mentioned in the RIA of 2.7 Performance based rule-making, but no further details are given there either.

ICAO SMM uses the term Safety assessment and gives guidance in Chapter 13. There it appears to be a top level process associated with change management within the operator, with only subtle differences from risk management.

My view is that it should be considered if "risk assessment" could be used instead to demonstrate that the safety objectives are met. This would have the benefit that it is used throughout the new regulation and some AMC/GM is already included in this NPA and in NPA 2009-02. If there should be a conscious intention of asking for something more (or less, or different) than what you could get from a risk assessment, that could be added in plain text in the IR. E.g. .., as well as a risk assessment demonstrating that ..... are met, and.... (if somehing else is required).

One example is OPS.COM.270 that asks for development of SOPs based on a risk assessment, and the Explanatory memorandum to PART-OPS item 83 seems to indicate that risk assessment is what is required here to justify an AMC.

comment *1274* comment by: *AEI*

AEI proposes the following text changes:

(b) Alternative acceptable means of compliance may be used to establish compliance withthe implementing rules.These alternative acceptable means of compliance shall only be used when it isdemonstrated that the safety objective set out in the implementing rules is met and approved bythe Agency.

(c) The competent authority shall evaluate all

alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.
When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay notify the Agency.
The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revisions to national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objective set out in the implementing rules is met.

(d) Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs (a) to (c) above, the Implementing Rules and notify the competent authority of its conclusion.

AEI believes that the potential advantages of EASA assessing and approving all AMC's will considerably enhance harmonization and uniformly improve standards. While not only maintaining EASA's "level playing field" for all member states, by being the final arbitrater in all applications. Agency control at the begining of the process will prevent the Agency having to retrospectively prohibit a NAA approved alternate AMC which has been allowed to be put into practice. Such incidents could lead to protracted and expensive legal proceedings against EASA/ NAAs.

comment *1284* comment by: *NFO Technical Commitee*

NFO proposes a change i text to read similar to;

AR.GEN.020 Acceptable Means of Compliance
(a) The Agency shall develop acceptable means of compliance (AMC) that may be used to establish compliance with Basic Regulation and its implementing rules.
When the acceptable means of compliance are complied with, the related requirements of the implementing rules shall be considered as met and is approved by the Agency.
(b) Alternative acceptable means of compliance may be used to establish compliance with the implementing rules.
These alternative acceptable means of compliance shall only be used when it is demonstrated that the safety objective set out in the implementing rules is met.
(c) The competent authority shall within a month from the date of application evaluate all alternative means of compliance proposed by an applicant, by analysing the documentation and safety assessment provided and, if considered necessary, conducting an inspection of the applicant.
When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay:
(1) notify the ~~applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly~~. Agency and forward copies of all documention and findings supporting the application as described in (d) below.
(2) ~~publish the alternative acceptable means of compliance; and~~ shall be notified by the Agency of its conclusion without due delay; and
(3) notify the ~~Agency of their content, including copies of all relevant~~

~~documentation.~~ applicant of the Agency conclusion informing them if they may implement and, if applicable, ammend the applicant's approval certificate accordingly.
(d) When the competent authority ~~uses alternative or additional acceptable means of compliance, it shall immediately notify the Agency. The competent authority~~ forwards an application for alternative or additional acceptable means of compliance to the Agency it shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revisions to national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objective set out in the implementing rules is met.
(e) Upon ~~receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.~~ acceptance by the Agency the alternate or additional acceptable means of compliance is then to be published.

Not all NAAs have the capability, budget or expertise to evaluate such applications (EASA already carries out Permit to Fly applications for specific NAAs for exactly this reason) and some NAAs will have to invest in extra resources and expertise to correctly fulfill the evaluation of such applications. Agency control of the alternate/ additional AMC process will maintain a uniform and higher level of Flight Safety throughout the Community.

comment *1310* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(c)

When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay

1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly
2. Publish the alternative acceptable means of compliance; and
3. Notify the Agency of their content, including copies of al relevant documentation.

Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.
Proposal:
Delete (c)(2) of AR.GEN.020

comment *1311* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the

national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.
Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *1312* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking.

In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient

In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.

Proposal:
Delete the para (e) of AR.GEN.020

comment *1313* comment by: *International Air Transport Association (IATA)*

Comment:
The terms 'alternative AMC' and 'addittional AMC' are not defined. In addition, there is no legal basis for Competent Authorities to impose additional AMCs.
Proposal:
Delete 'addittional AMC' and clearly define 'alternative AMC'

comment *1331* comment by: *ACI EUROPE*

- establishment certification basis will require lots of work from aerodromes (as well as national authorities) à grandfathering and transition period will be very important

- it is not forseen that certification specifications contain AMC's
- Cs are not IR's
- General: discussions at EASA still open about AR.GEN.020, specific AGNA meeting on (d) is planned

comment *1382* comment by: *Luftfahrt-Bundesamt*

The AMC concept presented in this NPA appears to be in conflict with the jurisdictions (or the national law) established in certain Member States. AMC material might be considered binding for NAAs, but because the AMC material is missing the status of 'real' orders or regulations, respectively, a judge at an administrative court might consider them as not applicable and therefore might disregard them.

Apparently, the legal hook for AR.GEN.020 does not seem provided by the basic regulation and the whole requirement must be put into question.

At least the following issues need further consideration:

How can applicants be prevented from forwarding their alternative AMC proposals to more than one national aviation authority? For the applicants this could be considered very efficient in hope to get their proposals accepted by at least one aviation authority, but for the aviation authorities it will most probably not be efficient because the assessment work will be done multiple times by different authorities. Even if a notification procedure amongst authorities might be established (which again causes administrational work beyond the core competencies) it might be time consuming and difficult for authorities to find out which one of them is the competent authority in case of world wide operating consolidated companies and trusts. Thus, each proposal should only be assessed by one authority.

AR.GEN.020 (b):
Please indicate precisely that it is the applicant / initiator of a new AMC who is in charge to demonstrate that safety objectives are met.
The rigid time limit of one month set for each and every authority appears to be questionable, since it most probably does not reflect the different circumstances under which the authority staff members do their work in the different Member States. Also, one month is a very short timeframe, even more, when the "date of application" is the starting point for counting this period. Thus, we propose the following wording:
"The competent authority shall within a timely manner from the date of entry of an application evaluate....."

AR.GEN.020 (d):
It is proposed to delete the second sentence.

AR.GEN.020(e)
What effect has the „Agency conclusion" on the acceptance of alternative or additional means of compliance by the competent authority?

comment *1420* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

- establishment certification basis will require lots of work from aerodromes (as well as national authorities) à grandfathering and transition period will be very important

- it is not forseen that certification specifications contain AMC's
- Cs are not IR's
- General: discussions at EASA still open about AR.GEN.020, specific AGNA meeting on (d) is planned

comment *1430* comment by: *CAE*

AR.GEN.020 (c), (d) & (e) Page 4

How will EASA evaluate Alternate Acceptable Means of Compliance when acting as the competent authority for third country organizations (outside the EU)?

EASA's authority in this area as well as the process for performing this function when EASA is the competent authority is unclear. Who will arbitrate disagreement?

comment *1443* comment by: *CAE*

AR.GEN.020 (e) Page 5

What is the time frame for a decision under this rule?

comment *1468* comment by: *MOT Austria*

AR.GEN.020(a)
Delete (a) or as an alternative change the wording

~~(a) The Agency shall develop acceptable means of compliance (AMC) that may be used to establish compliance with Basic Regulation and its implementing rules.~~
~~The Agency~~ **~~or the NAA of the MS may~~** ~~shall develop acceptable means of compliance (AMC)~~ **~~to assist the Member State and the applicant in the implementation~~** ~~that may be used to establish compliance with~~ **~~of the~~** ~~Basic Regulation and its implementing rules.~~

Justification:
The first sentence can be deleted as it is or replace by another wording, because this is a duplication to the Basic Regulation Art. 18 c), 19(2).

When ~~the~~ acceptable means of compliance are be complied with **by the applicant on a volunt ary basis,** the related requirements of the implementing rules shall be considered as met.
Justification:
In according the basic regulation the Agency issue AMC material for the implementation of the basic regulation and its implementing rules.

It is a basic principle in the community that MS has to implement and apply the rules. AMC`s even when issued by the Agency are by definition non-binding material and assist the applicant to show compliance with the rules. Compliance is on a voluntary basis. AMC`s and GM can be issued either by EASA or the MS. MS are also free to develop AMC material . This should be reflected in the IR.

comment *1470* comment by: *MOT Austria*

Delete (b),
Justification:
Alternative AMC are not mentioned in the Basic Regulation. MS are free to develop AMC and GM material to assist the applicant in the application of the rules.
According to Art 5(5) of the basic regulation only non-essential elements of this Article, shall be regulated by the Implementing Rules.
Even when EASA is issuing an AMC, safety related issues can not be regulated with an AMC. The Implementiung Rules shall contain all safety related issues.

AR.GEN.020(c)
Change the text in (c), delete the text of (d) and (e) and add a new (d):
(c) The competent authority shall ~~within a month from the date of application evaluate all alternative~~ **only acc ept** means of compliance proposed by an applicant, **when jus tified** by analysing the documentation and ~~safety assessment provided and~~, if considered necessary, conducting an inspection of the applicant or **require that a safety assessment is provided.**
When the competent authority finds that the ~~alternative~~ **proposed** acceptable means of compliance are in accordance with the requirements ~~of (b) above, it shall without undue delay~~:
(1) notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly.
(2) publish the ~~alternative~~ acceptable means of compliance; and
(3) notify the Agency of their content, ~~including copies of all relevant documentation.~~

((d) and (e) should be deleted.
New (d)
AMC`s pu blished by the competent auth ority of a Member St ate requires en dorsement of the A gency to be commonly used in all Member States.

Justification:
a. The time limit to evaluate applicants AMC has to be deleted, because the applicant rights are usually regulated in a national administration act. The basic regulation gives the COM no power to overrule national acts with regard to authority procedures.
b. Safety assessments are only required in case of safety related AMC`s. Generally safety related task should not be regulated by AMC`s. Power is given to the COM to amend non-essential elements of the basic regulation, supplementing it by Implementing Rules. Therefore a safety assessment to an AMC shall be required in very rare cases. If i is possible to regulate safety related tasks by AMC and GM, than something is wrong and the Implementing Rule has to be amended. We recommend to be very carefully to regulate safety related tasks by AMC`s.
c. There is no power given to the COM in the basic regulation to mandate these procedures.
d. A new d) was added to clarify that national AMC`s cannot automatically be used by applicants of all MS when not endorsed according to the rulemaking procedures by the Agency.
e. AMCs are non-binding material and only one way to show compliance with the IRs. For harmonisation reasons guidance material might be helpful that all NAAs will accept AMC material under similar conditions. But the basic principle shall be safety related tasks shall be regulated in the IRs in a descritive manner.

comment *1502* comment by: *Airbus*

There are already general provisions in the Basic Regulation Article 14 § 6 and 7, which allow Member States to derogate from the Implementing Rules under certain conditions. Another heavy process is now added for use, adoption and publication of alternative AMC. Is this heavy, resource-consuming process really justified by the equal playing field, transparency, harmonisation and flexibility considerations mentioned in the explanatory note?

comment *1504* comment by: *Airbus*

AR.GEN.020 AMC states in (e) :
"Upon receiving a notification from a competent authority that alternative or additional acceptable means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion."

Comment:
What happens when an AMC has been found acceptable by the NAA, then the Agency considers it is not? On which criteria, if the assessment needs a deep knowledge of the operator's environment, will the Agency takes its decision?

comment *1542* comment by: *TNT Airways*

(e) Upon receiving a notification from the Competent Authority that alterantive or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion

Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.

An AMC approved by a competent authority should not be challenged by EASA.

In case the EASA does not approve the alternative-AMC, who will pay for the damage, workload involved, system investment etc.

We therefore strongly believe notification of the alternative AMC to EASA should be sufficient. EASA can then publish the AMC to make it profitable to all parties involved.

Proposal:
Delete the para (e) of AR.GEN.020

comment *1548* comment by: *ERA*

ERA members recognise that the aim of the BR is to enforce a certain level of safety:

Reference paragraph (a) Currently , no proposed AMC states a comprehensive quantification or assessment of any level of safety. Where applicable, ERA recommends that any AMC contains a comprehensive description as to the level of safety compliance will ensure. To that extent, we propose to add the following sentence at the end of (a) :"For each AMC issued, the safety objectives considered as met should be assessed and stated"

Reference paragraph (b) ERA members do not understand why EASA has not demonstrated whether proposed AMCs achieve the safety objectives set out in the implementing rules. Yet it is a requirement for the alternative AMC. At the very least, there should be a requirement that this level of safety is assessed and stated (see (a) before). Operators feel that it will not be possible to demonstrate any alternative AMC compliance with requirements, since no reference baseline is established.

Reference paragraph (c) "*Competent authority* " is not consistently defined. "Competent authority" is defined in OR-GEN.001, but the definition is restricted to part-OR.

ERA request:

o The alternative AMC safety assessment process should be defined and documented in part-AR / OR, including ways of recourse.

o "undue delays" should be defined, with a quantitative maximum limit, e.g. 2 weeks max. This would be consistent with the prior 1-month delay, and other similar delays stated elsewhere in part-OR (for instance AMC OR.GEN.030/035/040)

o Also, a 14-days maximum delay is provisioned within AMC1 to AR-ATO200(a)(1). Any other values should be consistent or justified

Reference paragraph (d) -While a maximum delay is imposed to Competent authority. EASA has no time-constraint to assess compliance and notify its conclusion. This process should also be time constrained. ERA propose the following wording :

"the Agency shall within a month from the date of notification assess compliance with the paragraphs above and notify the competent authority of its conclusion"

Since the 1-month delay is considered as reasonable by EASA for Competent authority to assess AMC, there is no reason for EASA to claim for more time to do the same thing.

Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.

Reference paragraph (e)
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing
rules, is a matter of EASA Standardization inspections.

The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable since it will become self-blocking.

In case the EASA does not approve the alternative- AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant
amount of money to implement the alternative AMC.

ERA therefore strongly believe notification of the alternative AMC to EASA should be sufficient In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.

The terms 'alternative AMC' and 'addittional AMC' are not defined.

comment *1570* comment by: *Icelandair*

Relevant Text:
(c)
When the competent Authority finds that the alternative acceptable means of compliance are in accordance with the requirements (b) above, it shall without undue delay
1. Notify the applicant that they may implement them and, if applicable, amend the approval or certificate of the applicant accordingly
2. Publish the alternative acceptable means of compliance; and
3. Notify the Agency of their content, including copies of al relevant documentation.
Comment:
Alternative AMCs are linked to oversight of individual organizations. There should therefore be no requirement for the Competent Authority to publish
the alternative AMC. Notification to EASA should be sufficient. Publication of AMCs is a task of EASA rulemaking.
Proposal:

comment *1571* comment by: *Icelandair*

Relevant Text:
(d) When the competent Authority uses alternative or additional acceptable means of compliance, it shall immediate notify the Agency. The competent authority shall provide the Agency with a full description of the alternative or additional acceptable means of compliance, including any revision to the national procedures that may be relevant, as well as a safety assessment demonstrating that the safety objectives set out in the implementing rules is met.
Comment:
This paragraph is a duplication of para (c) (3)
Proposal: Delete (d) of AR.GEN.020

comment *1572* comment by: *Icelandair*

Relevant Text:
(e) Upon receiving a notification from the Competent Authority that alterantive

or additional means of compliance are being used, the Agency shall assess compliance with the paragraphs above and notify the competent authority of its conclusion.
Comment:
There is no legal basis for this proposal. Alternative AMCs are closely linked to oversight which, according the basic 216/2008 regulation, are the responsibility of the Competent Authority. Whether an alternative AMC meets the safety objectives of the implementing rules, is a matter of EASA Standardization inspections.
The proposed two step approval process involving first the Competent authority (CA) and thereafter EASA is completely unacceptable to AEA since it will become self-blocking. In case the EASA does not approve the alternative-AMC, it raises significant questions on who will pay for the damage. The organization - based on the CA approval - will already have invested a significant amount of money to implement the alternative AMC. We therefore strongly believe notification of the alternative AMC to EASA should be sufficient In addition, there should be a maximum timeframe mentioned in which the agency shall assess the alternative AMC-notification from a CA and notify the CA of its conclusion. For the operator that uses the CA approved alternative this shall provide legal certainty. On top of that there should be a clear procedure of appeal.
Proposal:

comment *1592* comment by: *Alie Eising*

Observation
The competence to issue applicable means of compliance is addressed to the Agency by the Basic Regulation. Therefore the Agency only should assess whether alternative means of compliance are in accordance with the corresponding implementing rules. To maintain a level playing field, Member States should not publish alternative means of compliance.

Suggestion
"(a) The requirements of the implementing rules shall be considered as met, when the related acceptable means of compliance are applied.
(b) Without prejudice to (a), the use of alternative means of compliance shall be accepted, when an applicant shows the safety objective set out in the implementing rules is met.
(c) The competent authority shall without undue delay forward an application for the use of alternative means of compliance to the Agency.
(d) The Agency shall assess the proposed alternative means of compliance within 60 days from the date of application. When the alternative means of compliance is found to be acceptable, the Agency shall without undue delay notify the competent authority."

comment *1601* comment by: *Civil Aviation Authority Finland*

Comments:
AR.GEN.020(c) The time frame of one month to evaluate the alternative AMC application is in many cases inadequate.
It is obvious, that the Authority will get so many and complex applications for approval different AMCs, that for a small Authority (like CAA FI) it is impossible to evaluate all of them in one month.
AR.GEN.020(c) It is also possible, that the proposed AMC is not in in accordance with the requirements or does not garantee the equivalent safety,

so the competent Authority has to deny the approval of AMC. The requirement or prosedure of denial is missing.
AR.GEN.020(c)(2) In what way shall the approved alternative AMC be published?
AR.GEN.020(d) - (e) When the Authority notifies the Agency of the approved AMC, which may be allready implemented by the operator, and the Agency may later find, that the AMC is not approved formally in compliance with the paragraphs AR.GEN.020 (a) - (d). What is the prosedure to recall the approval and who shall be responsible of the costs, that the operator has when he implemented the AMC?

In the Paris meeting of 4 - 5 May 2009 the Agency presentative told, that
the Agency only assesses the approval has been formally done by the paragraphs, but does not assess, is the alternative AMC in compliance with the safety requirements set in regulations.
We may have in EU published alternative or additional AMC approved by some State Authority and implemented also in other States, but in the worst case this AMC does not fulfill the safety requirements even it is formally approved in right order?

What is the prosedure to recall the published AMC, if the Agency makes the conclusion the AMC is not formally approved in accordance the paragraphs?

comment *1611* comment by: *Icelandic CAA*

(c).
The specified time frame; "...shall within a month...", may at times be too restrictive in complex cases. A more flexible approach should be possible.

General remark:

Criteria should be established to define 'minor' AMCs that can be accepted at state level without further assessment.

Implementing alternative AMC approved by NAA and possible later rejected by EASA is not credible process. If organisation implements the new alternative procedure and later rejected by EASA, the NAA might be liable. Different approach could be:

- Option 1: EASA will initially evaluate the new alternative AMC and issue conclusion within specified period before any authorisation is issued to organisation.
- Option 2. NAA will evaluate alternative AMC and EASA will not be authorised to reject the method

comment *1638* comment by: *FlightSafety International*

Publication of alternative AMC's might disclose proprietary issues and these should be covered under separate regulation.

For changes to procedures, organizations spent time and money to gain competitive advantages. These will not be made, and thus safety will not be advanced, without an option to keep these issues proprietary. This will inhibit investment into new technology and process improvement by negating competitive advantage.

EASA will be the Competent Authority for organizations outside the EU.
The process for this has not been defined. How will they assign second party responsibility? Who will arbitrate disagreement?

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.025 Coordination and information p. 5

comment *1* comment by: *AIR FRANCE*

Comment for test

comment *64* comment by: *Luftamt Nordbayern*

Nach dieser Vorschrift sollen die Luftfahrtbehörden "all finding raised and follow-up actions taken as result of oversight of persons and organisations exercising activities on the territory of a Member State" austauschen. Das GM zu AR.GEN.030 verweist auf Art. 14 der VO 216/2008. Dort ist von der Mitteilung von "Sicherheitsproblemen" an die EASA die Rede.

Unklar bleibt, welche Informationen tatsächlich ausgetauscht werden sollen. Es ist sinnvoll, wichtige und sicherheitsrelevante Erkenntnisse den anderen Luftfahrtbehörden mitzuteilen. Andererseits führt die Mitteilung sämtlicher Informationen und aller ergriffener Schritte in jeder einzelnen Luftfahrtbehörde zu einer wahren Informationsflut. Wirklich relevante Mitteilungen könnten dann leicht untergehen.

Ein derartiger Austausch sämtlicher Informationen und Maßnahmen sollte sich nur auf wirklich sicherheitskritische Informationen beschränken. Diese sollten in einem Katalog hinreichend bestimmt werden um eine einheitliche Handhabung zu gewährleisten.

Um den Datenaustausch in geordnete Bahnen zu lenken und die Informationen für die angeschlossenen Luftfahrtbehörden auch durchsuchbar zu gestalten ist es unbedingt notwendig eine zentrale Datenbank einzurichten, an die Informationen gesendet werden. Dort sollten alle Informationen zu Personen / Organisationen durchsuchbar und den jeweiligen Personen / Organisationen gesammelt zugeordnet sein. Gegenseitige Mitteilungen machen nur Sinn, wenn diese auch zentral verfügbar und übersichtlich verwaltet sind.

comment *168* comment by: *DGAC FRANCE*

Comments :
AR GEN 025 a) Delete this paragraph since it is already covered by AR GEN 200 . This will avoid contradiction between several provisions without clear scopes
AR GEN 025 b) Delete this paragraph since there is no legal hook for it in the BR and because the scope is not clear. It is particularly not clear what mean "any difficulty"
AR GEN 025 c) We understand this paragraph as encompassing the Agency in its tasks of certification. The EASA shall also engage in safety promotion programmes. This is consistent with the establishment of European wide safety programme.

comment *205* comment by: *DGAC FRANCE*

AR.GEN.025 (d)

The Agency should participate to the coordination and information, and particularly in safety promotion programmes.

In order to increase the coordination and information activities the Agency shall also engage in safety promotion programmes. This is consistent with the establishment of European wide safety programme provided that this idea is included in the BR.

Add this paragraph :

(d) Taking into account national safety promotion programmes, the Agency shall establish a european safety promotion programme to make safety information broadly available to persons and organisations.

comment *231* comment by: *AECA(SPAIN)*

(b) this text should be moved to AR-GEN 355

comment *238* comment by: *Susana Nogueira*

Delete this paragraph.

This is a function of the Agency

comment *501* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
Clarification with BR Article 14 is needed. This obligation is already covered by Article 14.
Safety promotion programmes (SPP) shall be carried out by the Agency to ensure a standardised approach. SPP established by each individual authority possibly lead to different interpretation and application increasing standardisation issues. Furthermore no detailed AMC/GM is available.
European Safety Initiative has to define the basis for national safety promotion programmes which shall be the same in each member state.

Poposal:
Delete (c)

comment *517* comment by: *UK CAA*

Page No: 5 of 77

Paragraph No: AR.GEN.025 (c)

Comment:
It is not understood what this paragraph is intended to require in respect of safety promotion programmes. The text is very open and there is no AMC/GM material to assist. It is proposed that EASA provide Guidance material to explain what is required of the competent authorities in respect of assuring

compliance with this paragraph.

Justification:
Potential for major inconsistency of approach between authorities.

Proposed Text (if applicable):
EASA to define GM material

comment *656* comment by: *Irish Aviation Authority*

It is not clear what is meant by:
1. a safety promotion programme
2. safety information
3. broadly available
Can these terms and concepts please be defined? Otherwise they may be interpreted differently by different people.
DCr 200509

comment *707* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (c):

It is unclear if the safety promotion programmes shall be directed only to the organisations under the responsibility of the competent authority of the Member State, or also to persons and organisations exercising activities on the territory of the Member State. This may imply major translation costs. What if Member States have differing views on the acceptable levels of safety in their countries?

Proposal for (c):

Clarification is needed. The requirements for State Safety Programmes (SSP) assume that States will "provide education, awareness of safety risks and two-way communication of safety relevant information". Would common aviation safety campaigns be required on a European level? In that case, who would decide on, manage and finance these campaigns?

comment *856* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
(a) The notion of "controlled process" shall be more precise in terms of implementation with a definition and guidelines to warranty homogeneous treatment by the Competent authorities, in order to have a level playing field.

PROPOSAL
Precise requirements in an AMC, eg: explain whether ICAO doc 9859 applies or not.

JUSTIFICATION
Obvious

***
(b)
COMMENTS

(b) According to the previous comments the wording "without undue delay" shall be managed differently
(See comment AR.GEN.020)

PROPOSAL
"undue delays" shall be precised, with a quantitative maximum limit, e.g. 2 weeks max.

JUSTIFICATION
Obvious

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet -established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *928* comment by: *BMVBS (MoT Germany)*

The requirement of a safety promotion program has neither a judicial justification in the basic regulation nor satisfies the standards of legal certainty. Therefore, it should be deleted in the rule and might be put into the guidance material to AR.GEN 200 (Management System)

Recommended amendment of the text:

~~(c) The competent authority shall have safety promotion programmes to make safety information broadly available to persons and organisations.~~

comment *933* comment by: *Walter Gessky*

AR.GEN.025
a. change the text of the title and wording of (a)

AR.GEN.025 ~~Coordination and information~~ Obligations
(a) The competent authority shall have ~~a controlled process in accordance with AR.GEN.200~~ **documented procedures** to implement the Basic Regulation and its implementing rules.

Justification:
The basic regulation regulates "Coordination and information", better wording

would be obligation.
The basic regulation gives the COM no power to regulate how NAAs implement and apply the basic regulation and the IRs. Acceptable would be the wording used in Section B, theat the BNAa shall have documented procedures.
b.

comment *935* comment by: *Walter Gessky*

(AR.**GEN.025(b)**
Delete the parts of the old text of (b) and add a new part to (b):
~~The competent authority shall without undue delay notify the Agency in case of any difficulty in the implementation of the Basic Regulation and its implementing rules~~.
(b) Each competent authority of the Member State is responsible for the implement ation of the B asic Regul ation an d the Impl ementing rules and shall notify any difficulty in the implementation of the Basic Regulation and its implementing rules **according to the Basic Regulation**.

Justification:
This is a duplication of Art 10, 14 and 15 of the Basic Regulation, the old text of 21B.45(b) shall be used. According to the basic regulation the COM, Agency and MS has to be informed and not the Agency exclusively as proposed.
a. This obligation of the MS shall be notified.

comment *966* comment by: *DCAA*

(b) No reference in the basic regulation for this requirement, shall therefore be removed.

comment *1132* comment by: *Unique (Zurich Airport)*

provisions for state safety programme should be mentioned thus (c) becomes obsolete

comment *1150* comment by: *BMVBS (MoT Germany)*

The requirement of a safety promotion program has neither a judicial justification in the basic regulation nor satisfies the standards of legal certainty. Therefore, it should be deleted in the rule and might be put into the guidance material to AR.GEN 200 (Management System)

Recommended amendment of the text:

~~(c) The competent authority shall have safety promotion programmes to make safety information broadly available to persons and organisations.~~

comment *1203* comment by: *CAA CZ*

AR.GEN.025 (c), The appropriate way how the public should be informed is not specified. We don't feel the need to mail "safety promotion programs" toevery single person/organization. It should be specified if publishing on the web pages are sufficient as "broadly available".

comment *1332* comment by: *ACI EUROPE*

provisions for state safety programme should be mentioned thus (c) becomes obsolete

comment *1364* comment by: *IACA International Air Carrier Association*

Add a new paragraph (d) requiring authorities distributing referenced, but restricted documents on a need to know basis to applicants, i.a. :
GM OR.OPS.025.SEC Security programme and Security training
Guidance material on the operator security programme is contained in:
1 ICAO Doc 8973 RESTRICTED – Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference; and
2 ECAC Doc 30 Part II RESTRICTED – ECAC Policy Statement in the Field of Civil Aviation Security.

comment *1384* comment by: *Luftfahrt-Bundesamt*

AR.GEN.025 (c):
What tasks are expected to implement a safety promotion program? Is the distribution of related information in the world wide web sufficient or does it mean more activities like conferences, training programs etc.?

comment *1423* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

provisions for state safety programme should be mentioned thus (c) becomes obsolete

comment *1472* comment by: *MOT Austria*

AR.GEN.025
a. change the text of the title and wording of (a)

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(a) The competent authority shall have ~~a controlled process in accordance with AR.GEN.200~~ **documented proce dures** to implement the Basic Regulation and its implementing rules.

Justification:
The basic regulation regulates "Coordination and information", better wording would be obligation.
The basic regulation gives the COM no power to regulate how NAAs implement and apply the basic regulation and the IRs. Acceptable would be the wording used in Section B, theat the BNAa shall have documented procedures.
b.

(AR**.GEN.025(b)**
Delete the parts of the old text of (b) and add a new part to (b):
~~The competent authority shall without undue delay notify the Agency in case of any difficulty in the implementation of the Basic Regulation and its implementing rules~~.
(b) Each competent auth ority of the Member State is r esponsible for the implementation of the Basic Regulation and the Implementing rules and shall notify any difficulty in the implementation of the Basic

Regulation and its implementing rules **according to th e Ba sic Regulation**.

Justification:
This is a duplication of Art 10, 14 and 15 of the Basic Regulation, the old text of 21B.45(b) shall be used. According to the basic regulation the COM, Agency and MS has to be informed and not the Agency exclusively as proposed.
a. This obligation of the MS shall be notified.

comment *1513* comment by: *CAA Norway*

AR.GEN.025(c)

It is unclear exactly what is meant with the sentence *"..to make safety information broadly a vailible to persons an d organisat ions".* As this is an authority requirement, we hope EASA will elaborate on this issue to avoid having different interpretations in the member states?

comment *1614* comment by: *Icelandic CAA*

(c) Without further explanation it is assumed that this 'safety promotion programmes' would be a subset of the applicable state safety programme.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.030 Mutual exchange of information p. 5

comment *7* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Nach dieser Vorschrift sind die zuständigen Luftfahrtbehörden verpflichtet, in einem gegenseitigen Austauschprogramm alle "notwendigen Erkenntnisse" mitzuteilen, die im Rahmen der behördlichen Aufsicht über Personen und Organisationen auftreten. Das GM zu AR.GEN.030 verweist auf Art. 14 der VO 216/2008, wo von der Mitteilung von "Sicherheitsproblemen" an die EASA die Rede ist.

Es ist nachvollziehbar und sinnvoll, dass wesentliche Sicherheitsprobleme, die den Luftverkehr betreffen und dessen Sicherheit gefährden, anderen nationalen Luftfahrtbehörden und auch den anderen EASA-Mitgliedsstaaten mitgeteilt werden müssen.
Nach dem Wortlaut der Vorschriften ("necessary information", "Sicherheitsproblem") ist jedoch unklar, in welchen Fällen die Informationen derart breit gestreut werden müssen.
Jeder Verstoß gegen eine Vorschrift des Luftverkehrsrechts stellt ein potenzielles Sicherheitsproblem im weitesten Sinne dar und bedarf eines irgendwie gearteten behördlichen Tätigwerdens. Dazu gehören auch "minderschwere" Verstöße wie z. B. : eine Flugschule hat von einem luftverkehrsrechtlichen Gesetz nicht die aktuellste Fassung; ein Segelflugpilot hat in der "recency period" einen Start zu wenig absolviert; ein Flugmediziner verrechnet sich bzgl. der Gültigkeitsdauer des Medicals geringfügig usw. In derartigen Fällen kann das "Sicherheitsproblem" abschließend von der zuständigen Behörde behoben werden. Die Weitergabe jeder derartigen Information incl. "follow-up actions" würde bei den Luftfahrtbehörden zu einer unnötigen und zum großen Teil wertlosen Informationsflut führen.

Es sollte daher der selbstständigenden Entscheidung der zuständigen Luftfahrtbehörde überlassen bleiben, welche "Sicherheitsprobleme" sie für erheblich für den Luftverkehr erachtet und daher an andere Behörden weitergibt.
Hilfsweise wäre ein AMC anzufügen, dass im Detail die Fallgruppen wesentlicher Sicherheitsprobleme regelt, die weiterzugeben sind.

Gleiches gilt für die "Mandatory safety information" in AR.GEN.035. und für die Frage der "safety significant occurrences" in AR.GEN.040. Auch hier stellt sich die Frage der Sinnhaftigkeit einer Veröffentlichungspflicht hinsichtlich geringfügiger Gesetzesverstöße. Darüber hinaus erscheint fragwürdig, ob die öffentliche Zugänglichmachung derartiger Informationen mit den Grundsätzen des Datenschutzrechts und mit dem Recht auf informationelle Selbstbestimmung zu vereinbaren ist.

Auch aus NPA 2008-22a App. IV Nr. 2.11 (Reporting of safety occurrences to EASA) geht nicht hervor, um welche "significant occurrences" es sich handelt.

comment *18* comment by: *Oliver Brock MD PhD AME*

This wording is far too general as it would allow free information flow even about confidential personal data such as medical finindings, diagnoses etc from one CA to another.
Several national data protection laws (as in Germany) are objecting such a procedure and general wording and would come in conflict.

Following words should be added: "..shall participate in mutual exchange... as long as the concerned person or organisation is agreeing with that."

comment *34* comment by: *George Knight*

(a)The exchange of information must be limited to that permitted by data protection laws in each state.

comment *89* comment by: *DCA Malta*

AR.GEN 030(a)
'all necessary information' is too broad. Guidance needs to be given to the competent authorities

comment *180* comment by: *DGAC FRANCE*

Comment : AR.GEN.030 (a) We propose to delete this paragraph since it is already covered by article 15 of the BR and that it is not bringing anything new other that legal incertainty ;
Despite GM to AR GEN 030 which covers exemptions granted on the basis of Art 14 of basic regulation, there is no global view on the intention of the legislator on this paragraph. It seems too broad and shall be restrained to useful safety informations. Nevertheless, we recognise that a GM could be necessary to give precisions on this article 15 of BR provided that the proposed GM is improved.

comment *373* comment by: *Bayerisches Staatsministerium für Wirtschaft,*

Infrastruktur, Verkehr und Technologie

Nach dieser Vorschrift sind die zuständigen Luftfahrtbehörden verpflichtet, in einem gegenseitigen Austauschprogramm alle "notwendigen Erkenntnisse" mitzuteilen, die im Rahmen der behördlichen Aufsicht über Personen und Organisationen auftreten. Das GM zu AR.GEN.030 verweist auf Art. 14 der VO 216/2008, wo von der Mitteilung von "Sicherheitsproblemen" an die EASA die Rede ist.

Es ist zwar nachvollziehbar und sinnvoll, dass wesentliche Sicherheitsprobleme, die den Luftverkehr betreffen und dessen Sicherheit gefährden, anderen nationalen Luftfahrtbehörden und auch den anderen EASA-Mitgliedsstaaten mitgeteilt werden müssen. Nach dem Wortlaut der Vorschriften ("necessary information", "Sicherheitsproblem") ist jedoch unklar, in welchen Fällen die Informationen derart breit gestreut werden müssen.

Jeder Verstoß gegen eine Vorschrift des Luftverkehrsrechts stellt ein potenzielles Sicherheitsproblem im weitesten Sinne dar und bedarf eines irgendwie gearteten behördlichen Tätigwerdens. Dazu gehören auch "minderschwere" Verstöße wie z.B. folgende Fälle: Eine Flugschule hat von einem luftverkehrsrechtlichen Gesetz nicht die aktuellste Fassung; ein Segelflugpilot hat in der "recency period" einen Start zu wenig absolviert; ein Flugmediziner verrechnet sich bzgl. der Gültigkeitsdauer des Medicals geringfügig usw.. In derartigen Fällen kann das "Sicherheitsproblem" bereits abschließend von der zuständigen Behörde behoben werden. Die Weitergabe jeder derartigen Information incl. "follow-up actions" würde bei den Luftfahrtbehörden zu einer unnötigen und zum großen Teil wertlosen Informationsflut führen.

Es sollte daher der selbstständigenden Entscheidung der zuständigen Luftfahrtbehörde überlassen bleiben, welche "Sicherheitsprobleme" sie für erheblich für den Luftverkehr erachtet und daher an andere Behörden weitergibt. Hilfsweise wäre ein AMC anzufügen, dass im Detail die Fallgruppen wesentlicher Sicherheitsprobleme regelt, die weiterzugeben sind.

Gleiches gilt für die "Mandatory safety information" in AR.GEN.035. und für die Frage der "safety significant occurrences" in AR.GEN.040. Auch hier stellt sich die Frage der Sinnhaftigkeit einer Veröffentlichungspflicht hinsichtlich geringfügiger Gesetzesverstöße. Darüber hinaus erscheint fragwürdig, ob die öffentliche Zugänglichmachung derartiger Informationen mit den Grundsätzen des Datenschutzes und mit dem Recht auf informationelle Selbstbestimmung zu vereinbaren ist.

Auch aus NPA 2008-22a App. IV Nr. 2.11 (Reporting of safety occurrences to EASA) geht nicht hervor, um welche "significant occurrences" es sich handelt.

Um einen Datenaustausch in geordnete Bahnen zu lenken und die Informationen für die angeschlossenen Luftfahrtbehörden auch durchsuchbar zu gestalten, wäre es auch unbedingt notwendig, eine zentrale Datenbank einzurichten, an die die Informationen gesendet werden. Dort sollten alle Informationen zu Personen/Organisationen durchsuchbar und den jeweiligen Personen/Organisationen gesammelt zugeordnet sein. Gegenseitige Mitteilungen machen nur Sinn, wenn diese auch zentral verfügbar und übersichtlich verwaltet sind.

comment *392* comment by: *Civil Aviation Authority of Norway*

Comment to (a);
These information items needs to specified, otherwise it will be individually interpreted by each member state.
As EASA will not develop or maintain a date base of all AOC holders within the EASA member states, we can not really see the purpose of such information exchange.

comment *393* comment by: *Civil Aviation Authority of Norway*

Comment to (b);
It is described that in cases involving more than one Member State, the concerned competent authorities shall assist each other in carrying out the necessary oversight action. This needs to be more specific concerning the overall responsibility and the final decisions to be made.

comment *478* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

This requirement leads to a considerable amont of additional paperwork without contributing to an increased safety level. The cases where the CA has to participate in the mutual exchange of information have to be specified in the regulation. Detailed AMC are necessary.

The complexity of this task, performed by many different "competent agencies", is expected to create confusion, more than reliable information.
Which authority would be the competent authority in case of several Member States being involved If the involved national authorities disagree in what mutual assistance would look like, whose part will it be to take the final decision? What will happen in case of authorities involved that are not part of the EU system? Imagine a type rating proficiency check on a simulator in a state that is not an EU Member State, whereas the proficiency check is conducted by an examiner who holds an examiner certificate issued by the national authority of EU Member State A and the pilot's licence is issued by the national authority of Member State B.

Especially with regard to EASA's idea of examiners exercising their privileges on behalf of the community, whereas oversight is left to the national authorities that did issue the certificate and/or to the authority of the Member State in which the examiner exercises his privileges, a lot of additional paper work for authorities is suspected. This means enhancing bureaucracy instead of reducing it (please note our comments on NPA 17 referring to the new examiners' role). Furthermore, no authority can predict the amount of work related to the oversight because it is not known in which Member State the certificated persons/organisations will actually exercise their privileges.

What are the competencies of each authority? In such a case, how shall the competent authorities assist each other in oversight action in order to comply with the EASA requirement concerned here? Furthermore, if somebody who disagrees with an authority's decision takes his case to an administrative court in one Member State, the sentence will apply to the authority in this Member State, but not to the other authorities involved.

Proposal:

Because an implementation of this requirement does by no means appear to be feasible, **it is recommended to delete AR.GEN.030 entirely.**

EASA should provide a tool for such an information exchange in form of a centralised data base. Equally EASA should coordinate the oversight

comment *518* comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.030(a)

Comment: This implies that audit findings and follow-up actions will be a part of the mutual exchange of information, which could be problematic under the Freedom of Information (FOI) Act.

Justification: In order to encourage a frank sharing of information during audit, the UK has a strong policy of not sharing audit findings with the public. Information would have to be protected and not part of the public domain.

comment *519* comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.030 (see also UK CAA comments on AR.GEN.305 and AR.GEN.355)

Comment: The objective of the requirement is unclear; paragraph (a) seems to be related to general Community safety objectives, whereas paragraph (b) seems to be more specifically related to oversight of activities in more than one State. The requirement to exchange information on "**all** findings raised… as a result of oversight of persons and organisations exercising activities on the territory of a Member State" does not seem justified to meet either objective and is excessive. Also a typo "finding" should be "findings".

Justification: The requirement to monitor persons and organisations exercising activities on the territory of a Member State in AR.GEN.305 seems to embrace declared and uncertified persons or organisations, which may be carrying out activities only in the territory of the Member State. In this case it may not be necessary to share all findings with other Member States, unless they contribute to common safety objectives. Clarity is needed as to what information is to exchanged in relation to (b), as the requirement to "assist each other in carrying out the necessary oversight action" seems to go much wider than the exchange of information.

Proposed Text (if applicable):

"(a)The competent authorities shall participate in a mutual exchange of information that contributes to the improvement of air safety including, if appropriate, findings raised and follow-up actions taken as a result of any monitoring of persons and organisations exercising activities in the territory of a Member State undertaken in accordance with AR.GEN.305" .

(b) Without prejudice to the competencies of the Member States, where a person or organisation overseen by a competent authority carries out some of

the overseen activities in one or more other Member States, the relevant competent authorities shall share such information as the authorities agree is necessary to ensure effective oversight and monitoring."

comment *569* comment by: *CAA-NL*

Comment
It is suggested to transfer paragraph (b) to AR.GEN.355.

Text proposal
Delete AR.GEN.030(b)

comment *610* comment by: *DGAC FRANCE*

AR GEN 030 (b)

The scope of this requirement is not clear specifically with regard with its consistency with paragraph AR GEN 355 a) which seems to cover the same case ;
this paragraph should be deleted

comment *659* comment by: *Irish Aviation Authority*

NPA 22(b) AR Gen .030 and Gen .355 - The concept of States assisting each other for safety oversight responsibility, while noble in its intent, generates a hazard. The hazard is a lack of clear accountability and responsibility for safety oversight. It is suggested that the State of initial certification should be responsible for the oversight but may enter into memorandum of understanding for assistance with safety oversight function from the state in which the organisation is resident.

In (a), the phrases:

1. all necessary information; and
2. all finding raised

are open to different interpretations by different people. These phrases should be carefully defined or removed. The following or similar wording would require CA's to exchange information but allow discretion.

(a) In order to contribute to the improvement of air safety, the competent authorities shall participate in a mutual exchange of information, including findings raised and follow-up actions taken as a result of oversight of people and organisations exercising activities on the territory of a Member State.

See AR.GEN.005 above. Unless it is mandatory for all people and organisations with activities in a MS other than that of authorisation, to make such activities known to both or all CA's, this ideal of mutual exchange will break down. See suggested text in AR.GEN.355

comment *708* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (a):

1. There is a need to expand on what kind of information would be regarded as "necessary". If we are to send all information, this will create huge volumes of data which could be difficult to analyse. To avoid an unnecessary burden on the competent authorities, procedures and methods need to be defined to simplify the exchange of information.

2. The present secrecy regulations in Sweden may not allow for full insight into the details of audits and inspections when this concerns financially sensitive information.

3. Due to medical confidentiality or other secrecy acts some information from oversight might be confidential which should be clarified in the requirements.

Proposal for (a):

A definition of "necessary information" is needed, as well as a description of the procedures and methods to be used. There must also be a reference to national secrecy requirements.

Comment for (b):

This paragraph seems to be superfluous, or the contents should be integrated into AR.GEN.335 as it concerns oversight responsibilities. Or it could be clarified that this paragraph only concerns **the information flow** between the involved authorities.

Proposal for (b):

1. Clarification is needed. Paragraph 030(b) seems superfluous, or the contents should be integrated into AR.GEN.355.

2. We propose to delete the GM to AR.GEN.030 since the text repeats what is already in Regulation (EC) No 216/2008.

comment *778* comment by: *CAA Belgium*

Proposal: to delet the hole paragraph.

Reason: the required exchange of information as it is written now is mandatory and this is already forseen in paragraph AR.GEN.035.

If this proposal is not accepted we propose then to delete all the text after the word "information" in paragraph (a).

Reason: - most finding are not seen as "necessary information for other Member States" and - sending around Europe a lot of unnecessary information will have as result that nobody is interrested anymore in what he is receiving.

comment *857* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
An organization shall be fully aware of the Competent authorities it depends on and of the pieces of information about itself exchanged between these Competent authorities

PROPOSAL

To that extend, the frame and conditions of information exchange shall be more explicit. At least shall be clearly defined by the regulation :

- The Competent authority and its areas of privileges, in terms of geographic areas, areas of competencies, etc.
-

JUSTIFICATION
Transparency

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The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *936* comment by: *Walter Gessky*

AR.GEN.030
Delete this paragraph.
Justification:
This is adequately regulated in Art 10, 14 and 15 of the basic regulation.
The Management System under paragraph AR.GEN.200 can include the need for adequate procedures to issue mandatory safety information and for mutual exchange of information.

comment *967* comment by: *DCAA*

AR.GEN.030
(a) Exchange of information in between member states is controlled anywhere in the EU legislation. As NAA's are responsible for implementing the basic regulation and implementing rules in the member state, exchange of the sort of information indicated is not relevant, and do not have any legal reference in the basic regulation.

comment *1060* comment by: *Ryanair*

AR.GEN.030 (a) – Mutual Exchange of Information

Comment

The scope of this proposal is too broad

Proposal

In order to contribute to the improvement of air safety, the competent authorities shall participate in mutual exchange of all ramp inspection findings (including nil findings) arising from the oversight of 'foreign' aircraft exercising activities on the territory of the member state.

AR.GEN.030 (b) – Mutual Exchange of Information

Comment

This is irrelevant in the context of comments re AR.GEN.005 (d) – Scope

Proposal

DELETE

comment *1133* comment by: *Unique (Zurich Airport)*

protection of sources of information is necessary but sharing of information is valuable (see art. 14 BR

comment *1152* comment by: *BMVBS (MoT Germany)*

While the mutual exchange of information is highly desirable contribution to collective oversight principles, the text of the requirement lacks the necessary legal certainty. It contains the risk that an exchange of information in way that is envisaged is not feasible and therefore it will not take place. In order to clarify the intention it should be mentioned that this exchange of information will take place mainly by using data base systems, as the SAFA data base. For FTOs and examiners comparable data bases have to be provided by the Agency.

Recommended amendment of the text:

(a) In order to contribute to the improvement of air safety, the competent authorities shall participate in a mutual exchange of ~~all necessary~~ information. ~~, including~~ This includes all major findings raised and followup actions taken as a result of oversight of persons and organisations exercising activities on the territory of a Member State. The competent authorities shall make these data available by using a data base system provided by the Agency.

comment *1154* comment by: *BMVBS (MoT Germany)*

While the mutual exchange of information is highly desirable contribution to collective oversight principles, the text of the requirement lacks the necessary legal certainty. It contains the risk that an exchange of information in way that is envisaged is not feasible and therefore it will not take place. In order to clarify the intention it should be mentioned that this exchange of information will take place mainly by using data base systems, as the SAFA data base. For FTOs and examiners comparable data bases have to be provided by the Agency.

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comment *1186* comment by: *British Airways Safety & Security*

Section (a). Replace **including all finding raised and followup actions** with **including findings raised and follow up actions.**

comment *1204* comment by: *CAA CZ*

AR.GEN.030 (a), The term "**all necess ary information**" should be clearly defined. The exchange of all the findings including follow/up exchanges with all the other EU states seems to be excessive so the type of information should be specified.

comment *1205* comment by: *CAA CZ*

AR.GEN.030 (b), It is not clear who will finance the supervision of other persons and organizations operating on our territory and who will supervise these people and organizations when the competent authority will not have appropriately authorized inspectors available. This shoud be specified.

comment *1333* comment by: *ACI EUROPE*

protection of sources of information is necessary but sharing of information is valuable (see art. 14 BR)

comment *1386* comment by: *Luftfahrt-Bundesamt*

This requirement does not conform to the standards of legal certainty. Moreover, it contains the danger of enhanced bureaucracy without any enhancement to aviation safety.

The complexity of this task, performed by many different "competent agencies", is expected to create confusion, more than reliable information.
Which authority would be the competent authority in case of several Member States being involved if the involved national authorities disagree in what mutual assistance would look like, whose part will it be to take the final decision? What will happen in case of authorities involved that are not part of the EU system? Imagine a type rating proficiency check on a simulator in a state that is not an EU Member State, whereas the proficiency check is conducted by an examiner who holds an examiner certificate issued by the national authority of EU Member State A and the pilot's licence is issued by the national authority of Member State B.
Especially with regard to EASA's idea of examiners exercising their privileges on behalf of the community, whereas oversight is left to the national authorities that did issue the certificate and/or to the authority of the Member State in which the examiner exercises his privileges, a lot of additional paper work for authorities is suspected. This means enhancing bureaucracy instead of reducing it (please note our comments on NPA 17 referring to the new

examiners' role). Furthermore, no authority can predict the amount of work related to the oversight because it is not known in which Member State the certificated persons/organisations will actually exercise their privileges.
What are the competencies of each authority? In such a case, how shall the competent authorities assist each other in oversight action in order to comply with the EASA requirement concerned here? Furthermore, if somebody who disagrees with an authority's decision takes his case to an administrative court in one Member State, the sentence will apply to the authority in this Member State, but not to the other authorities involved.

Because an implementation of this requirement does by no means appear to be feasible, it is recommended to delete AR.GEN.030 entirely.

comment *1424* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

protection of sources of information is necessary but sharing of information is valuable (see art. 14 BR)

comment *1473* comment by: *MOT Austria*

AR.GEN.030
Delete this paragraph.
Justification:
This is adequately regulated in Art 10, 14 and 15 of the basic regulation.
The Management System under paragraph AR.GEN.200 can include the need for adequate procedures to issue mandatory safety information and for mutual exchange of information.

comment *1557* comment by: *EUROCONTROL*

The article (and related AMC) does not capture another dimension of co-operation between the NSAs, in regard of cross-border services or functions, FABs, ANSPs holding a valid certificate from one Member State that also provide services relating to the airspace falling under the responsibility of another Member State and so on (see Regulation 550/2004 Art. 2 and Regulation 1315/2007 Art. 3.2 and Art. 15).

comment *1602* comment by: *Oxford Aviation Academy*

The impact of this requirement needs further addressing for those organisations operating in more than one EU jurisdiction and the implications, i.e. how it is going to be carried out, clearly stated in guidance material. This is related to simulator evaluations and training course approvals conducted within Oxford Aviation Academy's approved organisation.

comment *1617* comment by: *Icelandic CAA*

(a) The scope of the information to be exchanged mutually between states needs to be specified more clearly.

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comment *75* comment by: *AECA(SPAIN)*

Who is the competent Authority?
EASA
National Authorities
EASA + National Authorities

Refer to ESSI

comment *76* comment by: *AECA(SPAIN)*

Paragraph (c)

Modify: 'The competent authority **should** inmediately notify any mandatory safety information issued to the Agency **and th e Agency n otify** the Commission and the lother Member States.'

To guarantee the real comunication to all interested.

comment *182* comment by: *DGAC FRANCE*

AR.GEN.035 (b)

Comment :

1. the information can't always be available to the public. It is better to state to all relevant parts

2. The more efficient way to cooperate on that case should be that the notification should be done to the Agency only which should thereafter notify to Member states.
Modification :

AR.GEN.035 Mandatory safety information

(a) The competent authorities shall issue mandatory safety information to react to a safety problem which involves person(s) or organisation(s) subject to the Basic Regulation and its implementing rules and requiring immediate action.

(b) Mandatory safety information shall be **notified and** made ~~publicly~~ available **to all r elevant parts includin g EASA** and contain, as a minimum, the following information:
(1) the identification of the safety problem;
(2) the identification of the affected activities;
(3) the actions required and their rationale;
(4) the time limit for compliance with the actions required by the mandatory safety information; and
(5) its date of entry into force.

~~(c) The competent authority shall immediately notify any mandatory safety information issued to the Agency, the Commission and the other Member States.~~

comment *239* comment by: *Susana Nogueira*

Definition of Safety information

comment *240* comment by: *Susana Nogueira*

(a) According to outcome 'shall' is to be replaced by 'should'

comment *241* comment by: *Susana Nogueira*

(c) Comments are to be sent to EASA and EASA notify Commission and other MS

This notification is properly a function related with the States coordination and this is a function of EASA. By the other hand this is a very dificult activity for the States.

comment *394* comment by: *Civil Aviation Authority of Norway*

Comment to (b);
We suggest that mandatory safety information which only affects one specific AOC holder does not need to be made publicly available.

comment *479* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

What is mandatory safety information with respect to FCL, ATO, MED, AeMC? Please define the term "**mandatory s afety in formation**" and provide examples.

Regarding AR.GEN.035(c), the involvement of the competent authority should be limited to the support of the Agency, whereas it is our understanding that under the applicability of the Basic Regulation any safety information system should be handled by the Agency entirely. **We do n ot underst and h ow notifying other Member States and t he commission can be consider ed a task for national authorities.**

Poposal:

(c) The competent authority shall immediately notify any mandatory safety information issued to the Agency. The Agency shall immediately notify the Commission and the other Member States.

comment *520* comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.035

Comment: This refers to "mandatory safety information".

But what will make it mandatory? There would need to be an obligation in the implementing rules for individuals and organisations to comply with such

mandatory safety information.

In so far as there is such an obligation, will it be restricted to mandatory safety information issued by the competent authority, which has issued the certificate or received the declaration from that individual or organisation? Would such information only apply to actions specific to an individual or specific organisation under the control and auspices of a given competent authority? Or would every individual or organisation in the EU have to comply with mandatory safety information issued by any competent authority in the EU? The field of Ops and Licensing is unlike the airworthiness field where a mandatory safety issue on a given aircraft could affect the fleet across other EU member states. Operational issues and Simulator issues are likely to be operator specific rather than applicable to multiple entities.

Does this provision place an obligation on a Member State to ensure that its competent authority publishes mandatory safety information on all areas of aviation safety regulation? If not, where is it limited?

Does this provision place an obligation on a Member State to ensure that its competent authority retains sufficient expertise to issue such information?

In addition, this provision now imposes a duty on competent authorities to issue mandatory safety information: this goes beyond Article 14(1) in the Basic Regulation which provides only that nothing in the Basic Regulation or the Implementing Rules shall prevent a Member State from reacting immediately to a safety problem. Overall, the relationship between this proposed requirement and the provisions of Article 14(1) is unclear.

comment *521* comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.035

Comment: It is not clear why (a) refers to "the competent authorities" rather than "the competent authority" as in other requirements, especially when (c) refers to "the competent authority". Further confusion arises because it is not specified what kind of "competent authority" is meant to issue such information [see other UK CAA comments]

comment *522* comment by: *UK CAA*

Page No: 5

Paragraph No: A.R.035 Mandatory Safety information

Comment: If the requirement set out in this paragraph is restricted to activities under Article 14(1) of the Basic Regulation it should include reference to Article 14 of the basic regulation. The precise wording of such a requirement would depend on whether the competent authority or the Member State should notify the Agency, Commission etc: see also UK CAA comment on AR.GEN.045.

Justification: To ensure EASA and the Commission has the opportunity to decide if the measures implemented by the Member State are appropriate and if they must be applied in all Member States.

Proposed Text (if applicable):
EITHER (c) The competent authority shall immediately notify the Agency, the Commission and other Member States of any mandatory safety information it has issued in accordance with Article 14 of the basic regulation.

OR (c) The competent authority shall immediately supply the Member State with the necessary information for notifying the Agency, the Commission and other Member States of any mandatory safety information it has issued in accordance with Article 14 of the basic regulation.

comment *523* comment by: *UK CAA*

Page No: 5

Paragraph No: A.R.GEN.035 (a) Mandatory Safety Information

Comment: The last line of this point should read …its implementing rules that requires immediate action.

Justification: Clarity.

Proposed Text (i f applicable): As proposed in previous UK CAA comment. (A.R.GEN.030 (a))

comment *524* comment by: *UK CAA*

Page No: 5 of 77

Paragraph No: AR.GEN.035 (c)

Comment: If the requirements are not restricted to actions under Article 14(1) (see previous UK CAA comment) there should be a restriction on what information is notified to the Agency, the Commission and Member States.

Justification:
The field of Ops and Licensing is unlike the airworthiness field where a mandatory safety issue on a given aircraft could affect the fleet across other EU member states. Operational issues and Simulator issues are likely to be operator specific rather than applicable to multiple entities.

Proposed Text (if applicable):

Propose amendment of paragraph (c) of AR.GEN.035 (amendments *underlined and italic*):-
EITHER
"*Where such mandatory safety information applies to, or may affect persons or organisations in other Member States,* the competent authority shall immediately notify the Agency, the Commission and the other Member States"
OR
"*Where such mandatory safety information applies to, or may affect persons or organisations in other Member States,* the competent authority shall immediately supply the Member State with the necessary information for notifying the Agency, the Commission and the other Member States"

comment *570* comment by: *CAA-NL*

Comment
No need for paragraph (c); Article 14 of the Basic Regulation suffices.

Text proposal
Delete AR.GEN.035(c)

comment *664* comment by: *Irish Aviation Authority*

There is no definition of 'mandatory safety information' and so it is open to interpretation.

Under (c), once the CA has notified the Agency it should be up to the Agency to notify the Commission and the other Member States and not the CA. The addition of the words 'which shall notify' after the comma would make this clear.
DCr 210509

comment *709* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

We support the general idea of the proposal but the legal status and legal basis of mandatory safety information needs to be clarified. One thing is that the issuance of the information is mandatory for competent authorities, another thing is mandatory compliance with the information within a certain time limit etc. The suggested requirement has similarities with airworthiness directives which have their legal basis in article 5.5(d) of Regulation (EC) No 216/2008. According to article 14.1 of Regulation (EC) No 216/2008 the provisions of that regulation and its implementing rules shall not prevent a Member State from reacting immediately to a safety problem which involves a product, person or organisation subject to the provisions of the Regulation (EC) No 216/2008.

Proposal:

Clarify the legal status and legal basis for the obligation on Member States to produce this kind of information and the obligation to comply with this type of information.

comment *779* comment by: *CAA Belgium*

(c)

Proposal: Add after the word "Agency" the words "and the Agency notifies it to".

Reason: This should be a task for the Agency.

comment *823* comment by: *AEA*

Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an

immediate safety problem
Proposal:
Change the title to 'Immediate Reaction to a Safety problem' (rather than 'Mandatory Safety Information'

comment *837* comment by: *CAA Belgium*

(a) Replace "shall" by "should"
(c) Agency should notify to Commission and other Member States.

comment *903* comment by: *CAA Belgium*

In which case shall the competent authority issue a mandatory safety information ?
Fairly indeterminate.

comment *916* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.035 (Mandatory Safety Information)
Relevant Text:
AR.GEN.035
Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:
Change the title to 'Immediate Reaction to a Safety problem' (rather than 'Mandatory Safety Information'

comment *941* comment by: *Walter Gessky*

AR.GEN.035(a), (b) and (c)
Delete (a),(b) and (c).
Justification:
(a) and (c) is a duplication of requirements of Article 10 and 14 of the basic regulation.
(a) To comply with ICAO SARPs as a part of the state safety programme (a) could be included in AR.GEN.200. Item (b) could be transferred to become an AMC material, to give guidance for a harmonised approach.
If there are standardisation problems known, than Guidance Material may be issued to formalize the reports.
(c) is a duplication of Art 14(1) an can be deleted. MS has automaticaly comply with the notification requirements of Art 14.
No mandate given to the COM in the basic regulation to regulate this in IR`s.

comment *968* comment by: *DCAA*

AR.GEN.035
(b) (c) In principle agreement, that safety information shall be issued to other stakeholders in the aviation safety system. It is the opinion, that a common system should be developed to cover all relevant instances, also instances outside the EU. Regarding certification issues, systems are already in place.

comment *1011* comment by: *Swiss International Airlines / Bruno Pfister*

Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:
change the title to "Immediate Reaction to a Safety Problem)"
(rather tha "Manadatory Safety Information")

comment *1035* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.035 Mandatory safety information
Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:
Change the title to 'Immediate Reaction to a Safety problem' (rather than 'Mandatory Safety Information'

comment *1045* comment by: *Deutsche Lufthansa AG*

Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:
Change the title to 'Immediate Reaction to a Safety problem' (rather than 'Mandatory Safety Information')

comment *1061* comment by: *Ryanair*

AR.GEN.035 – Mutual Exchange of Information

Comment
To ensure uniformity Operators require a definition of 'mandatory safety information'
Proposal
Add GM to AR.GEN.035

comment *1062* comment by: *Ryanair*

AR.GEN.035 (b) – Mutual Exchange of Information

Comment
The decision to release mandatory safety information into the public domain should only be taken by the Agency

Proposal
On the direction of the Agency and in the case of clear public interest mandatory safety information shall be made publically available and shall contain……..

comment *1082* comment by: *KLM*

Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:
Change the title to 'Immediate Reaction to a Safety problem' (rather than 'Mandatory Safety Information'

comment *1126* comment by: *CAA Finland*

Amend. The Agency has to have the power to consider whether the notification needs further actions or not.

(c) The competent authority shall immediately notify any mandatory safety information
issued to the Agency. **The Agency shall notify** the Commission and the other Member States **if required**.

comment *1134* comment by: *Unique (Zurich Airport)*

General:
Mandatory safety information is a valid safety information distribution channel for MRO, ANSP and Operators; it seems however difficult to be reasonably implemented for aerodrome operators given the variety of infrastructures, organisational set-up and type of operation at aerodromes; thus safety information should be provided on voluntary basis. Furthermore, any confusion with the Agency's occurrence reporting system should be avoided. A systematic exchange of safety relevant information is desirable.

Details:
- title refers more to directives issued by NAA's (similar to AD's)
- GM can be ignored à already contained in BR
- General AMC will cover details
- Link to NOTAM's not clear

Contents need to be checked

comment *1155* comment by: *BMVBS (MoT Germany)*

This requirement lacks the necessary legal certainty. To our understanding mandatory safety information pertains primarily to airworthiness and operations. According to Article 20 (1) j) and 22 (1) of the Basic Regulation the distribution of mandatory safety information is a task allocated to the Agency. However, Article 14 of the Basic Regulation mandates the Member States to react to immediate safety problems. Therefore, the text of AR.GEN.035 should clarify this relation.

Recommended amendment of the text:

(a) The competent authorities shall issue mandatory safety information <u>in the cases mentioned in Article 14 of the Basic Regulation</u> to react to a safety problem which involves person(s) or organisation(s) subject to the Basic Regulation and its implementing rules and requiring immediate action.

comment *1206* comment by: *CAA CZ*

AR.GEN.035 (c),
The obligation of notification of EASA is fine. But further distribution to whom it might concern should be done by EASA (to Commission and the other Member States).

comment *1314* comment by: *International Air Transport Association (IATA)*

Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:
Change the title to 'Immediate Reaction to a Safety problem' (rather than 'Mandatory Safety Information'

comment *1334* comment by: *ACI EUROPE*

General:
Mandatory safety information is a valid safety information distribution channel for MRO, ANSP and Operators; it seems however difficult to be reasonably implemented for aerodrome operators given the variety of infrastructures, organisational set-up and type of operation at aerodromes; thus safety information should be provided on voluntary basis. Furthermore, any confusion with the Agency's occurrence reporting system should be avoided. A systematic exchange of safety relevant information is desirable.

Details:
- title refers more to directives issued by NAA's (similar to AD's)
- GM can be ignored à already contained in BR
- General AMC will cover details
- Link to NOTAM's not clear

Contents need to be checked

comment *1388* comment by: *Luftfahrt-Bundesamt*

What is mandatory safety information with respect to FCL, ATO, MED, AeMC? Please define the term "**mandatory s afety in formation**" and provide examples.

Regarding AR.GEN.035(c), the involvement of the competent authority should be limited to the support of the Agency, whereas it is our understanding that under the applicability of the Basic Regulation any safety information system should be handled by the Agency entirely. We do not understand how notifying other Member States and the commission can be considered a task for national authorities.

comment *1425* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

General:
Mandatory safety information is a valid safety information distribution channel for MRO, ANSP and Operators; it seems however difficult to be reasonably implemented for aerodrome operators given the variety of infrastructures,

organisational set-up and type of operation at aerodromes; thus safety information should be provided on voluntary basis. Furthermore, any confusion with the Agency's occurrence reporting system should be avoided. A systematic exchange of safety relevant information is desirable.

Details:
- title refers more to directives issued by NAA's (similar to AD's)
- GM can be ignored à already contained in BR
- General AMC will cover details
- Link to NOTAM's not clear

Contents need to be checked

comment *1474* comment by: *MOT Austria*

AR.GEN.035(a), (b) and (c)
Delete (a),(b) and (c).
Justification:
(a) and (c) is a duplication of requirements of Article 10 and 14 of the basic regulation.
(a) To comply with ICAO SARPs as a part of the state safety programme (a) could be included in AR.GEN.200. Item (b) could be transferred to become an AMC material, to give guidance for a harmonised approach.
If there are standardisation problems known, than Guidance Material may be issued to formalize the reports.
(c) is a duplication of Art 14(1) an can be deleted. MS has automaticaly comply with the notification requirements of Art 14.
No mandate given to the COM in the basic regulation to regulate this in IR

comment *1512* comment by: *CAE*

Paragraph (c) uses "immediately"; it would be clearer if a timeline was provided.

comment *1514* comment by: *CAA Norway*

AR.GEN.035(a)

As long as there is no clear definition of “safety information”, the use of “shall” seems unneccessary strict.

comment *1516* comment by: *CAA Norway*

AR.GEN.035(c)

This requires that the competent authority shall communicate not only to the Agency but also to the Comission and the other Member States. This seems to undermine clear-cut responsibilities and lines of communication. We strongly suggest that the competent authority communicate to the Agency, and that it must be the Agencys responsibility to communicate to the Commission and the other Member States.

comment *1558* comment by: *EUROCONTROL*

The title of the article is misleading as the requirements are almost identical with the ones in article 12 of Regulation 1315/2007 and article 10 of ESARR 1, which refer to "Safety Directives". This well accepted wording should be retained.

comment *1573* comment by: *Icelandair*

Comment:
Rulemaking and safety directives are a role of EASA rather than of the Competent Authority. Competent Authorities should only react in case of an immediate safety problem
Proposal:

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comment *208* comment by: *DGAC FRANCE*

AR.GEN.040
We propose to delete this paragraph.

The articulation between this paragraph and the directive 2003/42 is not clear. Despite the phrase "in addition to the reports required by the applicable legislation on occurrence reporting" which seems to be related to the directive 2003/42, there is a doubt about the articulation. The value of this paragraph is not demonstrated.
There is no AMC to guide the Authority and to evaluate the additional burden. The coordination between Member States and the Commission on occurrence reporting existing legislation and reporting requirement is still been developed and improved (with EASA involvement). The existence of two distinct processes without clearly defining their scope is not justified. In addition, EASA has not yet reported into the European Central Database any occurrence involving manufacturers' incidents.

It should be clearly stated that all safety sensitive informations provided by CA to EASA shall be equally protected ; thus the CA should provide informations and occurrences which are not significant because it is difficult to decide if it is significant or not.

DGAC favours the idea of EASA having complete access to all the data, provided that some conditions are respected in using these data :
- strict confidentiality
- no benchmarking of NAAs or operators

comment *232* comment by: *AECA(SPAIN)*

Delete paragraph.

This rule already covered by other EU rules and use ECAIRS system

comment *242* comment by: *Susana Nogueira*

Delete this paragraph.

Alredy is covered by other EU regulations and use ECAIRS system

comment 263 comment by: *ECA- European Cockpit Association*

Comment on paragraph (b)(1):
(b) The reports shall be:
(1) provided in a form and manner specified by the Agency;

It should be stated where the Agency has specified the form.

comment 395 comment by: *Civil Aviation Authority of Norway*

Comment to (b)(3):
This item needs to be specified, as it is unclear to whom or what the reports need to be open for inspection.

comment 421 comment by: *Civil Aviation Authority of Norway*

The obligation to provide the agency with reports on significant safety occurrences must be coordinated with the corresponding obligation under regulation 1321/2007 and directive 2003/42/ec, which is overseen by the Commission, so that there is no risk for misunderstandings with regard to these obligations.

comment 481 comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
This Requirement shall be deleted. Reporting of occurrences as described is already covered by other EU regulation. The agency has to establish access to this data.
The safety related occurrences that need to be reported to the agency would need further definition.
It is not clear if the Agency refers with the task in this paragraph to "accident investigation units". As the "competent authorities" and the "accident investigation units" are organized separately in several member states, the requested task may only be performed by an "accident investigation unit". This shall be clarified.
In case the Agency refers to ramp inspections, EASA shall respect the fact that according to EU Directive 2003/42/EC dated 13 June 2003, Member States shall participate in an exchange of information by making all relevant safety-related information stored in the competent authority's databases available to the competent authorities of the other Member States and the Commission. A specific software (ECCAIRS) was developed for this purpose specifying the form and format of the reports to be sent to EU's Joint Research Centre at Ispra/Italy. In addition to these occurrence reports, AR.GEN.040 requires that safety significant occurrences shall be provided by the competent authority to the Agency. This rule will establish a double reporting mechanism, although the information required is already available in the EU'S database at Ispra.

Poposal:
Delete AR.GEN.040

comment 525 comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.040

Comment: The distinction between an "occurrence" and a "safety significant occurrence" is not made clear, which means that the rule is not precise and leaves uncertainty in the mind of the reader; there is scope for widely different interpretations by competent authorities. Further, does this mean that a competent authority must review all reports it ordinarily receives to identify those which are safety significant? Or is there any additional requirement to ensure it does actually receive all safety significant reports.

Justification: The draft rule refers to reports in addition to "reports required by the applicable legislation on occurrence reporting in civil aviation", which is currently Directive 2003/42/EC. That directive defines an occurrence as "an operational interruption, defect, fault or other irregular circumstance that has or may have influenced flight safety …" and the scope applies to "occurrences which endanger or which, if not endanger aircraft, its occupants or any other person". All occurrences within the directive would appear to be "safety significant". If the intention is that a sub-set of those occurrences or a different set of occurrences not covered by the directive are to be reported to the Agency then a definition is desirable.

The EU Directive properly covers what data should be submitted, the protection of safety data and the uses to which it may be put. This rule does not offer any such protection and could be out of compliance with ICAO Annex 13.

comment *526* comment by: *UK CAA*

Page No: 5

Paragraph No: A.R.GEN.040 (b) (3) Reporting

Comment: It is not clear to whom reports shall be open to inspection. By comparison, the EU Directive on occurrence reporting in civil aviation properly covers the protection of safety data and the uses to which it may be put. This proposed rule does not offer any such protection and could be out of compliance with ICAO Annex 13.

Justification: Clarity needed as regards protection of information.

comment *527* comment by: *UK CAA*

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Paragraph No: AR.GEN.040(b)(4)

Comment:
This paragraph requires reporting of "safety significant occurrences" in a "timely manner" and in a "form and manner" specified by the agency. Further guidance as to the Agency's expectations regarding "timely" is considered essential. It is proposed that the Agency generate guidance material including the form and manner acceptable.

Justification:
Consistency and Standardisation. There is no guidance in the proposed rules.

Proposed Text (if applicable):

EASA to generate expectations in guidance material.

comment *571* comment by: *CAA-NL*

Comment
The Basic Regulation (Articles 10, 15, 16) does not provide a legal basis for additional requirements with respect to occurrence reporting and the related exchange and dissemination of information.

Text proposal
Delete AR.GEN.040

comment *710* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

We support the principle of collecting safety related information. However, active aviation safety management requires that the information collected is analysed and used to improve safety. There is no information in the NPA proposal how all this information provided to the Agency will be treated and used. The information may, in many cases, be of sensitive nature, and must be treated in accordance with applicable national legislation, such as secrecy requirements.

We have noted that there is a discrepancy between the NPA proposal and the EC Directive 2003/42 on occurrence reporting in that the Directive requires reporting by individuals while organisations are mentioned in the Explanatory Note of the NPA.

Proposal:

The text should be clarified in accordance with our comments. Moreover, a definition is needed of "safety significant occurrences" which should not extend the scope of the EC Directive 2003/42 on occurrence reporting.

comment *824* comment by: *AEA*

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addittion' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *826* comment by: *AEA*

Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.

Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear

Proposal:
Delete (b) (3) of AR.GEN.040

comment *827* comment by: *AEA*

Comment:
There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes.

Proposal:
Add a statement regarding protection of the reports and reporters

comment *838* comment by: *CAA Belgium*

ECARS should be sufficient.
Delete whole paragraph.

comment *859* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

b)(1)(4)
COMMENTS
(b)(1)(4) The agency shall be more precise regarding the explanation, using "form and manner specified by the agency" or "timely manner to the agency" seems not to be enough explicit for a good implementation and warranting a level playing field.

PROPOSAL
Agency shall specify "form and manner" in an AMC or GM to AR.GEN.040
"Timely manner" shall be timebound, i.e. precised, with a quantitative maximum limit.

JUSTIFICATION
See comments AR.GEN.020

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.

FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *917* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.040 (Reporting) (a)
Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addittion' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *918* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.040 (Reporting) (b)
Relevant Text:
AR.GEN.040 (b) The reports shall be
(1) Provided in a form and manner specified by the Agency
(2) Recorded and maintained by the Competent Authority
(3) Open to inspection; and
(4) Communicated in a timely manner to the Agency
Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *919* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.040 (Reporting),
Relevant Text:
AR.GEN,040
Comment:
There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes
Proposal:
Add a statement regarding protection of the reports and reporters

comment *943* comment by: *Walter Gessky*

Delete **AR.GEN.040 Reporting**
Justification:
Requirement shall be deleted. Is regulated in Article 10, 14 and 15 of the basic regulation and in the reporting of occurrences is also described by other EU regulations.
If there are standardisation problems known, than Guidance Material may be issued to formalize the reports. The agency has to establish access to this data.
No mandate given to the COM in the basic regulation to regulate reporting exclusively to the Agency in an IR.

comment *969* comment by: *DCAA*

AR.GEN.040
(a)(b) The Danish CAA do not agree, that further reporting systems from NAA's to EASA shall be established. The articles shall be removed.

comment *1012* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addition' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *1013* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.
Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *1014* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
EU directive 2003/42 was developed in the light of balancing the need to collect occurrence data while protecting identifiable data through de-identification, unless an accident or serious incident occurred, or unless intention or gross negligence indicated a need for follow-up under (national !) criminal law provisions.
This EU Directive already went through extensive legal review by the

Commission, therefore there is neither need for change nor gap to be filled. Identified data should be only available to the national investigation bodies.
Proposal:
Keep the reporting requirements in line with Regulation 2003/42.

comment *1037* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.040 Reporting

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addittion' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *1038* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.040 Reporting
Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.
Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *1039* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.040 Reporting

Comment:
There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes.
Proposal:
Add a statement regarding protection of the reports and reporters

comment *1046* comment by: *Deutsche Lufthansa AG*

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable

legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addition' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *1048* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.

Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *1050* comment by: *Deutsche Lufthansa AG*

Comment:
EU directive 2003/42 was developed in the light of balancing the need to collect occurrence data while protecting identifiable data through de-identification, unless an accident or serious incident occurred, or unless intention or gross negligence indicated a need for follow-up under (national !) criminal law provisions.

This EU Directive already went through extensive legal review by the Commission, therefore there is neither need for change nor gap to be filled. Identified data should be only available to the national investigation bodies.

Proposal:
Keep the reporting requirements in line with Regulation 2003/42.

comment *1064* comment by: *Ryanair*

AR.GEN.040 – Reporting

Comment

All safety significant occurrences are captured by the mandatory occurrence reporting systems in place under current legislation. The proposal creates unnecessary duplication and a requirement for a second and undefined level of safety reporting.

Proposal
DELETE (a) & (b)

comment *1083* comment by: *KLM*

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addittion' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *1085* comment by: *KLM*

Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.

Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *1086* comment by: *KLM*

Comment:
There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes.
Proposal:
Add a statement regarding protection of the reports and reporters

comment *1093* comment by: *Virgin Atlantic Airways*

Relevant Text:

AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.

Comment:

The 'safety significant occurrences' are defined in the applicable legislation on occurrence reporting. There should be no additional reports.

Proposal:

Delete 'In addition' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *1094* comment by: *Virgin Atlantic Airways*

Relevant Text:
(b) The reports shall be:

(1) Provided in a form and manner specified by the Agency
(2) Recorded and maintained by the Competent Authority
(3) Open to inspection; and
(4) Communicated in a timely manner to the Agency.

Comment:

There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *1097* comment by: *Virgin Atlantic Airways*

Comment:

There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes.
Proposal:
Add a statement regarding protection of the reports and reporters

comment *1135* comment by: *Unique (Zurich Airport)*

- Reporting contents (ECCAIRS + plus ?)
- Parallel reporting for NAA's
- AMC for aerodromes necessary
Question: Why does EASA not get access to ECCAIRS data?

comment *1156* comment by: *BMVBS (MoT Germany)*

There is currently no mandate of the community to require member state to report safety occurences in addition to the reports required by the applicable legislation on occurrence reporting. If additional reports might be considered necessary or desirable by the Council, the applicable legislation on occurrence reporting has to be amended.
Since this requirement has no legal justification within the Basic Regulation and contradicts Article 80 of the Treaty, it should be deleted entirely.

Recommended amendment of the text:

~~(a) In addition to the reports required by the applicable legislation on occurrence reporting~~
~~in civil aviation, the competent authority shall provide reports on safety significant~~
~~occurrences to the Agency.~~
~~(b) The reports shall be:~~
~~(1) provided in a form and manner specified by the Agency;~~
~~(2) recorded and maintained by the competent authority;~~
~~(3) open to inspection; and~~
~~(4) communicated in a timely manner to the Agency.~~

comment *1270* comment by: *AIR FRANCE*

In compliance with Art 15 of BR 216/2008, there is a need to introduce adequate protection of safety sensitive information.

comment *1315* comment by: *International Air Transport Association (IATA)*

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal:
Delete 'In addittion' and amend (a) to read as 'Reports required by the applicable legislation on occurrence reporting shall be provided by the Competent Authority to the Agency'

comment *1316* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.

Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:
Delete (b) (3) of AR.GEN.040

comment *1317* comment by: *International Air Transport Association (IATA)*

Comment:
There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes.
Proposal:
Add a statement regarding protection of the reports and reporters

comment *1335* comment by: *ACI EUROPE*

-

- Reporting contents (ECCAIRS + plus ?)
- Parallel reporting for NAA's
- AMC for aerodromes necessary

Question: Why does EASA not get access to ECCAIRS data?

comment *1389* comment by: *Luftfahrt-Bundesamt*

The safety related occurrences that need to be reported to the agency would need further definition.

It is not clear if the Agency refers with the task in this paragraph to "accident investigation units". As the "competent authorities" and the "accident investigation units" are organized separately in several member states, the requested task may only be performed by an "accident investigation unit". This shall be clarified.
In case the Agency refers to ramp inspections, EASA shall respect the fact that according to EU Directive 2003/42/EC dated 13 June 2003, Member States shall participate in an exchange of information by making all relevant safety-related information stored in the competent authority's databases available to the competent authorities of the other Member States and the Commission. A specific software (ECCAIRS) was developed for this purpose specifying the form and format of the reports to be sent to EU's Joint Research Centre at Ispra/Italy. In addition to these occurrence reports, AR.GEN.040 requires that safety significant occurrences shall be provided by the competent authority to the Agency. This rule will establish a double reporting mechanism, although the information required is already available in the EU'S database at Ispra.

AR.GEN.040 is not accepted, not only because it remains unclear what shall be reported, but also because the way to report is not considered appropriate. German aviation authorities do report to the Federal Ministry of Transport, Building and Urban Affairs in a manner appropriate to the ministry, and any further reporting in accordance with the requirements of another institution is considered as a distraction from fulfilling main tasks.

comment *1399* comment by: *Glenn Cronin*

The Department of Transport fully agrees with the comments of the UK CAA regarding the lack of clarity surrounding the definition of "safety significant occurrences" As the CAA notes, all occurrences within the scope of Directive 2003/42 have significance for air safety. We agree with the CAA that if the occurrences which are to be reported to the Agency are different from those defined in the Directive then a definition of "safety significant occurrences" is required. It is essential that all NAAs should be clear as to which occurrences are to be the subject of the new rules and what is the rationale behind them.

We would also welcome reassurance that information derived from occurrence reports and provided to EASA under this rule will receive a similar level of protection to reports made under Directive 2003/42. It is vital that the existing open reporting culture in European aviation should not be jeopardised by the injection of doubt into the minds of aviation personnel about the consequences of their reporting of occurrences. The development of this open reporting culture has been of huge benefit to the enhancement of safety in civil aviation and we need to be certain that new regulations will not inadvertently jeopardise the considerable progress that has been made in this area.

comment *1426* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

- Reporting contents (ECCAIRS + plus ?)
- Parallel reporting for NAA's
- AMC for aerodromes necessary

Question: Why does EASA not get access to ECCAIRS data?

comment *1475* comment by: *MOT Austria*

Delete **AR.GEN.040 Reporting**

Justification:
Requirement shall be deleted. Is regulated in Article 10, 14 and 15 of the basic regulation and in the reporting of occurrences is also described by other EU regulations.
If there are standardisation problems known, than Guidance Material may be issued to formalize the reports. The agency has to establish access to this data.
No mandate given to the COM in the basic regulation to regulate reporting exclusively to the Agency in an IR.

comment *1505* comment by: *Airbus*

Under (a), the term "safety significant occurrences" is introduced. Is there somewhere a definition of what is meant?

comment *1517* comment by: *CAA Norway*

AR.GEN.040(a)

We already have a community-wide reporting system with elaborate regulations, ECCAIRS. Why is it found neccessary to duplicate reporting? And why are the important safe-guards of ECCAIRS not included in this proposal?

comment *1544* comment by: *ETF*

AR.GEN.040

(c) Confidential reporting directly to the Agency through a separate reporting system with feedback to the competent National Authority concerned.

Reason:
Employees in low cost carriers and even in major carriers may have justified reason to report anonymous and may fear reprisals. The ETF suggests that the Agency establish an anonymous reporting system in line with U.S ASRS or UK CHIRP. The FAA inspector scandal and thin whistleblower protection is another reason.

comment *1547* comment by: *TNT Airways*

Comment:
There is a need to introduce adequate protection of safety sensitive information from being put into the general public.

Proposal
Add a statement regarding protection of the reports and reporters, de-identification

comment *1559* comment by: *EUROCONTROL*

Reporting of all safety occurrences at national level is required by the Directive 2003/42 and ESARR 2. Integration of this reported data at European level is required by the Regulation 1321/2007 and ESARR 2-AST. EASA has access to this central repository. Therefore this article would only duplicate reporting lines already required by European/international Law.

comment *1574* comment by: *Icelandair*

Relevant Text:
AR.GEN.040 (a) 'In addition to the reports required by the applicable legislation on occurrence reporting in civil aviation, the competent Authority shall provide reports on safety significant occurrences to the Agency.
Comment
:
The safety significant occurrences are defined in the applicable legislation on occurrence reporting. There should be no additional reports.
Proposal
:

comment *1575* comment by: *Icelandair*

Relevant Text:
(b) The reports shall be
1. (1) Provided in a form and manner specified by the Agency
2. (2) Recorded and maintained by the
Competent Authority
3. (3) Open to inspection; and
4. (4) Communicated in a timely manner to the Agency.
Comment:
There should not be additional inspection by EASA of the reports. The intent of this requirement is unclear
Proposal:

comment *1576* comment by: *Icelandair*

There is a need to introduce adequate protection of safety sensitive information from being put into the general public or being used for non-safety related purposes.
Proposal:

comment *1608* comment by: *Civil Aviation Authority Finland*

Comment:
When we have the mandatory occurrence reporting system by ECCAIRS, what are the additional reports on safety significant occurrences which shall be provided to the Agency?
This is a separate additional reporting task outside the ECCAIRS system.

comment *1621* comment by: *Icelandic CAA*

EASA should ensure its access to safety information related to occurrence reporting directly through the Eccairs repository channels. The need for further channels of information flow has not been justified in the context of occurrence reporting.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 1 - AR.GEN.045 Notification of exemptions p. 5-6

comment *82* comment by: *Nigel Roche*

It is totally illogical to have the header title such as AR.GEN.045 Notification of exemptions on the bottom of one page with the text over leaf - see pages 5 of 77 and 6 of 77. I would suggest that compiler uses the software's ability to prevent widows and orphans occurring.

comment *184* comment by: *DGAC FRANCE*

AR.GEN.045

Comment :

AR.GEN.045 (c)-(7) : the expression « level of safety » can't be measured. It is not always possible to measure depending on organisations involved. It is better to talk about « safety » and to check that safety is not affected.

Modification :

AR.GEN.045 Notification of exemptions

When applying Article 14 (4) of the Basic Regulation, the notification of Member States granting an exemption of repetitive nature or for a period of more than two months shall specify:

(a) the requirement from which the exemption was granted;
(b) the reason for granting the exemption and
(c) the following data as appropriate:

(1) the type of aircraft concerned;
(2) the registration and serial number of the aircraft concerned;
(3) the type of operation concerned;
(4) the person(s) or organisation(s) to whom the exemption is granted;
(5) the applicability date and the duration of the exemption;
(6) indication of previous similar exemptions;
(7) a description of the mitigating measures demonstrating that ~~**the level of**~~ safety is not adversely affected.

comment *209* comment by: *DGAC FRANCE*

AR.GEN.045
The words "Member states" seems inappropriate. While the BR deals with member states in article 14, the aim of Part AR is to set out requirements on "Competent authority" and not "Member state" like it is written in AR GEN 005

Replace "Member state" by "Competent authority"

comment *243* comment by: *Susana Nogueira*

This notification of exemptions will be provided by the Competent Authority, not for Member States

Proposal: In first paragraph: ... 'by a competent Authority of Member States'

Reason: To aling with other parts of this rules

comment *528* comment by: *UK CAA*

Page No: 5

Paragraph No: AR.GEN.045

Comment: The scope of Part AR, according to AR.GEN.005, is the requirements to be followed by "the competent authorities". Is it appropriate therefore to include a rule about what "Member States" should do?

Justification: It has been made clear to national authorities i.e. competent authorities that they must **not** submit notifications of exemptions directly to the Agency, the Commission and other Member States as required by Article 14 of the Basic Regulation; notification must be made by formal Commission procedures, via Permanent Representations. Unless the Commission has agreed that this ruling can be changed, inclusion of these requirements in a rule about what competent authorities should do seems to invite misunderstanding and confusion. It would seem more appropriate to establish what is required not only for notifications of exemptions, but also the other flexibility provisions of Article 14, by some other means.

Alternatively, the rule should specify what competent authorities are meant to do – including possibly also for other flexibility provisions of Article 14 (unless those in Article 14.1 are covered by AR.GEN. 035).

It is not appropriate to have a specific list within the GEN chapter, as those criteria will not apply to aerodromes and ATM. The data mentioned in (c) should be specified in the individual Annexes so that they can be tailored to the discipline.

Proposed Text (i f applic able): Either delete AR.GEN.045 or amend as follows (note: the text below only covers "exemptions" as in the NPA, although it is not understood why this draft rule is limited in that way):

" In order to assist the Member State in the notification of an exemption in accordance with Article 14(4) of the Basic Regulation, the competent authority shall provide to the State information specifying:
(a) (as drafted)
(b) (as drafted)
(c) the following data as appropriate:
(1) delete
(2) delete
(3) – the type of activity concerned.
(4) to (7) (as drafted, except for an amendment to (6) proposed in following UK CAA comment)
(5)

comment *529* comment by: *UK CAA*

Page No: 6

Paragraph No: A.R.GEN.045 (c) (6) Notification of exemptions

Comment: The requirement as currently drafted is subjective.

Justification: Clarity.

Proposed Text: (c)(6) details of similar exemptions granted by the competent authority.

Note: This could include a specific time frame e.g. 24 months in AMC material order to avoid reporting irrelevant historical data.

comment *692* comment by: *Boeing*

AR.GEN.045
Page 5/6

CONCERN: The term "repetitive nature" is not defined. Is this defined by the Member State or EASA? What is the timeframe for a decision under this rule? Since a Member State can only issue an Article 14(4) Exemption for ATOs outside a Member State whose competent authority is EASA, how can a level playing field be assured?

REQUESTED CHANGE: A maximum timeframe for accomplishing this process should be included in the text.

JUSTIFICATION: Requests from ATOs and airlines are often time-critical, so a maximum time period for this process should be established.

Although the premise for the rulemaking process is a level playing field, this issue appears to put non-European-based ATOs at a distinct disadvantage.

comment *711* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The detailed specification in the proposed text may conflict with Member States rights and obligations according to article 14 of the Basic Regulation.

Proposal:

Propose to delete text.

comment *944* comment by: *Walter Gessky*

Delete AR.GEN.045
Justification:
Requirement shall be deleted. Is regulated in Article 14 of the basic regulation.
If there are standardisation problems known, than Guidance Material may be issued to formalize the notification process.
No mandate given to the COM in the basic regulation to regulate this in IR`s.

comment *970* comment by: *DCAA*

AR.GEN.045
(a)-(c) The basic regulation does not include option for establishing implementing rules in this area. The articles shall be removed

comment *1128* comment by: *CAA Finland*

Amend. To cover also "once issued - long lasting" privilege to person (=e.g. new type rating)

When applying Article 14 (4) of the Basic Regulation, the notification of Member States
granting an exemption of repetitive nature or for a period **/giving additional privilege** of more than two months shall specify:

comment *1136* comment by: *Unique (Zurich Airport)*

- Refers to exemptions from BR and IR for a limited time
- AMC for aerodromes necessary or more general provisions
- à must be reviewed in order not to create an unnecessary stream of reports to the agency
- Most excemption information is covered with NOTAM requirements

comment *1336* comment by: *ACI EUROPE*

-
- Refers to exemptions from BR and IR for a limited time
- AMC for aerodromes necessary or more general provisions

à must be reviewed in order not to create an unnecessary stream of reports to the agency
à Most exemption information is covered with NOTAM requirements

comment *1427* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

- Refers to exemptions from BR and IR for a limited time
- AMC for aerodromes necessary or more general provisions

à must be reviewed in order not to create an unnecessary stream of reports to the agency
à Most exemption information is covered with NOTAM requirements

comment *1444* comment by: *CAE*

AR.GEN.045 Page 5/6

Since a Member State only can issue an Article 14 (4) Exemption, how can there be a level playing field for ATOs outside a member state whose competent authority is EASA?

comment *1445* comment by: *CAE*

AR.GEN.045 Page 5/6

Repetitive nature is not specified. Is this defined by the Member State or EASA?

comment *1476* comment by: *MOT Austria*

Delete AR.GEN.045
Justification:

Requirement shall be deleted. Is regulated in Article 14 of the basic regulation. If there are standardisation problems known, than Guidance Material may be issued to formalize the notification process.
No mandate given to the COM in the basic regulation to regulate this in IR`s.

comment *1639* comment by: *FlightSafety International*

Publication of alternative AMC's might disclose proprietary issues and these should be covered under separate regulation.

For changes to procedures, organizations spent time and money to gain competitive advantages. These will not be made, and thus safety will not be advanced, without an option to keep these issues proprietary. This will inhibit investment into new technology and process improvement by negating competitive advantage.

EASA will be the Competent Authority for organizations outside the EU.

The process for this has not been defined. How will they assign second party responsibility? Who will arbitrate disagreement?

comment *1640* comment by: *FlightSafety International*

Repetitive nature is not specified. Is this defined by the Member State or EASA? What is the time frame for a decision under this rule? Since a Member State only can issue an Article 14 (4) Exemption, for ATOs outside a member state whose competent authority is EASA, how can there be a level playing field?

Requests from ATOs and airlines are often time critical, so a maximum time frame should be established.
Premise for the rule-making process is a level playing field however this puts non European based ATOs at a distinct disadvantage.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 2 p. 7

comment *613* comment by: *DGAC FRANCE*

AR.GEN.200, 205 and 220
We propose to delete the whole section 2 of AR.

We consider that the proposal of EASA affects deeply the sovereignty of member states without having the legal basis in the BR to do so. Each state have the responsability to implement EU regulations if we follow the BR.
These fairly major changes proposed by EASA entails to be discussed at the political level (Council and Parliament).

Nevertheless, we propose to transfert the requirements of paragraphs AR.GEN.200, 205 and 220 in GM. This GM should mention the fact that a competent authority does not need to have sufficient staff as it can avail itself of qualified entities or subcontract to other competent authorities

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 2 - p. 7

AR.GEN.200 Management system

comment *81* comment by: *Nigel Roche*

(2) a sufficient number of staff to perform its tasks and discharge its responsibilities

Who will determine that a Competent authority has 'a sufficient number of staff' to discharge a particular responsibility?

If a Competent authority's service (area of responsibility) is compromised due to low staff numbers and the ATO has brought this to the Competent authority's attention but been told by the Competent authority that it has sufficient staff. What redress is there for the ATO?

I feel that in these harder financial times with both industry and the regulators trying to reduce overheads by reducing staff numbers - cut the fat. Unless such questions are asked and the answers promulgated in the form of links to the original order; then such statements as in (2) become meaningless.

comment *83* comment by: *Nigel Roche*

I would suggest adding a further paragraph

(d) that the Competent authority is required to make public without cost all documented policies and procedures to describe its organisation, list the management structure of the authority, annotated as to which posts have responsibility for determining the means and methods used to fulfil the requirements of this Part

comment *91* comment by: *DCA Malta*

AR.GEN 200(b)
Definition of 'field of activity' required.

comment *127* comment by: *ECA- European Cockpit Association*

Comment:

The unprecise language used here is not in line with the EU requirements on regulation clarity. The use of the words "adequate", "sufficient", "necessary" etc. is not in line with Explanatory note N, page 15, paragraph 43:
"In addition to changes in the content of the requirements, the draft implementing rules also present differences in drafting style in relation to the text of JARs. The drafting of Community legislative acts needs to obey a specific set of principles 30 : 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. The need to follow these principles made it inevitable to change the way the requirements were drafted in the JARs, which were much more technical manuals than a legal text."

comment *244* comment by: *Susana Nogueira*

(a)(2) Regarding the rule refered to the sufficient number of staff refer to GM to AR-GEM 200(a)

comment *245* comment by: *Susana Nogueira*

(b) Definition of 'field of activity'

comment *246* comment by: *Susana Nogueira*

(c) Delete completely this paragraph

comment *396* comment by: *Civil Aviation Authority of Norway*

Comment to (c);
The requirements must also reflect the fact that some Authorities only use electronic publishing of internal documentation and procedures.

comment *483* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
We do not believe that EASA is entitled to implement such Authority Requirements by its Basic regulation.
Proposal:
AR.GEN.200 can be deleted as a whole.

comment *530* comment by: *UK CAA*

Page No: 7
Paragraph No: AR.GEN.200 (a)(2)
Comment: Staff may be qualified if they have attended a training course, but this does not make them competent to undertake their duties. Competence also implies an ability to undertake the task (instead of ability to pass an exam) and incorporates continued competence (once qualified does not mean a staff member remains competent – retraining/assessment may be necessary).

Justification: Within OR.GEN.200 (a) (4) the word "competent is used".
Proposed Text (if applicable): Such staff shall be **competent** and have the…."

comment *531* comment by: *UK CAA*

Page No: 7

Paragraph No: A.R.GEN.200 (a) (4)

Comment: The requirement for a competent authority to have an internal audit system is understood in this paragraph. It should be stated in a clear and unambiguous way that compliance shall be established using an audit based process.

Justification: Clarity.

Proposed Text: A.R.GEN.200 (4) a function to monitor compliance of the management system with the relevant requirements and adequacy of the procedures, including the establishment of an internal audit process…

comment *612* comment by: *DGAC FRANCE*

AR.GEN.220 (c)

This paragraph seems to close the door which have been open widely in paragraph AR GEN 030, which is a good thing but EASA should pay attention to the consistency of the two paragraphs.
Thus, which regulation will be applicable with regard to data protection : national or EU ?

Sequence to start with AR GEN 310 followed by AR GEN 305 and AR GEN 300

comment *663* comment by: *UK CAA*

Page No:
7

Paragraph No: AR.GEN.200

Comment:
The requirement for a competent authority to have a sufficient number of staff to perform its tasks and discharge its responsibilities does not appear to allow for the potential use of qualified entities by the authority.

Justification:
The sufficient number of staff needed within an authority will be affected by the use of any qualified entities.
Proposed Text (if applicable):
Add a new sub-paragraph
"(2) a sufficient number of staff**, taking into account any use of qualified entities,** to perform its tasks etc"

comment *713* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (b):

It is not clear what is meant by "each field of acitivity".

Proposal for (b):

Clarification is needed. The definition of "each field of activity" should be given, elaborated or explained.

Comment for (c):

Some authorities use electronic publishing of internal documentation and procedures.

Proposal for (c):

The requirements must also reflect the fact that some Authorities only use electronic publishing of internal documentation and procedures.

comment *839* comment by: *ECA- European Cockpit Association*

Comment: add following paragraph d):
d) The Agenc y shall establis h and maintain its own man agement system in cluding th e items li sted in (a) parragraphs 1 t o 5. The persons referr ed t o in par ragraphs 4 and 5 shall be indepen dent and active.

Create an AMC AR.GEN.200(d) as follows:
The terms of Reference for the independent body of experts should include :

- a requirement for a core of Agency competencies where experts are required to be represented in the body, including flight crew licensing, aircraft operations, air trafic management and aircraft maintenance;
- a requirement for all experts to be active professionnals in their field of competency;
- a counselling mission for experts towards the Agency rulemaking and monitoring activities;
- a ground and, if relevant, flight inspection mission for experts to ensure proper high level quality insurance feedback to the Agency.

Justification:

The BR states in its article 25 that :
« Public interest requires the Agency to base its safety-related action solely on independent expertise, strictly applying this Regulation and the rules adopted by the Commission for its implementation. »

The philosophy developed by the Agency in AR.GEN.020 "Acceptable Means of Compliance" to implement AMCs is based on a risk assessment.

According to this statement, and to the requirement for all competent authorities to implement a MS, it is necessary that the Agency has an independent body of experts to provide the Agency operational feedback expertise on all its fields of competency.

Note : This feedback should not be restricted to crew performance only, but also to include policies, SOPs, operations, training and aircraft maintenance, in order to check that the AMCs fulfill in practice the desired goal.

It is imperative that this body of experts relates directly to the Executive Director of the Agency in order to ensure its complete independence.

The risk assessment included in the Regulatory Impact Assessment is addressed before implementation and therefore remains a theoretical tool.
It is necessary to implement an actual operational quality feedback loop, in order to make sure that the final result is in compliance with the desired goal, not only on a documentary level, but also considering the operational reality.
Moreover, the basic principles of quality insurance imply that the feedback loop

is kept independent from the mechanism it has to survey.

comment *841* comment by: *CAA Belgium*

ICAO also evaluates the NAA Management system.
Two evaluations are redundant.

What if Management System is ok for ICAO and not for EASA ?

comment *860* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Terms used as "sufficient", "adequately", "necessary", "adequate" seem not enough precise and too subjective to be implemented efficiently and homogeneously,

PROPOSAL
More precise definitions shall be given to ensure a level playing field.
Agency shall specify them either in an AMC or GM to AR.GEN.200 if they are restricted to this article, or in a specific part "Definitions" if they are global (see comment AR.GEN.005)
Any additional management system-related activity, as compared to the current situation, shall be at no additional cost for organization and operators

(See also comments AR.GEN.005)

JUSTIFICATION
The aim of the Basic Regulation 216/2008 is to improve safety, not costs.

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *952* comment by: *Walter Gessky*

AR.GEN.200(b)
Change the text:

(b) The competent authority shall, **appoint a ma nager or managers, who are res ponsible for the exec ution of t he relat ed task(s) within th e autority** for each field of activity, ~~appoint one or more persons responsible for the relevant task(s).~~
Justification:
The old text of Section B is prefered because is clarifying that this person has a managing function.

comment *953* comment by: *Walter Gessky*

AR.GEN.200
Add the following to (a)(1)
(1) documented policies and procedures to describe its organisation, means and methods to fulfill the requirements of this Part. The procedures shall be kept up to date and serve as the basic working documents within that competent authority for all related tasks and shall include the Senior Management's Commitment to the Management of Safety.
Justification:
Senior Man agement's Commitment to the Management of Safety shall be added to be in compliance with ICAO SARP.

Add the following to (a)(4):
(4) a function to monitor compliance of the management system with the relevant requirements and adequacy of the procedures to comply with the Community and State safety policy and objectives. Compliance monitoring shall include a safety risk management and a feedback system of audit findings to the senior management of the competent authority to ensure corrective actions as necessary.
Justification:
Reference to the safety policy and the safety risk management shall be added to be in compliance with ICAO SARP.

Add a new (d)
(d) The competent authority shall have safety promotion programmes to make safety information broadly available to persons and organisations.
Justification:
This item was transferred from AR.GEN.035. Compliance with ICAO SARP.

Add a new (e)
((e) The compet ent aut horities sh all establis h proc edures for participation in a mutual exchange of all necessary information and assisting of oth er competent auth orities concerned, including all finding raised and follow- up actions taken as a r esult of oversight of persons and organizations exercising activities on the territory of a Member Stat e, in order to c ontribute to the i mprovement of air safety.
Justification:
Transferred from AR.GEN.030. Transfer of information is an obligation according Art 15 of the basic regulation. The management system shall include procedures to grant this transfer.

comment *971* comment by: *DCAA*

AR.GEN.200
(a) Legal reference in Basic regulation questionable.

(b) Expect an Organisation chart is what is expected to fulfil this requirement.
(c) (c) No special reason to pinpoint accessibility to the Agency, is already done in the Basic Regulation for relevant material.

comment *1066* comment by: *Ryanair*

AR.GEN.200

Comment

Operators seek confirmation that additional costs incurred or created by the Competent Authorities as a result of the introduction of Authority Requirements (AR) [including duplicated oversight responsibilities] shall not be passed on to the customer (airlines).

comment *1137* comment by: *Unique (Zurich Airport)*

- (a) (3) sufficiently trained or adequately competent
- Policy requirement needs clarification (GM to AR.GEN.200) basically a safety policy is needed (cf ICAO state safety programme)
- GM needs to be established for Aerodrome inspectors to be competent for your job (what does: "on the job training" mean, suitable technical training,)
- Training on BR: Syllabus? Approval by EASA? Role EASA?

comment *1142* comment by: *CAA Finland*

Amend. "field" is quite unclear wording.

(b) The competent authority shall, for each field of activity **(for ex ample licensing, org anisation a pprovals, ex amination)**, appoint one or more persons responsible for the relevant task(s).

comment *1157* comment by: *BMVBS (MoT Germany)*

There is no provision within Community Law which mandates the Community to set requirements on the organizational structure of the competent authorities of the Member States. Such a requirement would in addition contradict the principles of subsidiarity which do apply on the fields covered by Article 80 of the Treaty as long as the Council does not decide differently. However, the provision of a management system may be deduced from ICAO standards and might be seen as common sense nowadays. Although, the specific requirements on staffing in Paragraph (b) and the requirement to inform the Agency about the management and its changes has no justification in the Basic Regulation and shall therefore be deleted. If these provisions remain in the opinion sent to the EASA committee a positive vote to the proposal would be impossible for Germany.

Recommended amendment of the text:

~~(a)~~ The competent authority shall establish and maintain a management system, including as a minimum:
(1) documented policies and procedures to describe its organisation, means

and methods to fulfill the requirements of this Part. The procedures shall be kept up to date and serve as the basic working documents within that competent authority for all related tasks;
(2) a sufficient number of staff to perform its tasks and discharge its responsibilities.
Such staff shall be adequately qualified and have the necessary knowledge, experience, initial training and continuation training to perform their allocated tasks;
(3) adequate facilities and office accommodation to perform the allocated tasks; and
(4) a function to monitor compliance of the management system with the relevant requirements and adequacy of the procedures. Compliance monitoring shall include a feedback system of audit findings to the senior management of the competent authority to ensure corrective actions as necessary.
(5) a person or group of persons, ultimately responsible to the senior management of the competent authority, for monitoring compliance of the management system with the relevant requirements and adequacy of the procedures.
~~(b) The competent authority shall, for each field of activity, appoint one or more persons responsible for the relevant task(s).~~
~~(c) A copy of the procedures related to the management system and their amendments shall be made available to the Agency.~~

comment *1207* comment by: *CAA CZ*

AR.GEN.200 (a)(5),
For the management System is responsible competent authority. CAA CZ feels unnecessary to inform EASA about details. The article should be deleted.

comment *1209* comment by: *CAA CZ*

AR.GEN.200 (b), The term „fields of activities" should be specified. Otherwise, the Authority will have to nominate a responsible person(s) for each requirement, each chapter ...,

comment *1272* comment by: *AIR FRANCE*

Editorial:
OR.GEN.215 describes facilities and office accomodation. The paragraph a.3 should have been a specific IR: AR.GEN.215. It is proposed to keep the same architecture between parts.

comment *1337* comment by: *ACI EUROPE*

-
(3) sufficiently trained or adequately competent
Policy requirement needs clarification (GM to AR.GEN.200) basically a safety policy is needed (cf ICAO state safety programme)
GM needs to be established for Aerodrome inspectors to be competent for your job (what does: "on the job training" mean, suitable technical training,)
Training on BR: Syllabus? Approval by EASA? Role EASA?

comment *1365* comment by: *IACA International Air Carrier Association*

(a)
The management system for authorities should be a formally certified management system assuring a standardised level of services and serving as a relevant example for the management systems of certificate holders.
Therefore change wording to "(a) The competent authority shall establish and maintain a formally certified management system, including as a minimum:…"

comment *1390* comment by: *Luftfahrt-Bundesamt*

This requirement is not accepted.

Firstly, the requirement does not conform to the standards of legal certainty. For instance, what does 'sufficient' mean? What has to be interpreted as 'adequately qualified'? Does the term 'staff' only apply to employees or may it also be applied to (dependent or independent) external experts in organisations to which certain tasks might be delegated, thus acting on behalf of the authority, but not employed and without a chance for sanctions?

But the main reason for not accepting this requirement is the fact that EASA's intention to implement authority requirements is not covered by the Basic Regulation. Organisation of its authorities is part of any Member States sovereignty.

comment *1429* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

(3) sufficiently trained or adequately competent
Policy requirement needs clarification (GM to AR.GEN.200) basically a safety policy is needed (cf ICAO state safety programme)
GM needs to be established for Aerodrome inspectors to be competent for your job (what does: "on the job training" mean, suitable technical training,)
Training on BR: Syllabus? Approval by EASA? Role EASA?

comment *1451* comment by: *ETF*

ETF General comment to Management System AR and OR

The additional safety level by a Safety Management System is most welcome. Despite the good European safety records in aviation over the past decades, the increase in traffic will by numbers lead to more incidents and accidents.

At the AR/OR workshop in January 2008 one operator commented that he looked forward to less inspections and oversight from the Authority. Implementing Safety Management should never replace audits and inspections, in fact the oversight and inspections by Authorities are just as vital as before.

Amalberti in 2001 pointed to the fact that becoming highly reliable may be a desirable goal for unsafe or moderately unsafe operations. The reason is that the variability may be reduced and will give the same predictable outcomes.

According to Dekker and Woods 'The high reliability organizational perspective' of an organisation is usually unable to change its model of itself unless and until overwhelming evidence accumulates that demands revising the model. They put forward that the failure in aviation today is not really the result of individual or components. Instead it is related to the ability of the industry to effectively adapt to and to absorb variations, changes, disturbances,

disruptions and surprises.

They suggest that a number of safety dimensions are looked at. One dimension is the commitment of management to balance the acute pressure of production with the chronic pressures of protection.

Open reporting is another subject and here the ETF would encourage the Agency to establish a separate anonymous reporting in line with the U.S. ASRS or U.K. CHIRP.

Other important factors are

- Preparedness/ Anticipation. This implies picking up evidence of developing problems
- Opacity/Observability. That is active monitoring of safety barriers and analysis of how close to the edge the organisation is as well as evaluating degraded defences. An active feedback to all levels in the organisation is recommended.
- Flexibility/Stiffness. Evaluation of how the organisation adopts to change, disruptions and opportunities.

In particular when the production pressures are intense or rising an analysis of the impact on the organisation should take place.

The above recommendations could be included as GM to the Management System.

comment *1477* comment by: *MOT Austria*

AR.GEN.200(b)
Change the text:
(b) The competent authority shall, **appoint a ma nager or managers, who are res ponsible for the exec ution of t he relat ed task(s) within th e autority** for each field of activity, ~~appoint one or more persons responsible for the relevant task(s).~~
Justification:
The old text of Section B is prefered because is clarifying that this person has a managing function.

AR.GEN.200
Add the following to (a)(1)
(1) documented policies and procedures to describe its organisation, means and methods to fulfill the requirements of this Part. The procedures shall be kept up to date and serve as the basic working documents within that competent authority for all related tasks and shall include the Senior Management's Commitment to the Management of Safety.
Justification:
Senior Man agement's Commitment to the Management of Safety shall be added to be in compliance with ICAO SARP.

Add the following to (a)(4):
(4) a function to monitor compliance of the management system with the relevant requirements and adequacy of the procedures to comply with the Community and State safety policy and objectives. Compliance monitoring shall include a safety risk management and a feedback system of audit findings to the senior management of the competent authority to ensure corrective

actions as necessary.
Justification:
Reference to the safety policy and the safety risk management shall be added to be in compliance with ICAO SARP.

Add a new (d)
(d) The competent authority shall have safety promotion programmes to make safety information broadly available to persons and organisations.
Justification:
This item was transferred from AR.GEN.035. Compliance with ICAO SARP.

Add a new (e)
((e) The compet ent aut horities sh all establis h proc edures for participation in a mutual exchange of all necessary information and assisting of oth er competent auth orities concerned, including all finding raised and follow- up actions taken as a r esult of oversight of persons and organizations exercising activities on the territory of a Member Stat e, in order to c ontribute to the i mprovement of air safety.

Justification:
Transferred from AR.GEN.030. Transfer of information is an obligation according Art 15 of the basic regulation. The management system shall include procedures to grant this transfer.

comment *1494* comment by: *MOT Austria*

Add the following to AR.GEN.200(a)(2):
The setup of the organisational structure should ensure that the various tasks and obligations of the competent authority are **usually** not relying on individuals. That means that a continuing and undisturbed fulfillment of these tasks and obligations of the competent authority should also be guaranteed in case of illness, accident or leave of individual employees.
Justification:
Usually NAA are not relying on individuals, but for small country NAA`s for a limited period for various tasks only a single person is available for a limited period. This should be clarified with the addition of usually.

comment *1515* comment by: *CAE*

Paragraph (b) refers to "each field of activity" ; to ensure a common staffing structure between NAA's, it would be useful to list out the fields of activity.

comment *1518* comment by: *CAA Norway*

AR.GEN.200(b)

What is meant by "..*for each field of ac tivity, appoint o ne or more persons responsible for t he r elevant task(s)"*? Could more than one person be responsible for a specific task? Could the same person be responsible for more than one task?

comment *1553* comment by: *ERA*

ERA would like to support IACAs comment that The management system for authorities should be a formally certified management system assuring a standardised level of services and serving as a relevant example for
the management systems of certificate holders.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 2 - AR.GEN.205 Changes in the management system p. 7

comment *84* comment by: *Nigel Roche*

A very good idea provided the Agency applies it equally across the EU

comment *250* comment by: *Susana Nogueira*

Delete all paragraph.

The content of this rule probably is an interference with the States autonomy and his internal organisation.
In adition, is impossible to comply with, and if not need to notify the stablisment of a management system, why need to notify the changes?

comment *397* comment by: *Civil Aviation Authority of Norway*

Comment to (a);
As the management system does not require an initial approval by the Agency, we can not see the need for notifying the Agency of changes to the system, as long as the competent authority keeps a record of these changes.

comment *502* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

Changes of the organisation structure, decision making levels and number and qualification of personnel relevant to the application of the Basic regulation and its Implementing Rules are considered to be a significant change and have to be reported.

Poposal:

Replace a) by:
(a) The competent authority shall notify any significant change in the management system relevant to the application of the Basic regulation and its Implementing Rules to the Agency.
~~*(a) The competent authority shall notify any significant change in the management system to the Agency.*~~
Delete b)
~~*(b) The Agency may decide to review the management system of the competent authority of the Member State and request any clarification or changes.*~~
*(c**b**) The competent authority shall update its management system relating to any change to*
the Basic Regulation and its implementing rules in a timely manner to ensure effective implementation.

comment *532* comment by: *UK CAA*

Page No: 7 of 77

Paragraph No: AR.GEN.200(b) and (c)

Comment:
Whilst it is appropriate for the Agency to require a management system as defined in (a), the requirements of (b) and (c) are overly prescriptive

Justification:
(b) and (c) give the impression that the competent authority is somehow 'approved' by EASA. This is not the case. In particular with (c), the management system is available to the Agency at each standardisation visit.

Proposed Text (if applicable):
Delete (b) and (c)

comment *533* comment by: *UK CAA*

Page No: 7 of 77

Paragraph No: AR.GEN.205(a) and (b)

Comment:
UK CAA has commented that the requirements of AR.GEN.205 (b) and (c) are overly prescriptive and should be deleted. It follows that (a) and (b) of this requirement should be deleted.

Justification:
See UK CAA comment on AR.GEN.205 (b) and (c)

Proposed Text (if applicable):
Delete (a) and (b)

comment *534* comment by: *UK CAA*

Page No: 7

Paragraph No: AR.GEN.205 (b)

Comment: See previous UK CAA comment. However, if paragraph (b) is not deleted it should be amended as it appears to contain a mistake. CAA assumes that the wording should be "and request any clarification **of** changes".

Justification: As drafted the wording "clarification or changes" is worded too strongly and could be interpreted to be an obligation on the competent authority to instigate Agency specified changes to its management system. CAA assumes this is not the intention as it should not be within EASA's remit to specify what changes are necessary to bring an NAA's management system into compliance. This obligation should remain with the NAA.

Proposed Text (if applicable): "….and request any clarification ~~or~~ **of** changes"

comment *572* comment by: *CAA-NL*

Comment
The Basic Regulation (Article 24) does not provide a legal basis for the supervision of competent authorities by the Agency.

Text proposal
Delete AR.GEN.205

comment *653* comment by: *ENAC TLP*

it is not clear what does it mean by "EASA may decide to review the management system of the competent Authority". We don't agree with the possibility to review facilities, number of staff, office accomodation. Furthermore we think that it could be very difficult to affect on the administrative system.
It could be better to specifying that the Agency can simply request changes in the management system, as a result of the standardisation process.

comment *722* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (b):

We question that EASA shall have the authority to request changes in the management system of a national aviation authority. The Swedish Transport Agency is subordinate to the Swedish government. It must be up to the Member State to deal with possible shortcomings in the organisation and management of its national aviation authority.

Proposal for (b):

Delete, or modify so that EASA is only given the task of finding non-compliances with regulations through standardisation procedures according to articles 24 and 54 of Regulation (EC) No 216/2008.

comment *780* comment by: *CAA Belgium*

Proposal: Delete the hole text.

Reason: The Member State has his own autonomy to establish his own system.

comment *958* comment by: *Walter Gessky*

AR.GEN.205:
Delete (b) and (c)
Justificaton:
Inspections of the MS is regulated in Art 54 of the Basic Regulation. No mandate is given to the COM to add MS inspection requirements in the IR.
When the compliance with latest requirements has to be shown for existing approvals, than this has to be notified in the regulation. The basic regulation notifies what is required with regard to the repeale and entry into force, the IRs with regard to grandfathering.
(c) entry into force and the repeal of old regulations is regulated in Art 69 and 70 of the basic regulation and therfore a dupplication and not required to be

regulated in the IR. No mandat is given to the COM in the basic regulation that in a different manner in the IR. Obligation from the treaty to follow EU regulations.

comment *972* comment by: *DCAA*

AR.GEN.205
(a),(b) Total disagreement with these articles.

comment *980* comment by: *DCAA*

The paragraph shall be deleted. Examiners shall be designated by the competent Authority. Existing text from JAR-FCL 1.030/2.030 shall be maintained.

JAR–FCL 1.030 Arrangements for testing
(a) Authorisation of examiners.
The Authority will designate and authorise as examiners suitably qualified persons of integrity to conduct on its behalf, skill tests and proficiency checks. The minimum qualifications for examiners are set out in JAR–FCL 1 (Aeroplane), Subpart I. Examiners' responsibilities and privileges will be notified to them individually in writing by the Authority.
(b) Number of examiners.
The Authority will determine the number of examiners it requires, taking account of the number and geographic distribution of its pilot population.
(c) Notification of examiners.
(1) The Authority will maintain a list of all examiners it has authorised stating for which roles they are authorised. The list will be made available to TRTOs, FTOs and registered facilities within the JAA Member State. The Authority will determine by which means the examiners will be allocated to the skill test.

(2) The Authority designate the examiner(s) for the conduct of the skill test for the issue of MPL(A) and ATPL(A)/ATPL(H)

comment *1138* comment by: *Unique (Zurich Airport)*

Unclear whether EASA will review the management system or request changes

comment *1153* comment by: *CAA Finland*

Delete totally or create a common structure for all authorities. Either the structure shall be equal everywhere in Europe or only the result of nationally constructed NAA organization shall be estimated. I support common structure, but it may be impossible to have in force.

comment *1161* comment by: *BMVBS (MoT Germany)*

The text of AR.GEN.205 goes beyond the authorization of the Basic Regulation (see also the comment to AR.GEN.200). Therefore, the Paragraphs (a) and (b) shall be deleted.

Recommended amendment of the text:

~~(a) The competent authority shall notify any significant change in the management system to the Agency.~~
~~(b) The Agency may decide to review the management system of the competent authority of the Member State and request any clarification or changes.~~
~~(c)~~ The competent authority shall update its management system relating to any change to the Basic Regulation and its implementing rules in a timely manner to ensure effective implementation.

comment *1338* comment by: *ACI EUROPE*

Unclear whether EASA will review the management system or request changes

comment *1392* comment by: *Luftfahrt-Bundesamt*

AR.GEN.205 (b):
Is the competent authority still "competent" when the Agency may require changes to the CAs management system? What kind of changes may be required? Only changes to ensure compliance with the relevant rules (EC 216/2008 1702/2003 2042/2003) should be accepted.

comment *1431* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

Unclear whether EASA will review the management system or request changes

comment *1478* comment by: *MOT Austria*

AR.GEN.205:
Delete (b) and (c)
Justificaton:
Inspections of the MS is regulated in Art 54 of the Basic Regulation. No mandate is given to the COM to add MS inspection requirements in the IR.
When the compliance with latest requirements has to be shown for existing approvals, than this has to be notified in the regulation. The basic regulation notifies what is required with regard to the repeale and entry into force, the IRs with regard to grandfathering.
(c) entry into force and the repeal of old regulations is regulated in Art 69 and 70 of the basic regulation and therfore a dupplication and not required to be regulated in the IR. No mandat is given to the COM in the basic regulation that in a different manner in the IR. Obligation from the treaty to follow EU regulations.

comment *1519* comment by: *CAA Norway*

AR.GEN.205(b)

In the specific context of standardisation activities, it seems logic that the Agency may review the management system of a competent authority.

We assume there is an important typographical error in the last part of the sentence, and that it should read "..*and request any clarification* **of** *changes"*

Does EASA envision engaging beyond the normal standardisation activities, i.e. LIST, MEST, MAST, OPST etc, into assessing the structure of management

systems in the competent authorities on a general basis?

comment *1615* comment by: *Civil Aviation Authority Finland*

Comment:
AR.GEN.205(a) When the Management System does not require an initial approval by the Agency, there should not be any need for notifying the Agency of the changes to the Management System.

comment *1623* comment by: *Icelandic CAA*

The Agency should not interfere with organizational design within states unless indicated necessary as a result of a standardisation visit.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 2 - AR.GEN.220 Record-keeping p. 7-8

comment *108* comment by: *DCA Malta*

AR.GEN220
Which Data Protection rules shall be applied?

comment *147* comment by: *ECA- European Cockpit Association*

Comment: add the following paragraph on sensitive data protection (see also comment 146):
(d) All records containing sensitive data regarding applicants or organisations should be stored in a secure manner with controlled access to ensure confidentiality of this kind of data.

Justification:
In the same way as for the flight data analysis, data confidentiality is an essential keystone of an efficient management system. In particular, voluntary finding report will work properly only if the reporter is confident in the system. This implies a very high level of regulatory enforcement for this protection.

comment *251* comment by: *Susana Nogueira*

(6) According AR-GEM 005 'ramp checks' are not included

comment *252* comment by: *Susana Nogueira*

(b) this period of 5 years is short. Is possible, for example, to find ATPL courses with a duration of more 3 years

comment *253* comment by: *Susana Nogueira*

(c) Wich of rules applicable to 'Data protection' will be applied in this case. EU rules, EASA rules or National rules?.

comment *398* comment by: *Civil Aviation Authority of Norway*

Comment to (b);
An effective management system requires that records are kept as long as they are applicable, and can be used for trend monitoring analysis or accident/incident investigations, therefore a period of 5 years would not be adequate for this purposes.

comment *484* comment by: *Air Berlin Technik*

referring to AR.GEN.220 (b):

The 5 year period should be carefully reviewed. Regarding an approval being the "product" of an authority, product liability periods should be considered as well as claim limitations. In any case, the retention periods must be referenced to the date of withdrawal, revocation or suspension of the approval.

comment *535* comment by: *UK CAA*

Page No: 7

Paragraph No: AR.GEN.220

Comment:
It is not clear why this refers to "the competent authorities" rather than "the competent authority" as in other requirements. Again added confusion arises because of the differing responsibilities of different kinds of competent authorities.

comment *536* comment by: *UK CAA*

Page No: 7

Paragraph No: AR.GEN.220 (a)

Comment:
There is no reference to the traceability of declaration processes or of where activities are carried out.

Justification:
If a competent authority is to be able to monitor the activities of persons or organisations exercising activities on the territory of its Member State – as in AR.GEN.305 – it needs to know about such activities, including organisations subject to declarations.

Proposed Text (if applicable):
Add (x) declaration processes;
(xx) the location of all activities carried out in other Member States by persons or organisations certified by the authority or subject to a declaration procedure;

comment *537* comment by: *UK CAA*

Page No: 7

Paragraph No: AR.GEN.220 (a)(6)

Comment:
The specific mention of "ramp inspections" requires clarification. If it is meant to cover the inspections that a competent authority would carry out as part of its AOC certification and oversight activities, there seems no need to establish separate traceability. If it is meant to cover "SAFA type" inspections then it is not clear that this is the correct place to refer to it.

Justification:
For operators that competent authorities oversee directly, ramp inspections are but one element of the oversight activities covered by AR.GEN.220(a)(2) so that its separate mention here seems inappropriate. However, NPA 2009-02d Section IV sets out requirements for ramp inspections, which seem to be aligned with SAFA inspections. Moreover the requirements are to be followed by "a Member State inspecting authority" not a "competent authority". Member States may use different bodies from competent authorities to do so. This is an example of the confusion that can be created by the "tool-box" structure adopted by the agency.

Proposed Text (if applicable):
Delete. If necessary, add specific requirement to Part-AR, Subpart GEN, Section IV – Ramp inspections.

comment *538* comment by: *UK CAA*

Page No: 7

Paragraph No: AR.GEN.220 (b)

Comment:
This requires "all records" to be kept for a minimum of five years. But EU rules provide that a competent authority ought not to keep personal information for longer than necessary i.e., a period during which it may wish to refer to it. So for example a minor finding against an individual is probably not going to be relevant for the treatment of that individual long before the five years are up. In addition, this provision requires all these records (but in this case subject to data protection rules) to be made available to the Agency and in some circumstances to other competent authorities. Again, the competent authority would need to consider what confidentiality would be given to these records by the recipients. With personal data (relating to living individuals) the EU-wide data protection rules will ensure an appropriate level of protection. But some of these records will not be subject to the data protection rules.

Justification:
Clarification and potential conflict with EU data protection laws.

comment *539* comment by: *UK CAA*

Page No: 8

Paragraph No: AR.GEN.220(b)

Comment: It is unclear where the record retention period of 5 years originates Part 21B.260(c) states 6 years, Part 145.B.55(3) states 4 years. Has a harmonised position been reached or does 5 years simply originate from JAR-

OPS? A period appropriate to all organisation approvals should be reached now to simplify future incorporation of other approval types.

Justification: Harmonisation and clarity of requirements

Proposed Text (if applicable): N/A

comment *540* comment by: *UK CAA*

Page No: 8 of 77

Paragraph No: AR.GEN.220(b)

Comment:
Paragraph (b) is inconsistent with the requirements placed on ATO for FSTD records. EASA is requested to confirm the minimum 5-year period in light of this inconsistency.

Justification:
OR.ATO.120 requires operator to retain certain records for the life of the FSTD.

comment *573* comment by: *CAA-NL*

Comment
Ramp inspections need not be separately mentioned as they make part of the oversight.

Text proposal
"(5) mandatory safety information, and;
(6) use of the flexibility provisions in accordance with Article 14 of the Basic Regulation."

comment *725* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (a) (b) (c):

The meaning of the word "records" is unclear. Is it to be understood as public documents, verdicts or documents entered into a diary? If the meaning is documents entered into a diary, the proposal will not mean a big difference from how we work today. It is the Secrecy Act which decides if a document must be entered into a diary or not. If the meaning of records is "public documents", there will be a problem, since it is impossible for the authority to keep everything that is to be seen as public documents. Verdicts are kept for ever.

In addition, the proposal will require elaborate computer support for the supervision of AeMC, AME and GMP.

Proposal for (a) (b) (c):

1. Define the meaning of record as documents entered into a diary; for example in an AMC or GM.

2. The economic impact for all Member States to develop new or to extend their present computer systems, and to keep them maintained, should be considered.

comment *781* comment by: *CAA Belgium*

(c)

Question: which "data protection rules" are meant ?
The national rules, the EU rules or both ?

comment *861* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Any additional record-keeping activity, as compared to the current situation, shall be at no additional cost for operators / organizations.

JUSTIFICATION
The objective of the Basic Regulation 216/2008 is to improve safety, not costs.

******

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *973* comment by: *DCAA*

AR.GEN.220
(a) It is questionable how many of items (1) - (7) that has legal reference in the Basic regulation. It is for sure, that (7) do not have any legal reference.

comment *1139* comment by: *Unique (Zurich Airport)*

Timeframe: 5 years for records is to shortà according to regulated area or type of document is proposed, otherwise a special AMC for ADR
- AMC 2: List of records to be adjusted (organisation manual or aerodrome manual as the case may be, operations manual or aerodrome manual as the case may be, addtl. certification basis
- AMC 4: needed for "hardware"

comment *1328* comment by: *Walter Gessky*

AR.GEN.220
Delete (a)(7) and transfer to GM to the Basic Regulation
Justification:
No mandate is given in Art 14 to regulate procedures in an Implementing Rule.
When EASA identifies problems with regard to record keeping, than there are 2 options:
a. the COM initiate a process to change the Basic Regulation even with regards to a mandate to regulate specific tasks in the IR, or
b. EASA issue GM for the application of the Basic Regulation (Art 18)

Delete (c)
Justification:
Regulated in Art 16 of the Basic Regulation.
If problems exist action a. or b. above shall be followed.

comment *1339* comment by: *ACI EUROPE*

-

- Timeframe: 5 years for records is to shortà according to regulated area or type of document is proposed, otherwise a special AMC for ADR
- AMC 2: List of records to be adjusted (organisation manual or aerodrome manual as the case may be, operations manual or aerodrome manual as the case may be, addtl. certification basis
- AMC 4: needed for "hardware"

comment *1367* comment by: *IACA International Air Carrier Association*

(b)
This period is too short. Many approvals will long survive the 5 year period. Relevant documents, e.g. those created during the certification process will contain explanatory material for certain decisions and should be kept for reference purposes, as long as the approval is valid, and 5 years thereafter.

comment *1368* comment by: *IACA International Air Carrier Association*

(b)
Add '…after expiry date of the related approval."

comment *1432* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

- Timeframe: 5 years for records is to shortà according to regulated area or type of document is proposed, otherwise a special AMC for ADR
- AMC 2: List of records to be adjusted (organisation manual or aerodrome manual as the case may be, operations manual or aerodrome manual as the case may be, addtl. certification basis
- AMC 4: needed for "hardware"

comment *1479* comment by: *MOT Austria*

AR.GEN.220
Delete (a)(7) and transfer to GM to the Basic Regulation
Justification:
No mandate is given in Art 14 to regulate procedures in an Implementing Rule.

When EASA identifies problems with regard to record keeping, than there are 2 options:
a. the COM initiate a process to change the Basic Regulation even with regards to a mandate to regulate specific tasks in the IR, or
b. EASA issue GM for the application of the Basic Regulation (Art 18)

Delete (c)
Justification:
Regulated in Art 16 of the Basic Regulation.
If problems exist action a. or b. above shall be followed.

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comment *254* comment by: *Susana Nogueira*

The structure of this section is not clear and must be revised.
Sugestion:

Use this sequence: Start with AR-GEN 310, and folow by AR-GEN 305 and AR-GEN 300

comment *491* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
The structure is not clear.
Proposal:
The paragraph must be revised.

comment *541* comment by: *UK CAA*

Page No: 9

Paragraph No: Section 3 in general

Comment: This section would appear more logical if the natural order of oversight were adhered to in the paragraphs.

- Certification
- Monitoring
- Continued Oversight

comment *574* comment by: *CAA-NL*

Comment
It is suggested to rearrange the order of the articles consistently with the title.

Text proposal
AR.GEN.300 Certification procedure – organisations
AR.GEN.305 Indirect approval
AR.GEN.320 Changes – organisations
AR.GEN.330 Declaration – persons and organisations
AR.GEN.335 Continuing oversight
AR.GEN.340 Monitoring of activities
AR.GEN.345 Findings and corrective actions – organisations
AR.GEN.350 Enforcement measures and penalties –persons

AR.GEN.355 Activities in more than one Member State

comment *672* comment by: *Irish Aviation Authority*

To be consistent with the title of this section and to keep the paragraphs in a logical order, it would be better if paragraph AR.GEN.310 Certification procedure – organisations came before AR.GEN.300 Continuing oversight DCr 210509

comment *805* comment by: *European Gliding Union (EGU)*

Wording in the NPA
(2) for each organisation, at least once every 24 months

Proposal
(2) for each organisation, at least once every 60 months. The intervals are determined by the size, type and intensity of the activity of an organization.

Issue with current wording
The maximum interval of 24 months is not applicable for the multitude especially of training organizations.

Rationale
In Germany, a multitude of small training organizations especially for sailplane flying as discussed in our general comment. Auditing such an organization every 2 years is a waste of resources and no real contribution to safety. Reflecting at least travel costs and work load of the competent authority will result in a severe increase of bureaucratic and financial burden of the air sport community without improvement of safety. Requiring a maximum interval of 24 months for audits and oversights does not allow sufficient room to apply proportionality in the oversight program. For training organizations only instructing for the PPL. SPL and LPL licenses intervals up to 5 years should completely sufficient.

comment *960* comment by: *Walter Gessky*

SECTION 3
Delete ENFORCEMENT from the title.
SECTION 3
CERTIFICATION *AND* OVERSIGHT ~~AND ENFORCEMENT~~

Justification:
No mandate given to the COM in the basic regulation to regulate this in IR`s.
According Art 68 of the basic regulation MS shall lay down penalties for infringement of this regulation.
According the basic regulation the COM shall regulate Implementing Rules conditions to issue, maintain, amend, suspend or revoke approvals and certificates. This is part of certification and oversight
If there are standardisation problems known, than Guidance Material may be issued to formalize the additional enforcement process.

comment *1480* comment by: *MOT Austria*

SECTION 3

Delete ENFORCEMENT from the title.
SECTION 3
CERTIFICATION *AND* OVERSIGHT ~~AND ENFORCEMENT~~

Justification:
No mandate given to the COM in the basic regulation to regulate this in IR`s.
According Art 68 of the basic regulation MS shall lay down penalties for infringement of this regulation.
According the basic regulation the COM shall regulate Implementing Rules conditions to issue, maintain, amend, suspend or revoke approvals and certificates. This is part of certification and oversight
If there are standardisation problems known, than Guidance Material may be issued to formalize the additional enforcement process.

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comment *212* comment by: *DGAC FRANCE*

AR GEN 300 – 305 - 310

Section 3 : The structure of this section is not clear : it should be revised as a whole.

1. It seems more logical to start by GEN 310, then the 300 and 305.

2. The wording "organisation approval certificate": is not clear. In the basis regulation, only "certificate" is defined. "Organisation certificate" seems sufficient.

3. The difference between of the 2 § : 300 and 305 is not clear. While the title of §305 is "monitoring of activities", it deals with "oversight programme", which is the title of § 300.
It seems that § 300 deals only with persons, products and organisations submitted to certification, while § 305 deals with persons and organisations submitted to certification or to declaration. Is this the intention? Why this difference? Article 8 § 5 d) of the BR apply to organisations that makes declarations !

4. In § 305, the respective responsibilities between the Competent authority (in the sense that it has issued the certificate) and the authority in the territory on which the activities take place are not defined. Despite AR GEN 355, provisions which are supposed to organise the cooperation between those Authorities, it still remain unclear to know which authority will define the surveillance programme. It seems that the concept of "competent authority" encompasses both the authority which issued the approval and the authority of the member state where the activities take place. It is not compatible with the definition proposed in OR and that we propose to insert as AR GEN 001.
We think that the competent authority (which has issued the certificate approval, verified the declaration or oversee the issuance of the certificate by the AME, etc...) is the only one that shall define the oversight programme.
Proposed modification of AR GEN 305 a).

5. In case the activities take place in another country, this competent authority can ask the local authority to carry out the task of surveillance (as a

subcontractor). But the latter may not be in a position to accept (no sufficient ressources).
Nevertheless we acknowledge that specific action should be foreseen when the authority of the territory on which the activities take place considers that the activities/product "obviously" don't "comply" with the rules or are not surveyed at all. Those situations should remain exceptional and action should be taken in close coordination with the "competent authority". This should be dealt with in GEN 355.

6. In case of ATM, it should be reminded that the regulation 550 requires agreements between NSA for cross-border activities. This idea does not seem applicable to other domains, but this should also be taken into account as these AR GEN will apply to all domains.

AR GEN 305:

(a) The competent authority (as defined in GEN 001) shall establish and maintain an oversight programme to oversee the persons and organisations **they have certifi ed or whose decl aration th ey have verified.** This programme shall be proportionate to the complexity of the activities and the risks involved, taking into account the size of the organisation **or the role of the pers on**, [local knowledge, possible certification according to industry standards ?] and past **oversight** activities.
Nota : we don't understand what is into brackets

comment *542* comment by: *UK CAA*

Page No: 9 of 77

Paragraph No: AR.GEN.300(b)(4)

Comment:
It is not clear what the distinction is between audit and inspection. They appear to be used interchangeably throughout Part-AR, sometimes with one term used in the rule and the other in the AMC. See also UK CAA comment on AR.GEN.220(a)(6).

Justification:
Clarity and consistency of terms required.

Proposed Text (if applicable):
Determine the meaning and difference between audit and inspection (if any). Review all instances of 'audit' and 'inspection' throughout Part-AR and its AMC, and change the text accordingly.

comment *543* comment by: *UK CAA*

Page No: 9

Paragraph No: AR.GEN.300 (b) (5)

Comment: The actions mentioned specifically after "including" are very narrow, related almost exclusively to activities associated with operations, and some maybe to operators subject to SAFA inspections (see UK CAA comment on AR.GEN.220 (a)(6).

Justification: It does not seem appropriate to have such a narrow list of examples in a general rule. What about actions related to pilots and in due course other domains (e.g. aerodromes)? Examples of the kind of actions should be included in the domain specific parts or in AMC or guidance material.

Proposed Text (if applicable):
Delete "including …..infringement"

comment *575* comment by: *CAA-NL*

Comment
As the implementation of mandatory safety information makes part of the applicable requirements, it need not to be separately mentioned.

Text proposal
Delete AR.GEN.300(a)(3)

comment *806* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (a):

It is always relevant to do some kind of inspection before an approval of an organisation.

Proposal for (a):

Suggest to omit "where relevant".

Comment for (b):

1. What if, in future, an organisation has a DOA issued by EASA as competent authority, and an AOC or ATO approval issued by the competent authority of the territory as defined by its principal place of business? Who will issue the Organisation Approval, which we believe will be common to both approvals (specifications)?

2. We support the idea behind the "one certificate approach" for approved organisations as a way to decrease the administrative burden on legal or physical persons that carry out several activities in different organisations that relates to different regulations. However we have some concerns regarding this proposal.

If the proposal is to be construed so that it is mandatory that all activities, e.g. Part-145, AOC, ATO, which a legal or physical person performs as an organisation must be approved by one and the same competent authority, hence only one Member State, we do not support the proposal.

We are of the opinion that a legal or physical person shall have the right to establish a new activity in another Member State with appropriate management functions etc. situated in that state. The competent authority in that state would then have to perform relevant authority tasks in relation to that activity. Thus, the structure of approvals cannot be the qualifying criterion in regard to the right to establishment. We consider that there is a risk that the

proposal might be in contradiction with the basic principle of the right to establishment, which is found in the EC Treaty and several judgements by the European Court of Justice.

Proposal for (b):

1. Clarify that DOA will not be included in this "one certificate rule".

2. Investigate and clarify that the proposal is not in contradiction with the right to establishment. If that is the case amend accordingly.

Comment for (c):

The wording and the meaning of the proposed requirement needs to be clarified. Furthermore, in order to have a level playing-field, enhancing flight safety etc. on equal terms, procedures that need prior approval must be the same for all operators that are subject to this requirement.

Proposal for (c):

Review the text and change accordingly in order to achieve a better wording. Changes to organisations procedures that need prior approval by the competent authority should also be expressed, at least the framework, in an implementing rule.

comment *862* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Any additional verification activity, as compared to the current situation, shall be at no additional cost for operators.

JUSTIFICATION
The aim of the Basic Regulation 216/2008 is to improve safety level and not to increase survey charges.

***
COMMENTS
The notion of "continuing verification" shall be more precise in terms of implementation.

PROPOSAL
A definition and guidelines shall be given to ensure homogeneous treatment by the Competent authorities.

JUSTIFICATION
Homogeneous treatment amongst the Member states, in order to obtain a level playing field.

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve

our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *959* comment by: *Walter Gessky*

Add to the title of **AR.GEN.300**
AR.GEN.300 *Certification and* Continuing oversight
Justification:
This Section deals with certification and oversight. This should be reflected in the title.

comment *1140* comment by: *Unique (Zurich Airport)*

- (a) (1) add aerodromes
- (a) (3) Mandatory safety information à not mentioned in the OR GEN
- (b) (1) oversight procedures (incl. Checklists) should be made public or available to aerodromes (e.g. in AMC's)
- (b) (3) "indication" needs clarification
- (b) (4) add "reports auf audits need to be sent to organisations (aerodromes)

(b) (5) is to much focused on "SAFFA"-type of inspection à part of sentence after "action,…" should by made an AMC (for OPS)

comment *1319* comment by: *AIR FRANCE*

Paragraph 1 is in contradiction with AR.GEN.310.a.
For an ATO, inspections should only be conducted after being satisfied that the application shows the compliance with the requirements, whereas AR.GEN.310.a allows the authority to perform an inspection to check this compliance.

comment *1341* comment by: *ACI EUROPE*

(a) (1) add aerodromes
(a) (3) Mandatory safety information à not mentioned in the OR GEN
(b) (1) oversight procedures (incl. Checklists) should be made public or available to aerodromes (e.g. in AMC's)
(b) (3) "indication" needs clarification
(b) (4) add "reports auf audits need to be sent to organisations (aerodromes)
(b) (5) is to much focused on "SAFFA"-type of inspection à part of sentence after "action,…" should by made an AMC (for OPS)

comment *1369* comment by: *IACA International Air Carrier Association*

(a)(3)

How can "information" be mandatory ? The character of information is "nice to know", not "need to know". For the latter the term "directive" is more appropriate.

comment *1433* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

(a) (1) add aerodromes
(a) (3) Mandatory safety information à not mentioned in the OR GEN
(b) (1) oversight procedures (incl. Checklists) should be made public or available to aerodromes (e.g. in AMC's)
(b) (3) "indication" needs clarification
(b) (4) add "reports auf audits need to be sent to organisations (aerodromes)
(b) (5) is to much focused on "SAFFA"-type of inspection à part of sentence after "action,…" should by made an AMC (for OPS)

comment *1481* comment by: *MOT Austria*

Add to the title of **AR.GEN.300**
AR.GEN.300 *Certification and* Continuing oversight
Justification:
This Section dea ls with ce rtification and ove rsight. T his should be reflected in the title.

comment *1560* comment by: *EUROCONTROL*

The title "Continuing" would suggest that the article only refers to the on-going oversight. Moreover, the sub-bullet (a) (2) which we think addresses the on-going oversight is using the word "continued" which would re-enforce the link. We would propose to use a clearer terminology as per Regulation 1315, i.e. title "Verification of compliance with safety regulatory requirements", (a) (1) prior to certification, (a) (2) for on-going compliance, (a) (3) for safety directives (also to replace mandatory safety information with safety directives – see also comment on AR.GEN.035)

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comment *8* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Die detaillierte Vorschrift ist insb. auf große Flugschulen und AeMC`s zugeschnitten.
Für kleinste Flugschulen mit nur wenigen Fluglehrern erscheinen die Vorschriften als Überregulierung. Hier sollte mehr Flexibilität unter Berücksichtigung der Größe der Organisation möglich sein.

"Unannounced Inspections": Gerade bei kleinen, räumlich abgelegenen Flugschulen ist eine vorherige Terminsvereinbarung unumgänglich. Ansonsten besteht eine nicht unerhebliche Wahrscheinlichkeit, vor verschlossener Türe zu stehen. Hier sollte es der Aufsichtsbehörde überlassen bleiben, in welchen Fällen die "inspections" unangekündigt durchgeführt werden und wann eine Terminsvereinbarung erfolgt.
Auch die Durchführung von "meetings" mit dem "accountable manager" der Organisation sollte nur erfolgen, wenn die Behörde einen entsprechenden Bedarf sieht. Dann bietet es sich an, dieses "meeting" im Rahmen der

"Inspection" durchzuführen und nicht an einem zusätzlichen weiteren Termin.

comment *65* comment by: *Luftamt Nordbayern*

"The programme shall be developed taking into
account the size of the organisation, local knowledge, possible certification according to
industry standards and past surveillance activities."

Bei kleinen Flugschulen und solchen die einem Verein angeschlossen sind, sollten im Hinblich auf die Berücksichtigung der Größe der Organisation Abweichungen vom Umfang des AR.GEN 305 b möglich sein.

Insbesondere " unannounced inspections" führen bei kleinen Flugschulen (insbesondere wenn diese einem Verein angeschlossen sind) zu Problemen, da diese flexible Öffnungszeiten je nach Bedarf haben. Es sollte daher zumindest eine kurzfristige Terminvereinbarung erfolgen, um einen Ansprechpartner vor Ort anzutreffen.

Vorschlag:
(b) The oversight programme shall include:
(1) sample inspections, including unannounced or shortly announced inspections;
(2) for each organisation, at least once every 24 months:
(i) regular audits at intervals determined by the results of past surveillance activities;
(ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits..

comment *213* comment by: *DGAC FRANCE*

AR.GEN.305 (b) (2)

Intervals of 24 months for regular audits is not justified nor adapted ; the intervals should be tailored to the size and key risk elements of the organisation
Thus, "every 24 months" is contradictory with (1) "regular audits determined by the results of past surveillance authority"
In Subpart AeMC the time limit has been extended to 3 years ; What justifies this difference ?

Delete : "every 24 months" in (b) (2)
Fix t he in tervals i n subp arts, ad apting the int ervals in function of activities, or in AM C or GM in order t o let flexibility to competent authorities.

comment *214* comment by: *DGAC FRANCE*

AR.GEN.305 c)

The notion of « Key Risk Element" should be enlighten

The identification of the key risk elements should be linked to the implementation of the State Safety Programme as required by ICAO (section 3 Safety Assurance in proposed AMC to AR.GEN.023 Safety programme). This is

essential in order to set up a functional safety programme including risk identification processes. Otherwise the benefits of having a safety programme cannot be achieved because oversight might not focus on the most relevant risks and thus safety will not be improved.

Read (b) as following:
"(c) The oversight shall focus on a number of key risk elements **in relation with the implementation of the safety programme under AR.GEN.023** and identify any finding

comment *215* comment by: *DGAC FRANCE*

AR.GEN.305(d)

This paragraph should be split in too different paragraphs since it contains too different ideas.
(d) The competent authority shall keep and update a list of all persons, organisations (and products?) it has certified and a list of all persons and organisations whose declaration it has verified.
(e) The competent authority shall keep and update, for persons organisations (and products?) listed in (d), the oversight progamme, the dates when audit visits are due and when such visits were carried out.

comment *374* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Die detaillierte Vorschrift ist insb. auf große Flugschulen und AeMC`s zugeschnitten.
Für kleine Flugschulen mit nur wenigen Fluglehrern und solchen Flugschulen, die einem Verein
angeschlossen sind, erscheinen die Vorschriften jedoch zu komplex und weitgehend. Hier sollte im Hinblick auf die Berücksichtigung der Größe der Organisation mehr Flexibilität und daher für kleine Flugschulen Abweichungen vom Umfang des AR.GEN 305 b möglich sein.

Insbesondere " unannounced inspections" führen bei kleinen Flugschulen (insbesondere wenn diese einem
Verein angeschlossen sind) zu Problemen. Gerade bei kleinen, räumlich abgelegenen Flugschulen ist eine vorherige Terminsvereinbarung unumgänglich, da diese flexible Öffnungszeiten je nach Bedarf haben. Ansonsten bestünde eine nicht unerhebliche Wahrscheinlichkeit, vor verschlossener Türe zu stehen. Es sollte daher zumindest eine kurzfristige Terminvereinbarung erfolgen, um einen Ansprechpartner vor Ort anzutreffen.

Die Durchführung von "meetings" mit dem "accountable manager" der Organisation sollte nur erfolgen, wenn die Aufsichtsbehörde einen entsprechenden Bedarf sieht. Es böte sich auch an, dieses "meeting" im Rahmen der "inspection" durchzuführen und nicht an einem zusätzlichen weiteren Termin.

Formulierungsvorschlag:
(b) The oversight programme shall include:
(1) sample inspections, including unannounced or shortly announced inspections;

(2) for each organisation, at least once every 24 months:
(i) regular audits at intervals determined by the results of past surveillance
activities;
(ii) meetings convened with the accountable manager to ensure they remain
informed of significant issues arising during audits.

comment *385* comment by: *Egon Schmaus*

GEN.305 Monitoring...
(2) for each organisation, at least once every ~~24~~ **60** months

Reason:
All over Germany, there is a multitude of small training organizations especially for sailplane flying. Many of these turn out 1 or 2 licensed pilots per year and there is little change in the personal of these organizations. Auditing such an organization every 2 years would be waste of resources and no real contribution to safety. Imagine: Including travel such an audit is 1 working day with costs of at least 300 EUR and can easily add to a 20% increase of cost for a sailplane license. Requiring a maximum interval of 24 months for audits and oversights does not allow sufficient room to apply proportionality in the oversight program. For training organizations only instructing for the PPL. SPL and LPL licenses intervals up to 5 years are completely sufficient. This statement is based on the experience with our auditing program for 160 training facilities in Baden Württemberg. The existence of small training organizations close to the students would be severely endangered by a 2 year auditing interval due to the costs.

comment *399* comment by: *Civil Aviation Authority of Norway*

Comment to (a);
Shall the competent Authority establish an oversight programme on the basis of the activity performed by persons and organisations which has received an approval from that competent Authority, or is also meant to take into considerations persons and organisations which been approved/authorized by other competent Authorities?

comment *400* comment by: *Civil Aviation Authority of Norway*

Comment to (b)(2)(i);
It is unclear whether this it meant to be one audit at least every 24 month, or if it means regular audits during every 24 month period.

comment *401* comment by: *Civil Aviation Authority of Norway*

Comment to (c);
As key risk elements are not specifically defined in the regulations, it may be interpreted differently among member states.
In the current draft it is unclear if key risk elements should be the only focus for audits, or if regulations also should be a part of the oversight program.

comment *402* comment by: *Civil Aviation Authority of Norway*

Comment to (d):
The term "audit visit" is not properly defined, and should be deleted

comment *432* comment by: *FlightSafety International*

Comment
The requirement states: "…For each organization" In the case of a large ATO with multiple training centres, does "organization" refer to the ATO in whole, or to each operating location?

Proposal
Change section b.(2) to say: "For each organisation, on a schedule agreed by the Authority and the organisation and ensuring a valid check of any multi-site corporate systems,:"

Impact to FlightSafety
In order to maximize use of Authority and ATO resources and minimize impact on the provision of training to the customers, it would be beneficial to consider allowances in the rule for a system of "sampling" regarding the oversight programme for large ATO's with multiple locations all operating the same corporate management/safety/quality systems.

comment *433* comment by: *FlightSafety International*

The requirement (b)(2)ii states: "meetings convened with the Accountable Manager" Does this mean the AM for the ATO, or the AM at each operating location?

Change section (b)(2)ii to state: "regular meetings with the overall AM, and during sampling audits of large ATO's, meetings with the local AM to ensure they remain informed of significant issues arising during audits."

This change will ensure that both corporate AM and local training center AM's are kept apprised of significant issues arising from audits and their knowlwedge of those issues will be acertained during Authority audits.

comment *441* comment by: *European CMO Forum*

AR.GEN.305 (a)

Comment:
This paragraph is impossible to implement.

Justification:
The competent authority will not know who is exercising activities on their territory. They will only know about persons or organisations who they have issued certificates to.

Proposed Text:
Change wording to: 'The competent authority shall establish and maintain an oversight programme to monitor persons or organisations **wh o they h ave certificated** that is proportionate…..'

comment *442* comment by: *European CMO Forum*

AR.GEN.305(b)2

Comment:
In Subpart AeMC the time frame in (b)(2) has been extended to 3 years for AeMC.

Justification:
Consistency.

Proposed Text:
Add: ' at least once every 24 months **(36 months for AeMC)'.**

comment *485* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
With regard to the often quoted level playing field an oversight program in order to monitor the activities of examiners can hardly be established by the one authority that has issued the examiner certificate because the examiner activities are not restricted to a Member State (please also note our comment on AR.GEN.030 and AR.GEN.355). Even the requirements according to AR.GEN.030 will not provide the level playing field unless all authorities in all Member States apply the same oversight program with respect to examiner activities. In conclusion, establishing an oversight program that also respects a level playing field should not be a task allocated to national authorities, but should be a task performed by EASA.

If AR.AeMC.005 will be deleted, as we recommand, it will be required to add the head of AeMC in AR.GEN.305 (b) (ii)

Poposal:

(b) (2) (ii) meeti ngs convened with t he a ccountable manager ***or head of AeMC*** *to ensure t hey remain i nformed of s ignificant is sues arisin g duri ng audits.*

comment *544* comment by: *UK CAA*

Page No: 9

Paragraph No: AR.GEN.305

Comment: The use of one, undefined term "competent authority" causes confusion in understanding the intent of this requirement; together with uncertainty over which persons and organisations are meant to be covered. There is also confusion between the use of terms, "monitoring", "oversight" and "continuing oversight" (in AR.GEN.300).

Justification: The kind of oversight programme that an authority might need or be able to establish will depend on what persons and organisations are covered and whether it is acting as the certifying authority or not. Although AR.GEN.355 refers to activities in more than one Member State it is far from clear how the provisions of AR.GEN.305 relate to it. Also AR.GEN.300 seems to cover much of the same ground. There will be organisations certified, or subject to declarations, in one Member State that exercise activities on the territory of one or more other Member State. It cannot be envisaged that two or more authorities shall each establish a programme including for that

organisation audits at least once every two years – the duplication and cost to all parties would be significant, plus confused lines of responsibility for the oversight of that organisation. Also, it seems unlikely that a competent authority should carry out the same level of oversight for an organisation or person subject to a declaration as to one subject to certification.

Proposed Text (if applicable):

Amend first sentence of (a) as follows: "The competent authority shall establish and maintain an oversight programme to monitor persons and organisations certified by the authority or from which it receives declarations that is proportionate to the complexity of the activities and the risks involved. The programme ..

(1) Amend (b) "The oversight programme **for certifi ed pers ons or organisations** shall include:…..

Add new sub-paragraphs

"(x) The competent authority shall establish and maintain an oversight programme to monitor other persons and organisations exercising activities on the territory of the Member State as it considers appropriate to ensure safety, in cooperation with the competent authority responsible for the oversight programme established for the persons or organisations in accordance with sub-paragraph (a);

(xx) Any safety oversight programme established in accordance with sub-paragraph (x) shall include those elements mentioned in sub-paragraph (b) as are appropriate to the principles of proportionality set out in (a), after consultation with the other competent authority"

comment *545* comment by: *UK CAA*

Page No: 9

Paragraph No: AR.GEN.305 (a)

Comment: There is potentially a large economic impact for oversight of persons and organisations exercising activity in a Member State's territory but no mention is made of this potential resource impact in the RIA.

comment *546* comment by: *UK CAA*

Page No: 9 of 77

Paragraph No: AR.GEN.305(b)(1)

Comment:
Unannounced inspections should not be mandatory

Justification:
Unannounced inspections are usually driven by information received by the authority and are a useful tool for a competent authority. However, for some organisations they will not be required and should not be mandated.

Proposed Text (if applicable):
Delete the words 'including unannounced inspections' and add a sentence to the AMC to indicate that an inspection programme may include unannounced inspections at the discretion of the authority.

comment *576* comment by: *CAA-NL*

Comment
The oversight programme should address the monitoring of persons and organisations exercising activities certified by the competent authority in the first place. Whether and how the monitoring of persons and organisations exercising activities on the territory of a Member State but not certified by the competent authority, is part of the oversight programme, depends on the arrangements made by the (Member) States involved.

Text proposal
"(a) The competent authority shall establish and maintain an oversight programme to monitor persons and organisations exercising activities certified by the competent authority that is proportionate to the complexity of the activities and the risks involved. The programme shall be developed taking into account the size of the organisation, local knowledge, possible certification according to industry standards and past surveillance activities."

comment *693* comment by: *Boeing*

AR.GEN.305
Page 9

CONCERN: Oversight by EASA is not mentioned for non-EU organizations or for operations outside the territory. It is not clear if EASA is considered the competent authority for those operations.

REQUESTED CHANGE: The text should state whether or not EASA will act as the competent authority for activities and organizations outside the territory, instead of the territory's national authority. We also suggest including provisions for EASA to delegate these responsibilities via a bilateral aviation safety agreement (BASA).

comment *730* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (a) (b):

A general comment is that several words are used for the same or similar actions and responsibility: oversight, surveillance, monitoring, supervision. It is also somewhat unclear when these actions are to be taken by the certifying competent authority or by any other competent authority.

Point (a): In order to establish and dimension such an oversight programme, Member States would have to gather substantial amounts of information from other competent authorities concerning the planned activities of their AOC holders, maintenance organisations etc. In order to make the oversight programme risk based, and give some planning horizon, every competent authority would also have to communicate the surveillance history and past occurrences on a large scale to the other competent authorities where e.g. the

AOC holder will develop activities.

Point (b): There is a need to clarify what constitutes an inspection as opposed to an audit, and who does what within this paragraph.

Proposal for (a) (b):

General: Clarify the use of the words above, e.g. by stating that the word "oversight" is used when the certifying competent authority is carrying out the oversight/monitoring action, and the word "monitoring" is used when any other member state is taking an action.

The terms "certifying competent authority" and "other competent authority" should be defined, to be able to distinguish between their different responsibilities.

Point (a): Make clear to what extent this risk based and activity adapted oversight programme must take account of organisations certified under the authority of other competent authorities.

Point (b)(i): We propose that it is clearly stated that "audits" are defined to be the main action of the certifying authority, and that "inspections" is a tool to be used to support audits in the general oversight of an organisation. An audit should be defined as the systematic verification that the quality system (or management system) of an organisation is performing to the required standard. It should reveal e.g. if the organisation is systematically working to identify safety hazards and corrects them.

Point (ii): "Inspection" can also be defined as the term used when checking compliance of persons with the regulations. Results from inspections should be used when planning and performing audits. Findings recorded at inspections are used as symptoms that the management system of the organisations must be improved.

Point (iii): There must be a statement that clarifies that it is the task of the certifying competent authority to hold meetings with the accountable managers of organisations.

Comment for (d):

It must be made clear if this "list of approved organisations under its supervision" only includes the certificates, licence holders etc. issued by the competent authority itself or possibly the certificates of all organisations that exercise activities on the territory of the competent authority. See also comment above under 305(a) as regards planning horizon.

Proposal for (d):

Clarification is needed.

comment *766* comment by: *CAA Belgium*

(c) Who determines the key risk elements and how ?

comment *828* comment by: *AEA*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight

programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include

1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.

The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *863* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Any additional verification activity, as compared to the current situation, shall be at no additional cost for operators.

JUSTIFICATION
The aim of the Basic Regulation 216/2008 is to improve safety level and not to increase survey charges.

***

COMMENTS
The notion of "monitoring of activites" shall be more precise in terms of implementation.

PROPOSAL
A definition and guidelines shall be given to ensure homogeneous treatment by the Competent authorities.

JUSTIFICATION
Homogeneous treatment amongst the Member states, in order to obtain a level playing field.

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since so me articles ref er to not y et-published (or even not yet -established) pieces of regulation or are not self-con sistent, these comments are also limited to their u nderstanding not considering t he r egulation a s a w hole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is comme nted SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has r equested a delay for c ommenting and propo sed to EA SA to sett le meanwhile a common and constructive approach between the Agency, the NAAs and the ind ustry in order to id entify and discuss the issues of the proposed re gulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be conside red as an i ntegrative part of t he follow ing comment.

comment *920* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.305 (Monitoring of Activities)
Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
(1) Sample inspections, including unannounced inspections:
(2) For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits
Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.

The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law,
Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *961* comment by: *Walter Gessky*

AR.GEN.305(a):
Change the following:
(a) The competent authority shall establish and maintain an oversight programme to
monitor persons and organisations exercising activities on the territory of the Member
State or certified by the competent authority that is proportionate to the complexity of
the activities and the risks involved. The programme shall be developed taking into
account the size of the organisation, local knowledge, possible certification according to
industry standards , **SAFA findings** and past surveillance activities.
Justification:
A reference to the possible certification to industry standards is misleading and shall to be deleted.
Certification can be carried out by approved organisation when in compliance with the regulation. When industry standards are used as AMC or GM for compliance finding than this standard has to be endorsed by the Agency as AMC or GM following the Art 52 process.
When a certification according this standards is possible, than this might be regulated in the privileges.
The NPA is restricting the use of AMCs issued by the competent authority of the MS and open the use of industry standard where the establishment is out of control of the Agency and the MSs.
Add SAFA findings.

comment *962* comment by: *Walter Gessky*

AR.GEN.305(b)
Add the following to (b)
(b) The oversight programme shall include:
(1) sample inspections, including unannounced inspections;
(2) for each organisation, at least once every 24 months **unless not regulated in another Section:**
Justification:
In Subpart AMC the time frame in AR.AeMC.005 (b)(2) has been extended to 3 years for AeMC. The surveillance period should be same for all organisations including AeMC.
Delete AR.AeMC.005
The deletion of AR.AeMC.005 requires to add the head of AeMC in AR.GEN.305 (b) (ii)

(b)(2)(i) regular audits **(including process and product audits)** at intervals determined by the results of past surveillance
activities;
Justification:
It should be notified, that in addition to process audits, product audits has to be carried out. Product audits should grant that not only the correct implementation of processes is taken into consideration.

comment *974* comment by: *DCAA*

AR.GEN.305
(a) (a)Activities to be taken into consideration need to be evaluated further.
(b) The use of unannounced inspections as part of the oversight programme need to be evaluated further.

comment *1015* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.
The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among

MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.
In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.
Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1044* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 3 - AR.GEN.305 Monitoring of activities
Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.
The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.
In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as

proposed by EASA is therefore against EU law.
Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1087* comment by: *KLM*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and

inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.

The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1088* comment by: *Ryanair*

AR.GEN.305 – Monitoring of Activities

Comment

This Regulation introduces collective oversight. It is unacceptable that a single operator could be subject to direct regulatory oversight by the Competent Authorities of currently 27 Member States and be expected to satisfy the oversight requirements of these Member States for example – accountable manager meetings, countless inspections, varying audit programmes etc all of which require the allocation of additional resources by the operator.

Proposal

Delete ARG 305 (2) (ii)

comment *1114* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.

The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1143* comment by: *Unique (Zurich Airport)*

General: new title needed
(a) - industry standards need to be clarified, existing schemes may be used,
- GM for ADR to clarify "complexity of activities and risks involved" (AMC 3 to AR.GEN.305 OPS: reference should be made)
(b) - Unannounced inspections only if necessary - not only based on past surveillance activities:--< more open formulation
(c) Sentence is unclear à delete the whole sentence (duplication of (a))
O.k.

comment *1158* comment by: *CAA Finland*

Amend. Inspection intervals shall reflect the amount or (more easier to define) level of given training. For example in Finland we have 46 training organizations for SPL and 2500 licenses. An estimation is that around 200 new SPL pilots are trained per year meaning 4 students per year per one organization.

(b) The oversight programme shall include:
...
(2) for each organisation giving training **to CPL, ATPL, IR or multi-pilot TR training**, at least once every 24 months. **For ea ch org anisation g iving training up to PPL, single-pilot TR/CR tr aining, at least onc e every 60 months.**:

comment *1160* comment by: *Irish Aviation Authority*

NPA 22(b) AR Gen .305 and 355 - How will the State know that the organisation is now operating within their jurisdiction? A common EASA form for registering your intention to operate within the Member State should be developed and organsiations must complete the form before commencing activities.

Re paragraph (a) This is impossible to implement. The competent authority does not know who is active in their territory. They only know about those who they have issued certificates to. Change to: **'**The competent authority shall establish and maintain an oversight programme to monitor persons or organisations **they have certified** that is proportionate…..'

(b) In Subpart AeMC the time frame in (b)(2) has been extended to 3 years for AeMC. Consistency.Add: ' at least once every 24 months **(36 months for AeMC)'.**

comment *1210* comment by: *CAA CZ*

AR.GEN.305 (a), The requirement for the person/organization exercising activities on the territory of the Member State should be applied to notify NAA. Otherwise the NAA might not know about this person/organization.
In the case of a changing number of persons/organizations operating in our territory, it will be difficult to establish plan/program for supervision (see also AR.GEN.305 (d) …under its supervision…), especially when the plan should be made in respect of the size of the organization and the number of organizations.

comment *1211* comment by: *CAA CZ*

AR.GEN.305 (b)(2), The 24 months period for audit of each approved organization (for all categories of aircraft, for all types of organizations is very tough. It might cause the need of new personnel, which is against the ideas of most of national governments..

comment *1271* comment by: *AIR FRANCE*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all Member State (MS) in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. Oversight on operators from other MS should remain limited to ramp inspections.

The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.

Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation.

Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring

by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1276* comment by: *Fédération Française Aéronautique*

FFA supports the principle given at the end of paragraph (a), but considers that the requirement (b), (2), is in contradiction with paragraph (a), is totally unrealistic and actually impossible to implement "at least every 24 month" for "Very Small organisation" (as defined by FFA in it's comments to NPA 2008-22c, page 1), and also for "Small organisation".
If a recommended periodicity is necessary, FFA suggests no less than 6 to 8 years.

comment *1277* comment by: *Baden-Württembergischer Luftfahrtverband*

AR.GEN.305(b)(2)
Wording in the NPA
(2) for each organisation, at least once every 24 months

Our proposal
Change:
(2) for each organisation, at least once every 60 months. The intervals are determined by the size, type and intensity of the activity of an organization:

Issue with current wording
The maximum interval of 24 months is too short especially for the multitude of training organizations.

Rationale
In Germany we have a multitude of small training organizations especially for sailplane flying as discussed in our general comment 86. Many of these turn out 1 or 2 licensed pilots per year and there is little change in the personal of these organizations. Auditing such an organization every 2 years is a waste of resources and no real contribution to safety. Including travel such an audit is 1 working day with costs of at least 300 EUR and can easily add to a 20% increase of cost for a sailplane license. Requiring a maximum interval of 24 months for audits and oversights does not allow sufficient room to apply proportionality in the oversight program. For training organizations only instructing for the PPL. SPL and LPL licenses intervals up to 5 years would be completely sufficient. This statement is based on the experience with our auditing program for 160 training facilities in Baden Württemberg. The existence of small training organizations close to the students would be severely endangered by a 2 year auditing interval due to the costs.

comment *1278* comment by: *Baden-Württembergischer Luftfahrtverband*

AR.GEN.305(e)
Wording in the NPA
(a) The competent authority shall establish and maintain an oversight programme to monitor persons and organisations exercising activities on the territory of the Member State or certified by the competent authority that is proportionate to the complexity of the activities and the risks involved. The programme shall be developed taking into account the size of the organisation, local knowledge, possible certification according to industry standards and past surveillance activities.

Our proposal
Add:
(e) An organization with subsidiaries may establish an internal oversight program for all required monitoring activities. If this is reviewed and approved by the competent authority it is sufficient when the competent authority audits this program and does spot checks.

Issue with current wording
Monitoring an organization with potentially many small subsidiaries either exceeds the resources of a competent authority or becomes very expensive.

Rationale
As explained in our general comment 86 under Nr.1 we have established an Umbrella ATO for the multitude of small clubs. This already execute internal audits approved by the competent authority. The competent authorities would not have the resources to execute this oversight program. If the competent authority would completely take over this function it would have to hire additional personal and charge expensive fees. Now it does spot checks and audits the oversight program which requires much less resources and is at least as effective. The Umbrella ATO can execute these audits with highly experienced volunteers very efficiently. This addition in the wording of the regulation would support the function 3 of the Umbrella ATO defined in our general comment 86 under Nr.1.

comment *1318* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:
"There is lack of definition of what is an "activity". The Competent Authority delivering the organisations approval is in charge of the oversight via an audit programm and inspections. If it is added the same kind of oversight by all MS in which an operator operates (each station) it does seems to be efficient and would lead to an inflation of audits. In particular the application of (b) (2) to activities not certified by the Competent Authority would be disproportionate. Oversight on operators from other MS should remain limited to ramp inspections.

The EU regulation is applicable to each MS and a standardisation is conducted by the Agency in order to garantee the same regulation implementation among MSs.
Thus multi oversight is not efficient if it is applicable to station activities ?
the competent Authority delivering the approval should always be the leading CA, coordinating activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific

request of the leading CA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
Addition proposed to paragraph a :
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1343* comment by: *ACI EUROPE*

General: new title needed
(a) - industry standards need to be clarified, existing schemes may be used, - GM for ADR to clarify "complexity of activities and risks involved" (AMC 3 to AR.GEN.305 OPS: reference should be made)
(b) - Unannounced inspections only if necessary
- not only based on past surveillance activities:--< more open formulation
(c) Sentence is unclear à delete the whole sentence (duplication of (a))

comment *1371* comment by: *IACA International Air Carrier Association*

(a)
The concept of "collective oversight" is not in compliance with the Basic Regulation 216/2008. Delete the concept of "collective oversight" and replace by the known concept of "principal place of business".

Justification: Basic Regulation 216/2008 article 2 (c) specifies "duplication at national and European level shall be avoided". Additionally, whereas (10) thereof clearly specifies "…Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules."
The concept of "principal place of business" prevails already in Regulations 2042/2003 (Airworthiness) and 1702/2003 (Certification).

comment *1372* comment by: *IACA International Air Carrier Association*

(b)(2)(ii)
Add after "audits.": "inspections and reviews" as specified under AR.GEN.300.

comment *1373* comment by: *IACA International Air Carrier Association*

(c)
The NPA does not contain GM to assist authorities assessing risks of organisations they need to monitor.

comment *1393* comment by: *Luftfahrt-Bundesamt*

With regard to the often quoted level playing field an oversight program in order to monitor the activities of examiners can hardly be established by the one authority that has issued the examiner certificate because the examiner activities are not restricted to a Member State (please also note our comment on AR.GEN.030 and AR.GEN.355). Even the requirements according to AR.GEN.030 will not provide the level playing field unless all authorities in all Member States apply the same oversight program with respect to examiner activities.

comment *1402* comment by: *Glenn Cronin*

The UK Department for Transport refers back to our extensive comments on AR.GEN.005. We limit ourselves here to recording our agreement with comments from the UK CAA that the proposed rules for oversight of activities in the territory of a Member State should not lead to a blurring of responsibility of regulatory oversight. We agree with the CAA that monitoring of persons and organisations and enforcement activities carried out by authorities other than the certifying authority should normally be supplementary to the monitoring and enforcement activities of the certifying authority itself and proportionate to the level of risk associated with the activities in question. Where monitoring by the certifying authority appears inadequate to the level of activity in question this could be addressed in the first place via the EASA standardisation process

comment *1421* comment by: *CAA Belgium*

(a)

The competent authority is responsible for persons and organisations exercising activities on the territory of the member state. How can we know who is exercising an activity on the territory ?

comment *1434* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

General: new title needed
(a) - industry standards need to be clarified, existing schemes may be used,
- GM for ADR to clarify "complexity of activities and risks involved" (AMC 3 to AR.GEN.305 OPS: reference should be made)
(b) - Unannounced inspections only if necessary
- not only based on past surveillance activities:--< more open formulation
(c) Sentence is unclear à delete the whole sentence (duplication of (a))

comment *1446* comment by: *CAE*

AR.GEN.305 Page 9

Oversight by EASA is not mentioned for non-EU organizations or for operations outside the territory. Is EASA considered a competent authority?

comment *1483* comment by: *MOT Austria*

AR.GEN.305(a):
Change the following:
(a) The competent authority shall establish and maintain an oversight programme to monitor persons and organisations exercising activities on the

territory of the Member State or certified by the competent authority that is proportionate to the complexity of the activities and the risks involved. The programme shall be developed taking into account the size of the organisation, local knowledge, ~~possible certification according to industry standards~~ , **SAFA findings** and past surveillance activities.
Justification:
A reference to the possible certification to industry standards is misleading and shall to be deleted.
Certification can be carried out by approved organisation when in compliance with the regulation. When industry standards are used as AMC or GM for compliance finding than this standard has to be endorsed by the Agency as AMC or GM following the Art 52 process.
When a certification according this standards is possible, than this might be regulated in the privileges.
The NPA is restricting the use of AMCs issued by the competent authority of the MS and open the use of industry standard where the establishment is out of control of the Agency and the MSs.
Add SAFA findings.

AR.GEN.305(b)
Add the following to (b)
(b) The oversight programme shall include:
(1) sample inspections, including unannounced inspections;
(2) for each organisation, at least once every 24 months **unless not regulated in another Section:**
Justification:
In Subpart AMC the time frame in AR.AeMC.005 (b)(2) has been extended to 3 years for AeMC. The surveillance period should be same for all organisations including AeMC.
Delete AR.AeMC.005
The deletion of AR.AeMC.005 requires to add the head of AeMC in AR.GEN.305 (b) (ii)
(b)(2)(i) regular audits **(including process and product audits)** at intervals determined by the results of past surveillance activities;
Justification:
It should be notified, that in addition to process audits, product audits has to be carried out. Product audits should grant that not only the correct implementation of processes is taken into consideration.

comment *1538* comment by: *Virgin Atlantic Airways*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations exercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months
(i) regular audits at intervals determined by the result of past surveillance activities;
(ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.

Comment:

"There is lack of definition as to what constitutes an "activity".

The Competent Authority that issues the organisational approval is responsible for oversight through its audit programme and inspections. There is no requirement for additional and duplicate oversight by all Member states into which an operator operates (for example at each station within a MS)
Oversight on operators from other MS should remain limited to ramp inspections.

Proposal:

EASA must review the regulation in order to preclude duplicate inspections and comply with Article 11 of the basic EASA regulation

comment *1540* comment by: *ERA*

The concept of "collective oversight" is not in compliance with the Basic Regulation and should be replaced by the known concept of "principal place of business".

comment *1577* comment by: *Icelandair*

Relevant Text:
(a) The Competent Authority shall establish and maintain an oversight programme to monitor persons and organizations excercising activities on the territory of the Member State or certified by the competent Authority..
(b) The oversight programme shall include
1. Sample inspections, including unannounced inspections:
2. For each organization at least every 24 months (i) regular audits at intervals determined by the result of past surveillance activities; (ii) meetings convened with the accountable manager to ensure they remain informed of significant issues arising during audits.
Comment:

comment *1578* comment by: *Icelandair*

activities related to the oversight of the organisations it is in charge of.
Other MS oversight should be limited to SAFA like inspections or at the specific request of the leading CA.
In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.
Proposal:

comment *1610* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
(2) for each organisation, at least once every 24 months

Our proposal
(2) for each organisation, at least once every 60 months. The intervals are determined by the size, type and intensity of the activity of an organization.

Issue with current wording

The maximum interval of 24 months is too short for the multitude especially of training organizations.

Rationale
In Germany a large number of small training organizations especially for gliding are present. Most of them turn out 1 or 2 licensed pilots per year. Auditing such an organization every 2 years is waste of resources and no real contribution to safety. Including travel such an audit of at least one working day induces costs of at least 300 EUR and can easily result into a 20% increase of cost for a glider pilot license. Requiring a maximum interval of 24 months for audits and oversights does not allow sufficient room to apply proportionality in the oversight program. For training organizations only instructing PPL SPL and LPL licenses intervals of 5 years should be completely sufficient. The existence of small training organizations close to the students would be severely endangered by a 2 year auditing interval due to the costs and work load. The complexity of the activity and the associated risk should justify such auditing and the respective intervals.

comment *1612* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
(a) The competent authority shall establish and maintain an oversight programme to monitor persons and organisations exercising activities on the territory of the Member State or certified by the competent authority that is proportionate to the complexity of the activities and the risks involved. The programme shall be developed taking into account the size of the organisation, local knowledge, possible certification according to industry standards and past surveillance activities.
Our proposal
Add:
(e) An organization may establish an internal oversight program for all required monitoring activities. If this is reviewed and approved by the competent authority it is sufficient when the competent authority audits this program and does spot checks.

Issue with current wording
Monitoring an organization with many small subsidiaries either exceeds the resources of a competent authority and/or becomes very expensive.

Rationale
An umbrella ATO for the multitude of small clubs is established. This already now executes internal auditing approved by the competent authority. The competent authorities would not have the resources to execute this oversight program. If the competent authority is required to take this function it would have to hire additional personal and charge additional fees. Now it does spot checks and audits the oversight program which requires much less resources and is at least as effective. The ATO can execute these audits with highly experienced volunteers.

comment *1619* comment by: *Civil Aviation Authority Finland*

Question:
Is it meant that one audit shall be done at least every 24 months or does it mean regular audits during every 24 month period?
In the JAA JIP-OPS the idea has been, that all the aspects/areas of the

operations should be audited during this 24 months time period.

comment *1628* comment by: *Icelandic CAA*

The provision concerning unannounced inspections needs to be elaborated. For inspections of certain objects this approach is not appropriate.

comment *1641* comment by: *FlightSafety International*

Oversight by EASA is not mentioned for non-EU organizations or for operations outside the territory. Is EASA considered a ***competent*** authority?

EASA will be the Competent Authority for activities and organizations outside the territory.

comment *1654* comment by: *Aéro.Sport asbl. Luxembourg*

Our proposal:
(1) Sample inspections, including short term announced inspections, with prior notice of at least 48 hours.
Reason:
In small organizations it obviously will occur that at an unannounced inspection, no competent staff responsible could be found.

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comment *128* comment by: *ECA- European Cockpit Association*

Comment:

Further text should be developed for each category of approval, such as ATOs, CAT operators and others.
This could be done by the inclusion of it in the content of the Operations Manual.

Justification:
This paragraph should be further developed, as it was in the JAR FCL and OPS, where items of the approval required further approval or which ones need only notification to the Authority. Leaving this power to each NAA with each operator they grant approval is not a good procedure for harmonization. ECA requests to maintain the JAR.OPS 1.1040 b) and i) requirements, the associated IEM and its JIPs.

comment *175* comment by: *DGAC FRANCE*

AR.GEN.310 (b)

Comment :

1) OR.GEN.035 (a) deals with the authorities. Remove to AR.GEN.310 (b)

2) AR.GEN.310 (c) must be deleted. Changes of procedures of the organisation which are subject to prior approval by the authority must be defined in the

specific IR of each domain.
3. Validity of the certificate. Although it can be very useful for a NAA to limit the duration of a certificate in order to put more pressure on a large operator, we do not oppose to an unlimited validity for organisations. But this should not apply to individuals whose certificate should be limited in time.

Modification :

AR.GEN.310 Certification procedure – organisations

(a) Upon receiving an application for the issue of ~~a~~**an approval** ~~or~~ certificate for an organisation, the competent authority shall verify the organisation's compliance with the applicable requirements, and conduct, where relevant, an inspection of the organisation.

(b) When satisfied that the organisation is in compliance with the applicable requirements, the competent authority shall issue the organisation ~~approval~~ certificate, as established in Appendix I to this Part. The certificate shall contain the privileges and the scope of the activities that the organisation is approved to conduct **and be issued for an unlimited duration. It shall remain valid whilst the approved organisation remains in compliance with the applicable requirements.**

~~(c) The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.~~

comment *186* comment by: *DGAC FRANCE*

Comment : **AR.GEN.310.(b)** : the organisation shall be capable to prove its compliance to the competent authority.

Modification :

AR.GEN.310 Certification procedure – organisations

(b) When satisfied that the organisation ~~is in~~ **ensures** compliance with the applicable requirements, the competent authority shall issue the organisation approval certificate, as established in Appendix I to this Part. The certificate shall contain the privileges and the scope of the activities that the organisation is approved to conduct.

comment *403* comment by: *Civil Aviation Authority of Norway*

Comment to (c);
This may be interpreted differently among member states, and thus create an unequal playing field among organisations.

comment *463* comment by: *Air Berlin Technik*

AR.GEN.310 (c):

Similarly to the FAA system, procedures requiring prior approval (including changes) should be specifically named in order to ensure consistency all over the 27+4+1 authorities applying this regulation. Everything not specifically

named should be "acceptable to the authority", meaning notification only.

comment *547* comment by: *UK CAA*

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Paragraph No: AR.GEN.310(a)

Comment:
A competent authority should not issue an approval to a new organisation without an audit. However, for an established organisation applying for further privileges, it is possible that verification of compliance could be achieved without an audit.

Justification:
The current text would allow a new organisation to be approved without an audit and it could be two years before it was visited. However, situations do arise with established approved organisations where an audit would not be required.

Proposed Text (if applicable):
(a) Upon receiving an application, for the issue of an approval or certificate for an organisation, the competent authority shall verify the organisation's compliance with the applicable requirements. For an organisation not already holding an approval, or for an organisation with an approval where the competent authority believes the new privileges are significantly different to the existing privileges, the competent authority shall conduct an audit of the organisation.

comment *666* comment by: *CTC Aviation Services Ltd*

AR.GEN.310 Certification procedure – organizations
(c) The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.

To secure a level playing field between organisations in the same discipline, the scope of acceptable change without approval must be structured in AMC guidance. AR.GEN.310 Certification procedure – organisations

comment *798* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (a):

It is always relevant to do some kind of inspection before an approval of an organisation.

Proposal for (a):

Suggest to omit "where relevant".

Comment for (b):

1. What if, in future, an organisation has a DOA issued by EASA as competent

authority, and an AOC or ATO approval issued by the competent authority of the territory as defined by its principal place of business? Who will issue the Organisation Approval, which we believe will be common to both approvals (specifications)?

2. We support the idea behind the "one certificate approach" for approved organisations as a way to decrease the administrative burden on legal or physical persons that carry out several activities in different organisations that relates to different regulations. However we have some concerns regarding this proposal.

If the proposal is to be construed so that it is mandatory that all activities, e.g. Part-145, AOC, ATO, which a legal or physical person performs as an organisation must be approved by one and the same competent authority, hence only one Member State, we do not support the proposal.

We are of the opinion that a legal or physical person shall have the right to establish a new activity in another Member State with appropriate management functions etc. situated in that state. The competent authority in that state would then have to perform relevant authority tasks in relation to that activity. Thus, the structure of approvals cannot be the qualifying criterion in regard to the right to establishment. We consider that there is a risk that the proposal might be in contradiction with the basic principle of the right to establishment, which is found in the EC Treaty and several judgements by the European Court of Justice.

Proposal for (b):

1. Clarify that DOA will not be included in this "one certificate rule".

2. Investigate and clarify that the proposal is not in contradiction with the right to establishment. If that is the case amend accordingly.

Comment for (c):

The wording and the meaning of the proposed requirement needs to be clarified. Furthermore, in order to have a level playing-field, enhancing flight safety etc. on equal terms, procedures that need prior approval must be the same for all operators that are subject to this requirement.

Proposal for (c):

Review the text and change accordingly in order to achieve a better wording. Changes to organisations procedures that need prior approval by the competent authority should also be expressed, at least the framework, in an implementing rule.

comment *829* comment by: *AEA*

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.
Comment:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better

explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *921* comment by: *bmi*

Section:
NPA 2008-22B,, AR.GEN.310 (Certification Procedures - Organizations)
Relevant Text:
"c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval."
Comment:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *1017* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.
Comment:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved?
Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no

approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *1047* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 3 - AR.GEN.310 Certification procedure – organisations

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.
Comment:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *1089* comment by: *KLM*

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.
Comment:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *1115* comment by: *Deutsche Lufthansa AG*

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the

scope of the changes to the organisation's procedures that require prior approval.
Comment:
The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refer to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through increasing the amount of approvals. This would result to a heavy administrative burden and workload. The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *1119* comment by: *DGAC FRANCE*

Additionnal comment AR GEN 310
We are surprised that there are no "general requirements" on the certification procedure for persons contrary to the declaration procedure where there is a paragraph AR GEN 340 dedicated to persons
Neither for products

comment *1141* comment by: *Unique (Zurich Airport)*

(a) ADR AR for certification is needed
(b) nil
AMC for changes in organisation's procedures are necessary

comment *1184* comment by: *DGAC FRANCE*

AR GEN 310 :
The scope of the applicable requirements referred to in GEN 310 is not clear.
The concept of an organisation approval independently from the domain of activity is not acceptable. We do not see its added value compared to several specific certificates.
First, it is not defined in the basic regulation that has adopted in the contrary a "vertical approach". With the scrutiny procedure, it may be more difficult for the Commission to create concepts that are defined neither in the basic regulation nor in ICAO. What would then be the AOC requested by ICAO and the basic regulation?
Second, in some cases several authorities deal with the same organisation (EASA + a NAA in some cases, or several national authorities of the same state in other cases). How will it work then? With the present basic regulation, the Commission cannot impose to a member state to designate a single NAA to deal with all activities.
Third, we do not see any added value to this organisation approval: the benefits of such a single approval can already be found by rationalising the audits of the organisation by the NAA (when it is a single NAA).
Fourth, the specificity of each activity may be diluted in such a global approval.

Proposed modification :

(a) Upon receiving an application for the issue of ~~an approval or~~ **a** certificate for an organisation **for a s pecific domai n of activities**, the competent authority shall verify the organisation's compliance with the ~~applicable~~ requirements **applicable to this domain of activiti es**, and conduct, where relevant, an inspection of the organisation.

(b) When satisfied that the organisation is in compliance with the applicable requirements, the competent authority shall issue the organisation ~~approval~~ certificate, as established in Appendix I to this Part. The certificate shall contain the privileges and the scope of the activities **in the specific domain** that the organisation is approved to conduct.

(c) The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.

Modification of appendix 1 should be done accordingly.

comment *1212* comment by: *CAA CZ*

AR.GEN.310 (a), page 9
„…and conduct, where relevant, an inspection of the organization."
Term "where relevant" should be revised. This wording allows to approve new TO, for example for training modular CPL (H), without the audit? So far, the audit of organization was a part of each first approval FTO/TRTO.

comment *1279* comment by: *Baden-Württembergischer Luftfahrtverband*

AR.GEN.310(c)
Wording in the NPA
(c) The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.

Our proposal
No Change!

We support the current wording

Rationale
We support the flexibility that this passage allows. As we understand it, it allows the implementation of the functions 1. and 2. of the umbrella ATO defined in our general comment 1. in CRT comment Nr. 86

comment *1293* comment by: *AIR FRANCE*

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.

Comment:
The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better

explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation.

Proposal:
Realign the requirements with EU-OPS

comment *1320* comment by: *International Air Transport Association (IATA)*

Relevant Text:
c)The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.
Comment:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then why the Operations Manual should be fully approved? Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal:
Realign the requirements with EU-OPS

comment *1344* comment by: *ACI EUROPE*

(a) ADR AR for certification is needed
(b) nil
AMC for changes in organisation's procedures are necessary

comment *1352* comment by: *Walter Gessky*

AR.GEN.310
It would be helpful to define for which part requires prior approval.

comment *1374* comment by: *IACA International Air Carrier Association*

(a)
Add "within 90 days" after "the competent authority shall"

comment *1375* comment by: *IACA International Air Carrier Association*

(b)
Add "without undue delay" after "shall issue the organisation approval certificate".

comment *1376* comment by: *IACA International Air Carrier Association*

(c)
Lacking any list of organisation procedures subject to prior approval (such as in OR.OPS.015 MLR for Operations Manual for Air Operators), this paragraph (c) shall be deleted as it does not meet the requirements for a level playing field and harmonised implementation.

comment *1435* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

(a(a) ADR AR for certification is needed
(b) (b) nil
AMC for changes in organisation's procedures are necessary

comment *1484* comment by: *MOT Austria*

AR.GEN.310
It would be helpful to define for which part requires prior approval.

comment *1549* comment by: *ERA*

Realign the requirements with EU-OPS

comment *1561* comment by: *EUROCONTROL*

We can only say at this stage that a lot of difficult work will need to be done to make sure that the certification scheme in the SES will fit into the EASA regulation.

comment *1579* comment by: *Icelandair*

Relevant Text:
c)The competent authority shall agree with the
organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.
Comment
:
"The scope of changes that are relevant for approval are negociated between the organisation and the Competent Authority. There is a need to better explain what is a "change to the organisation procedures". Does it refers to the Organisation Manual which includes the Operations Manual ? Then
why the Operations Manual should be fully approved?
Why extend the area of approvals? There is a need to have an efficient oversight which will be exercised through audits and inspections. There is no safety justification to deviate from the current EU-OPS through an increasing the amount of approvals. This would result to a heavy adminsitrative burden and workload The changes to be approved should be defined in the applicable Implementing Rules and limited to what is necessary. When there is no approval, it does not mean that the operator may deviate from the regulation."
Proposal

:

comment *1603* comment by: *Oxford Aviation Academy*

With regard to (c), we request clarification of the words 'shall agree'. The interpretation of this rule would suggest that the organisation plays a part in deciding what changes require approval rather than the competent authority 'dictating' to the organisation what changes do and do not require approval. This is an important requirement for training organisations because there exists today, under the JAA system, oversight by Authorities at different levels within the approval system. For example, some Authorities do not 'officially' approve changes to manuals – they are informed after the fact, while other Authorities require constant notification of any proposed changes, even at the lowest of levels of documentation.

comment *1613* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
(c) The competent authority shall agree with the organisations it certifies the scope of the changes to the organisation's procedures that require prior approval.

Our proposal
We agree with this proposal and support the current wording

Rationale
We support the flexibility this passage allows. As we understand, it allows the implementation of the functions 1. and 2. of the umbrella ATO defined in our general comment described in our general comment.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 3 - AR.GEN.315 Indirect approval p. 10

comment *77* comment by: *AECA(SPAIN)*

If our comment 72 is not accepted, explain here the means of '**indirect approval**'

comment *109* comment by: *DCA Malta*

AR.GEN.315
More guidance is required.
An approval is granted by the competent authority and the limits are defined in the approval.

comment *129* comment by: *ECA- European Cockpit Association*

Clarification is needed. If something has to be approved, ECA does not see the intention/requirements/goal of an indirect approval. It is not clear whether this means complete approval or only part of it. ECA also wonders if this could be applicable to AMCs requests?. If so, ECA requests to delete the paragraph as the concept of indirect approval may be against the harmonisation EASA is looking for.

comment *255* comment by: *Susana Nogueira*

Definition of **Indirect Approval**

comment *386* comment by: *Egon Schmaus*

GEN.315 Indirect approval

.. this phrase is very indirect... and without any content for me!!

Reason:
The meaning of an "indirect approval process" is not visible in these sentences. We are trying to understand if for instance a shared database between the ATO and the competent authority where the changes in the ATO e.g. contact information, instructor lists, lists of aircraft used in training, subsidiary information etc are maintained and are accessible by the competent authority at any time could be an implementation of such an indirect approval process.

comment *404* comment by: *Civil Aviation Authority of Norway*

This paragraph seem to be unclear, is it the document describing the process that may be indirectly approved or is it the actual process itself?

comment *480* comment by: *Air Berlin Technik*

In environment where only - if any - a limited number of clearly defined documents needs to be approved (as we understand the whole new concept), there is no real need for the concept of "indirect approval".
The system should be created in a way that a document (such as a procedure, organisation chart, list of management staff or similar) either needs approval by the authority or can be changed by the organisation on its own, with information to the authority. Then, there is no need for an "in between"-solution as constituted by the "indirect approval" philosophy.
Delete the whole paragraph and all related Section 2 material.

comment *492* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

What is an "indirect approual"?

Proposal:

The meaning of an "indirect approual" should be clarified.

comment *548* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.315

Comment: Is indirect approval a recognised term, likely to be used in all authority activities (given that this is in the General section of the requirements?) Should it be defined?

comment *549* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.315

Comment: As worded the competent authority would be obliged to approve any indirect approval procedure submitted by the approved organisation, regardless of the acceptability of that procedure.

It is also noted that Part OR does not refer to an indirect approval procedure, although referenced from this paragraph.

Justification: Clarity of requirement.

Proposed Text (if applicable): …..and shall be approved by the competent authority responsible for approving that organisation, if acceptable.

comment *673* comment by: *Irish Aviation Authority*

It is not clear from this paragraph what is meant by an 'Indirect approval'. Can we have some guidance on it please?
DCr 210509

comment *714* comment by: *Luftfahrt-Bundesamt*

What is an indirect approval procedure with respect to ATO, FCL, MED, or AeMC?
A process, a document or anything else that might need an approval is either approved or not approved in accordance with an approval procedure that shall be documented. An operator might be allowed to check and confirm some items (e.g. the equipment of an aircraft with the purpose of putting this aircraft in an AOC), but this is only one part of an approval procedure. An approval can only be granted by an Authority. This cannot be delegated to an organisation.

comment *739* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

It is unclear what the qualifying criteria are. As the organisation seems to be the one that establishes the indirect approval procedure, the competent authority needs criteria to measure and verify compliance with the rule.

Proposal:

Specify the criteria that the competent authority must consider in order to approve an organisation’s indirect approval procedure

comment *830* comment by: *AEA*

Relevant text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be

achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."
Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OMC Part C should not be submitted to the Competent Authority.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *864* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
"*Indirect approval*" is nor consistently defined, neither obvious.

PROPOSAL
see comment AR.GEN.005 :

Comment: *At this step, terms and definitions appear unclear.*
Proposal: *We suggest a specific part or the EASA regulation framework may contain a comprehensive and exhaustive list of definitions, applicable to the whole EASA regulation, which is the best way to have consistent definitions.*
Justification: *this might be a legal issue regarding the scope of understanding and cause problems of reading*

JUSTIFICATION
Obvious

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet -established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance

or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *922* comment by: *bmi*

Section:
NPA 2008-22B, AR.GEN.315 (Indirect Approval),
Relevant Text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."

Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OMC Part C should not be submitted to the Competent Authority

Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *931* comment by: *DGAC FRANCE*

AR GEN 315
This paragraph isn't clear. The concept of "indirect approval" is not defined. Is it the same concept used in OR OPS 020 MLR (h)? (NPA02) If, so it should be clearly written in the same way and with the same words. Once again, the principle of legal certainty isn't respected.

comment *1018* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case,
the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."
Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an
explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OMC Part C should not be submitted to the Competent Authority.
Proposal:
We request to delete this paragraph for approval of
the whole Ops Manual; realign the requirement with EU-OPS

comment *1091* comment by: *KLM*

Relevant text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."
Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to

the Authority. The OMC Part C should not be submitted to the Competent Authority.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *1100* comment by: *Virgin Atlantic Airways*

Relevant text:

"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."

Comment:

There is no definition of the indirect approval. If the intention here is to require an approval for the entire content of an organisations manuals, then this would lead to unjustified administrative burden which has no safety justification.

It should be specified in the implementing rules where there is a need to grant an approval instead of requiring everything to be approved.

EASA should remember that an operator is responsible for providing manuals compliant with the regulations and that each commercial operator has his own compliance monitoring system in place.

If the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material.

This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. EASA should not require the whole OM to be approved but instead only those parts related to subjects described in AMC OR.OPS.015.MLR(h). The CA should only concern itself with those parts requiring approval.

The OMC Part C should not be submitted to the Competent Authority.

Proposal:

We request that EASA delete this paragraph and the requirment to approve the whole OM and realign it with EU-OPS.

comment *1107* comment by: *Ryanair*

AR.GEN.315 – Indirect Approvals

Comment
GM required

comment *1116* comment by: *Deutsche Lufthansa AG*

Relevant text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."
Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR.OPS.MLR.015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OM Part C should not be submitted to the Competent Authority.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS.

comment *1144* comment by: *Unique (Zurich Airport)*

Indirect approval process unclear

comment *1159* comment by: *CAA Finland*

Amend. As this procedure is something totally new in FCL side, there shall be more detailed quidance of what kind of changes are included and how the procedure shall be established. An AMC is required for harmonized approach.

comment *1280* comment by: *Baden-Württembergischer Luftfahrtverband*

AR.GEN.315
Wording in the NPA
When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation.

Our proposal
Be more specific

Issue with current wording
Unclear what this means

Rationale
What exactly is meant by an "indirect approval process" We understand it that way that for instance a shared database between the ATO and the competent authority could be an implementation of such an indirect approval process. In this database the information about the ATO e.g. contact information, instructor lists, lists of aircraft used in training, subsidiary information etc is maintained and is accessible by the competent authority at any time.

comment *1292* comment by: *AIR FRANCE*

Relevant text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."

Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval, which is not requested by ICAO, will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OMC Part C should not be submitted to the Competent Authority.

Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual.

comment *1321* comment by: *International Air Transport Association (IATA)*

Relevant text:
"When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."

Comment:
There is no definition of the indirect approval. Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OMC Part C should not be submitted to the Competent Authority.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *1345* comment by: *ACI EUROPE*

Indirect approval process unclear

comment *1354* comment by: *Walter Gessky*

It would be helpful to define for which kind of amendments the indirect approval process can be used.

comment *1378* comment by: *IACA International Air Carrier Association*

Add "The competent authority shall approve within a month from the date of application." similar to the requirement under AR.GEN.020(c) for AMC on p.4:
(c) The competent authority shall within a month from the date of application evaluate…When the competent authority finds that the alternative acceptable means of compliance are in accordance with the requirements of (b) above, it shall without undue delay…"

comment *1422* comment by: *CAA Belgium*

Not very clear.

comment *1436* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

Indirect approval process unclear

comment *1485* comment by: *MOT Austria*

It would be helpful to define for which kind of amendments the indirect approval process can be used.

comment *1550* comment by: *ERA*

Delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *1562* comment by: *EUROCONTROL*

AR.GEN.315 Indirect approval
and
AR.GEN.330 Changes – organisations

Firstly, it is not clear if, in the case of the extension to ATM/ANS, this would apply to the changes of the ATM functional systems (the AMC speaks only about changes to the persons and manual).
If the answer is yes, than the requirements in these articles are contradictory to the way safety oversight of changes to the ATM functional system is required to take place (articles 8 and 9 of the Regulation 1315).
To summarise articles 8 and 9:
- all planned safety related changes shall be notified to the NSA
- minimum requirements are defined to qualify those changes that are subject to a safety review and subsequent approval; the review process is defined in article 9.2
- the other changes may be implemented providing that the NSA has accepted the relevant ANSP's procedures
In the proposed EASA regulation, any change that requires approval will have to follow the certification procedure (restricted to the extent of the change) while in Regulation 1315 is part of the safety oversight of changes (basically on-going oversight).

comment *1580* comment by: *Icelandair*

Relevant text:
"When the amendments to a document related to theprocesses of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation."
Comment:
There is no definition of the indirect approval.
Nothing is mentioned about the indirect approval in the NPA 2008-22c. We found in OR OPS MLR 015 an explanation but it does not use the name Indirect Approval. If the meaning is to ask for an approval of the whole organisations manuals, then this would lead to unjustified administrative burden which has no safety justification. Why not specify in the corresponding implementing rules where there is a need to grant an approval instead of having
everything approved. We would like to remind EASA that the operator is responsible for providing a manual compliant with the regulation and that each commercial operator has his own compliance monitoring system. For example, if the operator wishes to add non regulatory material in his OM the principle of a generic approval will then lead to approval of non regulatory material. This is a significant change compared to EU-OPS which may also lead to the Competent Authority refusing such additions due to the fact that the OM is now fully approved. We therefore urge EASA not to make the whole OM approved but only parts related to subjects described in AMC OR.OPS.015.MLR(h). The rest of the OM should only remain acceptable to the Authority. The OMC Part C

should not be submitted to the Competent Authority.
Proposal:

comment *1604* comment by: *Oxford Aviation Academy*

There is no guidance associated with this requirement. It is new terminology for flight crew training organisations and its meaning is not fully understood. Text in AMC to AR.GEN.330 refers to the indirect approval procedure for changes to manuals as if it is well known. Is it meant to mean that the ATO can self-certify some of its own changes to manuals?

comment *1616* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
When the amendments to a document related to the processes of an organisation require an approval from the competent authority, this may be achieved through an indirect approval procedure. In that case, the indirect approval procedure shall be established by the organisation as part of the organisation manual, in accordance with Part OR, and shall be approved by the competent authority responsible for approving that organisation.

Our proposal
The description of the process should be more precise.

Issue with current wording
This sentence is not completely understood.

Rationale
What means "indirect approval process" ?
We are trying to understand if for instance a shared database between the ATO and the competent authority where the changes in the ATO e.g. contact information, instructor lists, lists of aircraft used in training, subsidiary information etc are maintained and are accessible by the competent authority at any time could be an implementation of such an indirect approval process.
Or is meant that amending the procedure of an ATO and changes of any of the manuals which have to be approved by the competent authority can be done by an approved way laid down in the system of the ATO?
Clarification is needed!

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 3 - AR.GEN.330 Changes – organisations p. 10

comment *130* comment by: *ECA- European Cockpit Association*

This paragraph should be further developed, as it was in the JAR FCL and OPS, where items of the approval required further approval or which ones need only notification to the Authority. Leaving this power to each NAA with each operator they grant approval is not a good procedure for harmonization. Request to maintain the JAR.OPS 1.1040 b) and i) requirements, the associated IEM and its JIPs. Clarification is needed on the changes that require prior approval. ECA wonders whether these are left to the operator/authority's discretion.

comment *174* comment by: *DGAC FRANCE*

AR.GEN.330

Comment

AR.GEN.330 (b) deals with changes which doesn't necessitate prior approval ; as a consequence, the wording of AR.GEN.330 (b) must be changed.

AR.GEN.330 (c) We proposes a paragraph corresponds to the paragraph Part OR –OR.GEN.030 (b), which deals with competent authorities and not organisations. It is sightly changed to precise that the competent authority is entitled to prescribe conditions for the management of some changes.

Modification :

AR.GEN.330 Changes – organisations

(a) Upon receiving an application for a change that requires prior approval, the competent authority shall apply the procedure in AR.GEN.310, restricted to the extent of the change.

(b) For other changes, the competent authority shall assess the documents provided to verify compliance with the applicable requirements. In case of any noncompliance, the competent authority shall notify the organisation ~~that the change is not approved~~ **that corrective actions have to be implemented**.

(c) The competent authority may prescribe the conditions under which the m anagement of chan ges by th e organisation may i mply a ris k assessment and mitigation process.

comment *550* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.330 (b)

Comment:
The Agency is asked to confirm that this general requirement will be adapted, if necessary, to cover changes to the certification of aerodromes, which may be a single certification of both the organisation and the aerodrome infrastructure.

Justification:
In the aerodrome environment, changes to physical or other infrastructure may affect safety and therefore should be subject to prior approval; for example a change in runway surface type or change of navigation aid.

comment *740* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

It is unclear what the qualifying criteria are. As the organisation seems to be the one that establishes the indirect approval procedure, the competent authority needs criteria to measure and verify compliance with the rule.
Proposal:

Specify the criteria that the competent authority must consider in order to approve an organisation's indirect approval procedure

comment *866* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Maximum delays are not precised.

PROPOSAL
Delays shall be precised, with a quantitative maximum limit, e.g. 2 weeks max.

JUSTIFICATION
A 2 week maximum delay is provisioned within AMC1 to AR-ATO200(a)(1)
Any other values shall be consistent or justified.

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *923* comment by: *bmi*

Section:
NPA 2008-22B, AMC to AR.GEN.330 (Changes – Organizations
Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *1145* comment by: *Unique (Zurich Airport)*

Structure is not clear, should be dealt with separately for ADR

comment *1346* comment by: *ACI EUROPE*

Structure is not clear, should be dealt with separately for ADR

comment *1379* comment by: *IACA International Air Carrier Association*

(b)
EASA to confirm that if no prior approval required, the applicant shall be able to implement at once, and the competent authority can assess afterwards.
Therefore, the last sentence shall read "The competent authority shall notify the organisation that the change is not in compliance."

comment *1437* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

Structure is not clear, should be dealt with separately for ADR

comment *1563* comment by: *EUROCONTROL*

AR.GEN.315 Indirect approval
and
AR.GEN.330 Changes – organisations

Firstly, it is not clear if, in the case of the extension to ATM/ANS, this would apply to the changes of the ATM functional systems (the AMC speaks only about changes to the persons and manual).
If the answer is yes, than the requirements in these articles are contradictory to the way safety oversight of changes to the ATM functional system is required to take place (articles 8 and 9 of the Regulation 1315).
To summarise articles 8 and 9:
- all planned safety related changes shall be notified to the NSA
- minimum requirements are defined to qualify those changes that are subject to a safety review and subsequent approval; the review process is defined in article 9.2
- the other changes may be implemented providing that the NSA has accepted the relevant ANSP's procedures
In the proposed EASA regulation, any change that requires approval will have to follow the certification procedure (restricted to the extent of the change) while in Regulation 1315 is part of the safety oversight of changes (basically on-going oversight).

comment *1587* comment by: *Irish Aviation Authority*

NPA 22(b) AR Gen .330 - an explanation and guidance as to which changes require prior approval is necessary.

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comment *256* comment by: *Susana Nogueira*

When and by whom is this 'declaration' required?

comment *405* comment by: *Civil Aviation Authority of Norway*

Comment to (a);

Verification of applicable requirements should be defined, as this indicates an evaluation of the organisation in order to ensure compliance with the requirements, and thus making the operator subjected to a certification process.

comment *406* comment by: *Civil Aviation Authority of Norway*

Comment to (b);
The format of such acknowledgement should be defined, as this may be regarded as an approval

comment *407* comment by: *Civil Aviation Authority of Norway*

Comment to (c);
What would be the consequence to the operator if such non-compliance is recorded and notified? As long as they do not need an prior approval from the Authority, there are no measures that will prevent the operator from starting or continuing the operation.

comment *493* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comments:
When and by whom is such a declaration required? The whole NPA does not exactly specify when a declaration is required. Further guidance is needed.
a) Does paragraph a, b and c apply to GMP declaration of activities and/or declaration of fitness by applicant?

b) The effect of the procedure described in (b) simply to acknowledge receipt of the declaration is unclear; An acknowledgement of a receipt does not give any information or decision of acceptance from the competent authority. This would lead to an unclear legal situation regarding responsibilities of the competent authority, the person or organisation.

c) For (c)(3) It will not be possible for the competent authority to take any actions in the circumstances described. The same issue is relevant for AR.GEN.350 (e); The competent authority cannot take any actions unless the person or organisation has a formal approval from the authority. This situation will apply to a GMP who will not have an approval.

Poposal:
A clear definition is needed to ensure standardized understanding of this term. Further guidance could be provided in a new Appendix I.

comment *551* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.340

Comment:
This requires the competent authority to "verify that the declaration complies with the applicable requirements". The GM to this provision states "The verification made by the authority upon receipt of a declaration does not imply

any inspection. The aim is to check whether what is declared complies with applicable regulations". Further clarification is needed as to what exactly this means and how non-compliance is to be assessed and acted upon.

Justification:
The GM implies that verification of compliance is purely a check of the accuracy of the form so that, for example, if the obligation is to declare compliance with Part M, a check is needed that they have not inadvertently declared compliance with the Data Protection Act. It is not clear that the competent authority has any obligation at all to consider whether the declaration of compliance is actually true. However, sub-paragraph (c)(3) foresees that non-compliance requires taking actions in accordance with AR.GEN.345 or AR.GEN.350, both of which assume that some kind of oversight activity must have taken place (e.g. an audit or other means). This suggests that a distinction should made between two kinds of non-compliance, first a non-compliance evident upon receipt of a declaration (e.g. a gap in the declaration form) and a non-compliance that has become evident as a result of monitoring the activities (e.g. in accordance with AR.GEN.305).

comment *552* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.340(a)

Comment: The scope of this provision may need to be clarified, as the term "declaration" is not defined.

Justification: Although it might be assumed that this requirement only applies to cases where a declaration is required by a provision of the Basic Regulation (currently operators covered by Article 8.3 and 9.3) confusion might arise because the term "declared" is used elsewhere. For example, on page 21, AR.MED.240 refers to "declared GMP".

comment *553* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.340 (c)(3)

Comment: It is unclear which of the actions in the referenced requirements are applicable to declarations.

Justification: It is not clear that the monitoring of declared organisations, which UK CAA presumes to be required under AR.GEN.305 (see earlier UK CAA comments), would involve the same kind of process for analysing findings as set out under AR.GEN.345 which seems designed for certified bodies. Indeed, were such a depth of identification and analysis of findings expected we wonder why declaration rather than certification was thought appropriate in the Basic Regulation. For persons it seems that only the requirement at AR.GEN.350 (e) is relevant, in which case a specific reference to that sub-paragraph would seem desirable.

comment *674* comment by: *Irish Aviation Authority*

It is not clear from this paragraph what is meant by a 'Declaration'. Can we have some guidance on it please?
DCr 210509

comment

742 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

Point (a): It is unclear how far the competent authority should go when verifying compliance with applicable requirements. According to GM an inspection is not needed. But according to OR.GEN.040 (see below) an organisation must ”grant access” to the competent authority in order to show continued compliance with applicable requirements.

Point (b): The effect of the procedure described in (b) simply to acknowledge receipt of the declaration is unclear. Just an acknowledgement of a receipt does not give any information or decision of acceptance from the competent authority. This would lead to an unclear legal situation regarding responsibilities of the competent authority, the person or organisation.

Proposal:

The concept of declaration should be revised to clarify the legal implications.

In order to streamline the application by authorities of handling a declaration, a framework regulation on this matter is needed.

comment

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

COMMENTS
Maximum delays are not precised.

PROPOSAL
Delays shall be precised, with a quantitative maximum limit, e.g. 2 weeks max.

JUSTIFICATION
A 2 week maximum delay is provisioned within AMC1 to AR-ATO200(a)(1)
Any other values shall be consistent or justified.

****

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These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the

proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *947* comment by: *Royal Swedish Aeroclub*

Unnecessary bureaucracy. There are no safety issues here. The Swedish CAA has no authority over GMP.

comment *1146* comment by: *Unique (Zurich Airport)*

- BR 2e implies that aerodromes have apron management systems thus declaration may only refer to this issue

IR ADR must be provided for Apron Management service

comment *1163* comment by: *BMVBS (MoT Germany)*

The term „validation" does not comply with the standards of legal certainty. Therefore, it is recommended to transfer the definition from the Guidance Material into the rule.

Recommended amendment of the text:

(a) Upon receipt of a declaration from a person or organisation intending to carry out activities for which a declaration is required, the competent authority shall verify that the declaration complies with the applicable requirements. The verification made by the authority upon receipt of a declaration does not imply any inspection. The aim is to check whether what is declared complies with applicable regulations.

comment *1213* comment by: *CAA CZ*

AR.GEN.340 (b), page 10
„In case of compliance of the declaration with applicable requirements, the competent authority ***shall acknowledge receipt of the declaration to the person or organization****."*
Statement should be clarified in a sense regarding the possible use of this requirement e.g. for ATO approval for PPL training (formerly Registered facility). Does this requirement concern Part FCL or comes from the EU OPS?

comment *1347* comment by: *ACI EUROPE*

- BR 2e implies that aerodromes have apron management systems thus declaration may only refer to this issue
- IR ADR must be provided for Apron Management service

comment *1360* comment by: *Walter Gessky*

a) AR.GEN 340(a) add the following:
AR.GEN.340 Declaration – persons and organisations
(a) **Upon receipt of a** application ~~a declaration~~ from a person or

organization, intending to carry out activities for which a declaration is required, the competent authority shall verify that the declaration complies with the applicable requirements **and include the person and organization in the oversight program.**
(b) In case of compliance of the declaration with applicable requirements, the competent authority shall acknowledge receipt of the declaration to the person or organisation.
(c) In case of noncompliance,
the competent authority shall:
(1) record this noncompliance;
(2) notify the person or organisation; and
(3) take actions in accordance with AR.GEN.345 or AR.GEN.350, as applicable.

Declaration: further guidance needed. A clear definition is needed to ensure standardized understanding of this term. The whole NPA does not exactly specify when a declaration is required.

Justification:
Application is required because the NAA has to verify that the declaration complies. When no application is required NAA might have problems to charge the applicant with regard o costs.
Article 9(4)e) of the basic regulation requires to regulate the conditions and procedures for the declaration by, and for the oversight of, operators.

The effect of the procedure described in (b) simply to acknowledge receipt of the declaration is unclear. An acknowledgement of a receipt does not give any information or decision of acceptance from the competent authority. This would lead to an unclear legal situation regarding responsibilities of the competent authority, the person or organisation.

An alternative to the proposal would be to change the text of (a):
(a) Upon receipt of the declaration from a person or organisation intended to carry out activities for which a declaration is rewuired, the competent authority verifies that the person or organisation is added to the national oversight or surveillance programm, to verify that the person or organisation complies with the basic regulation and its implementing rules.
Justification:
To verify that the declaration complies with the regulation requires a verification process, but this is not intended to be required, but the NAA shall include the person/operator in the oversight or surveillance programme.

comment *1428* comment by: *CAA Belgium*

What is the difference between a declaration and an application ?

comment *1439* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

- BR 2e implies that aerodromes have apron management systems thus declaration may only refer to this issue
- IR ADR must be provided for Apron Management service

comment *1486* comment by: *MOT Austria*

a) AR.GEN 340(a) add the following:
AR.GEN.340 Declaration – persons and organisations

(a) **Upon recei pt of a n** application ~~a declaration~~ from a person or organization, intending to carry out activities for which a declaration is required, the competent authority shall verify that the declaration complies with the applicable requirements **and include the person and organization in the oversight program.**
(b) In case of compliance of the declaration with applicable requirements, the competent authority shall acknowledge receipt of the declaration to the person or organisation.
(c) In case of noncompliance,
the competent authority shall:
(1) record this noncompliance;
(2) notify the person or organisation; and
(3) take actions in accordance with AR.GEN.345 or AR.GEN.350, as applicable.

Declaration: further guidance needed. A clear definition is needed to ensure standardized understanding of this term. The whole NPA does not exactly specify when a declaration is required.

Justification:
Application is required because the NAA has to verify that the declaration complies. When no application is required NAA might have problems to charge the applicant with regard o costs.
Article 9(4)e) of the basic regulation requires to regulate the conditions and procedures for the declaration by, and for the oversight of, operators.

The effect of the procedure described in (b) simply to acknowledge receipt of the declaration is unclear. An acknowledgement of a receipt does not give any information or decision of acceptance from the competent authority. This would lead to an unclear legal situation regarding responsibilities of the competent authority, the person or organisation.

An alternative to the proposal would be to change the text of (a):
(a) Upon receipt of the declaration from a person or organisation intended to carry out activities for which a declaration is rewuired, the competent authority verifies that the person or organisation is added to the national oversight or surveillance programm, to verify that the person or organisation complies with the basic regulation and its implementing rules.
Justification:
To verify that the declaration complies with the regulation requires a verification process, but this is not intended to be required, but the NAA shall include the person/operator in the oversight or surveillance programme.

comment *1624* comment by: *Civil Aviation Authority Finland*

Question:
What would be the consequence to the operator, if such non-compliance is recorded and notified? As long the declaration of the operator and the operations do not need an approval from the Authority, there are no measures, that will prevent the operator from starting or continuing the operation. No approval, which could be recalled.

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comment *9* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Die Unterscheidung von "level 1 findings" und "level 2 findings" kann nicht nachvollzogen werden.
Es sollte der Behörde überlassen bleiben, in welchen Fällen sie "immediate actions" ergreift und wann sie der Organisation eine Frist zur Abhilfe des Mangels gewährt.

Hilfsweise wäre ein AMC anzufügen, das erläutert, wann es sich um level-1-findings und wann um level-2-findings handelt.

comment *66* comment by: *Luftamt Nordbayern*

Hier ist unklar, was "level 1" und "level 2" findings sind. Ein abschließender Katalog wird sich nicht bilden lassen. Es sollte im Ermessen der Behörde bleiben, wie dringlich sie das Problem einschätzt und ob sie zunächst eine Frist zur Abhilfe setzt.

Ein vorgegebenes System kann besondere Umstände des Einzelfalles kaum berücksichtigen und wird daher auch zu unverhältnismäßigen Härten im Einzelfall führen.

comment *78* comment by: *AECA(SPAIN)*

If our comment number 72 is not accepted, explain here the means of findings level 1 and findings level 2

comment *92* comment by: *DCA Malta*

AR.GEN.345(b)(2)
Replace operator by organisation.

comment *131* comment by: *ECA- European Cockpit Association*

An AMC about corrective action periods for Level 1 and Level 2 findings is missing. See Part 147.B.130 and AMC 147.B.130(b) Findings.

With no further material, interpretation on what is level 1, 2 or 3 could lead to bad implementation or standardisation of the regulation.

comment *172* comment by: *DGAC FRANCE*

AR.GEN.345 Findings and corrective actions – organisations

Comment: The analysis of the findings for their safety relevance should be linked to the implementation of the State Safety Programme as required by ICAO (section 3 Safety Assurance under proposed AMC to AR.GEN.023 Safety programme) as soon as the legal hook is inserted in the BR.

Modification in paragraph **AR.GEN.345 (a)** … : Titre **Findings and corrective actions – organisations**

(a) The competent authority shall have a system to analyse findings for their safety significance **as part of the safety programme under AR.GEN.023**

comment *176* comment by: *DGAC FRANCE*

AR.GEN.345 (a)

Comment :

Remove the definitions « level 1 and level 2 findings » in OR.GEN.045 (a) et (b) and put it in AR.GEN.345
It is better to replace "lower the safety standards" by "lowers safety", becaus the breach of regulation lower safety directly and not safety standards

Modification :

AR.GEN.345 Findings and corrective actions – organisations

(a) The competent authority shall have a system to analyse findings for their safety significance.

A level 1 finding is any significant non-compliance with the applicable requirements of the Basic Regulation and its implementing rules, with the organisation's procedures and manuals or the terms of an approval or certificate which lowers ~~the~~ safety ~~standards~~ and seriously hazards flight safety.

The following shall be considered level 1 findings:

(1) failure to give the competent authority access to the organisation's facilities during normal operating hours after two written requests;

(2) the lack of an accountable manager or nominated persons;

A level 2 finding is any non-compliance with the applicable requirements of the Basic Regulation and its implementing rules, with the organisation's procedures and manuals or the terms of an approval or certificate which could lower the safety ~~standards~~ or possibly hazard flight safety.

comment *216* comment by: *DGAC FRANCE*

AR.GEN.345 (a)

The notion of «Safety significance" is too vague

Establish a link with AR GEN 023

Read this paragraph with the following modifications : (a) The competent authority shall have a system to analyse findings for their safety significance **as part of the safety programme under AR.GEN.023**

comment *257* comment by: *Susana Nogueira*

Definition of '**level 1 and level 2 findings**'

comment *258* comment by: *Susana Nogueira*

(b)(2) Replace **operator** by **organization**

If an organization has multiple roles, a level 1 finding in a single one activity could also have an impact in general and revoke all other items carried our by this organization at the same time.

comment

375 comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Die Unterscheidung von "level 1 findings" und "level 2 findings" kann nicht nachvollzogen werden. Es ist unklar, was "level 1" und "level 2" findings sind.
Es sollte der Behörde überlassen bleiben, in welchen Fällen sie "immediate actions" ergreift und wann sie der Organisation eine Frist zur Abhilfe des Mangels gewährt.

Hilfsweise wäre ein AMC anzufügen, das erläutert, wann es sich um level-1-findings und wann um level-2-findings handelt. Jedoch wird sich ein abschließender Katalog kaum bilden lassen. Es sollte daher im Ermessen der Behörde bleiben, wie dringlich sie das Problem einschätzt und ob sie zunächst eine Frist zur Abhilfe setzt. Ein vorgegebenes System kann besondere Umstände des Einzelfalles kaum berücksichtigen und wird daher auch zu unverhältnismäßigen Härten im Einzelfall führen.

comment

408 comment by: *Civil Aviation Authority of Norway*

Comment to (b)(2);
Level 1 findings should be more specified, as this type of finding obviously has severe consequences on the organisation.

comment

409 comment by: *Civil Aviation Authority of Norway*

Comment to (b)(3);
Level 2 findings should be more specified as to what kind of findings this would be applicable.

comment

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

Comment:

(a) shall be deleted – there is no subsequent action required in the further text/requirement or AMC.

Related to the application of penalties laid down by the Member State in accordance with article 68 of the Basic Regulation the following change to the requirement is proposed. (taking into account the difficulties airworthiness authorities have especially for those which have no competence to apply punitive measures directly – only via other/subsequent ministries or official bodies).

In addition to that as the requirement is written it implies that penalties have to be applied right after the detection of a finding (level 1 or 2) – in any case. This is an additional burden to industry and authorities. It could also lead to a problem with the requirements for limitation/suspension or revocation of a certificate.

Proposal:

~~*(a) The competent authority shall have a system to analyse findings for their safety significance.*~~
*(~~a~~**b**) When a **level 1** finding is detected during an audit or by any other means, the competent*
authority shall, without prejudice to any additional action required by the Basic Regulation and its implementing rules:
(1) communicate it to the organisation, including a request for corrective actions to address the non-compliances(s) identified; and
(2) for level 1 findings, take immediate appropriate actions to prohibit or limit activities, including, if appropriate, actions to revoke the certificate or to limit or suspend it in whole or in part, depending upon the extent of the level 1 finding, until successful corrective action has been taken by the operator organisation;
(3) for level 2 findings, grant the organisation a corrective action period appropriate to the nature of the finding;
(3) apply any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation.
(b) In the case of level 2 findings
*(1) **the competent authority shall:***
(i) ~~for level 2 findings,~~ grant the organisation a corrective action period appropriate to the nature of the finding;
(ii) ~~the competent authority shall~~ assess the corrective actions and the implementation plan proposed by the organisation and accept them if the assessment concludes that they are sufficient to address the non-compliances(s).
(2) where an organisation fails to perform the corrective actions within the time period accepted by the competent authority, the competent authority shall take appropriate enforcement measures, including the suspension or revocation of certificates and the application of any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation.
(c) The competent authority shall record all findings, corrective actions and date of action closure and, where applicable, the enforcement measures taken or penalties applied.

comment *554* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.345

Comment: – There is an obligation in the case of Level 1 findings to "take immediate appropriate actions to prohibit or limit activities". This provision only applies to organisations and not to individuals. AR.GEN.350(e) addresses the situation of an individual who is not required to hold a licence etc e.g. an individual required to make a declaration. But what is the position in relation to an organisation that is required to make a declaration?

comment *555* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.345

Comment: There appears to be no requirement for the Competent Authority to assess the corrective actions for a Level 1 finding. It is appreciated that immediate action will have been taken to limit or prohibit activities as a result of a Level 1 finding. However, the organisation will need to put in place corrective action to ensure a permanent solution.

Proposed Text (if applicable): *An option to implement acceptable procedures for the duration of the non-compliance should also be included.*

comment *556* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.345

Comment:
There is no distinction between the actions of a competent authority that is the certifying authority and a competent authority that is not.

Justification:
This requirement differs from AR.GEN.350 which distinguishes between the actions to be taken by a competent authority that issued the licence etc to a person and one that did not, stating clearly that only the issuing authority shall take action to limit, suspend etc the licence, certificate etc. The same distinction must be made with regards to organisations.

Proposed Text (if applicable):
note – depends on greater clarity as to whether this level of establishing findings etc applies to all oversight by non-certifying authorities.

(b) when a finding is detected during an audit or by other means **by the competent authority that issued the certificate to the organisation**, that ~~the~~ competent authority shall, without prejudice….
.
(c) in the case of level 2 findings **by the competent authority that issued the certificate to the organisation**
:
(1)the competentauthority….

(c *bis*) In cases where a finding is detected by a competent authority that did not issue [the] [any] certificate, that authority shall inform the competent authority that issued the certificate.

comment *557* comment by: *UK CAA*

Page No: 10

Paragraph No: AR.GEN.345(b)(2)

Comment: As this regulation is "general" referring to "operator" is inappropriate.

Justification: Consideration of other types of approved organisation

Proposed Text (if applic able): (2)…..until successful corrective action has been taken by the organisation.

comment *558* comment by: *UK CAA*

Page No: 11

Paragraph No: AR.GEN.345(c)

Comment: No extension to the initial agreed corrective action period is facilitated.

Justification: In practice, organisations may find they cannot meet the proposed corrective action period and a further period may be agreed by the competent authority under certain conditions.

Proposed Text (if applicable): (c)(3) In certain circumstances, and subject to the nature of the finding, the competent authority may extend the corrective action period subject to a satisfactory corrective action plan.

comment *559* comment by: *UK CAA*

Page No: 11

Paragraph No: AR.GEN.345 (d)

Comment: Text is ambiguous.

Justification: Clarity

Proposed Text (i f applicable): (d)…the enforcement measurers taken and/or penalties applied.

comment *577* comment by: *CAA-NL*

Comment
The organisation is required to initiate corrective actions when findings are determined.

Text proposal
”(b)(1) communicate it to the organisation, including a request to address the non-compliance(s) identified; and”

comment *675* comment by: *Irish Aviation Authority*

There appears to be a typo at the end of (b)(2): 'organisation' should replace 'operator'.
DCr 210509

This text is accepted - **AR 27/05/09**

comment *694* comment by: *Boeing*

AR.GEN.345

Para *(b)(4)*
Page 10

CONCERN: If penalties are applied through Member States, these might produce a non-level playing field. Organizations could possibly file in countries with the lowest possible penalties charged.

REQUESTED CHANGE: Change the text stating, *"laid down by the Member State,"* to *"laid down by* ***the agency****,"* and establish common fines. Additionally, revise Article 68 to ensure there is a standard schedule of penalties that are applicable to all.

JUSTIFICATION: Change is necessary to establish a level playing field.

comment *715* comment by: *Luftfahrt-Bundesamt*

AR.GEN.345(a)(:
The term „appropriate period" needs an implementation of a guideline.

AR.GEN.345(b)(2):
The last line:("action taken by the operator) needs reworking: the word "Operator" has to be replaced by "organisation".

comment *743* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (b):

Point (b)(1): It is somewhat unclear whether the competent authority in this paragraph is the certifying competent authority, or any competent authority. If a number of competent authorities (other than the certifying one) request corrective actions, there is a risk that the organisation may find itself under "many masters", which will create a legally uncertain situation.

Point (b)(4):The Swedish Transport Agency cannot apply any penalties. It is the judicial system in Sweden that decides when it comes to penalties.

Proposal for (b):

Point (b)(1): Clarify that it is only the certifying competent authority that can request corrective actions for findings raised during audits and inspections. This should however not interfere with the possibility for the "territorial competent authority" to react immediately to a safety problem, according to Article 14 of Regulation (EC) No 216/2008.

Also clarify that it is only the certifying authority that can revoke a certificate or licence etc. that it has issued.

Point (b)(4): The proposal is probably outside the scope of the implementing rules as the question is already regulated in article 68 of Regulation (EC) No 216/2008.

Delete the possibility for the competent authorities to impose penalties.

comment *767* comment by: *CAA Belgium*

(b) How these levels are to be determined ?

comment *842* comment by: *CAA Belgium*

(b)(2)

Replace "operator" by "organisation".

comment *868* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

See also comments OR.GEN.045

COMMENTS
"*Level 1 findings*" and "*level 2 findings*" are defined in OR.GEN.045 and not in Part AR.

PROPOSAL
We suggest a specific part or the EASA regulation framework may contain a comprehensive and exhaustive list of definitions, applicable to the whole EASA regulation, which is the best way to have consistent and non-redundant definitions.

JUSTIFICATION
Non-consistent, redundant or with a limited-applicability field definitions, might be a legal issue.
It might be a source of misunderstanding and cause problems of reading.
It does not comply with the objective of the Agency not to repeat the same things in different articles.
Please also note "*level 1 f indings*" and "*level 2 f indings*" are (at this stage) repeated in OR.GEN.045 and part-145 (Regulation (EC) N° 2042/2003, Annex II/ Part 145, Findings 145.A.95, page 58)

QUESTIONS
1/
Does these definitions and requirements for "*Level 1 findings*" and "*level 2 findings*" apply only for organizations with a part-OR agreement, or to a wider scope ?
2/
We understand from the wording of AR.GEN.345 that any finding not relevant to levels 1 and 2 will not require traceability. Is that correct ?

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since so me articles ref er to not y et-published (or even not yet -established) pieces of regulation or are not self-con sistent, these comments are also limited to their u nderstanding not considering t he r egulation a s a w hole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is comme nted SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has r equested a delay for c ommenting and propo sed to EA SA to sett le meanwhile a common and constructive approach between the Agency, the NAAs and the ind ustry in order to id entify and discuss the issues of the

proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be conside red as an i ntegrative part of t he follow ing comment.

comment *975* comment by: *DCAA*

AR.GEN.345
Definitions for findings level 1 and 2 should be established.

comment *976* comment by: *DCAA*

(c) (2) The legality of this item is questionable.

comment *1109* comment by: *Ryanair*

AR.GEN.345 – Findings and Corrective Actions – Organisations (a)

Comment
The reference to competent authority could be interpreted as the competent authority in any member state having powers to revoke, suspend or limit an AOC, issued in another member state. The ability to revoke, suspend or limit an AOC must remain with the Competent Authority of the State of Registry or with the Agency

Proposal
(A) The competent authority *of the State of Registry* shall have a system to analyse findings for their safety significance…….

AR.GEN.345 (c)(2) – Findings and Corrective Actions – Organisations

Comment
Reference to the competent authority of the state of registry is required for clarification

The suspension/revocation of an AOC should be the last enforcement measure for an airline that refuses to correct an identified level 2 finding. It should not be enforced as a matter of course where corrective action has failed to satisfy the competent authority.

Proposal
"Where an organisation fails to perform corrective actions within the time period accepted by the *competent a uthority of the state of registry* , this competent authority shall take appropriate enforcement measures *up to and* including the suspension and revocation……"

comment *1148* comment by: *Unique (Zurich Airport)*

- (a) clarify the term "safety significance"
(b) (2) too severeà revocation of license as an ultimate option

comment *1165* comment by: *BMVBS (MoT Germany)*

In Paragraph (b) (2) the term „operator" is mentioned. This must read

"organisation" since the whole text deals with organisations.
In Paragraph (b) (3) the expression "a corrective action period appropriate to the nature of the finding" is used which does not comply with the standards of legal certainty. It is recommended to give the decision on the length of the appropriate period in the responsibility of the competent authority. Alternatively, rules on the length of this time frame could be stipulated.

Recommended amendment of the text:

(b) When a finding is detected during an audit or by any other means, the competent authority shall, without prejudice to any additional action required by the Basic Regulation and its implementing rules:
(1) communicate it to the organisation, including a request for corrective actions to address the noncompliance(s) identified; and
(2) for level 1 findings, take immediate appropriate actions to prohibit or limit activities, including, if appropriate, actions to revoke the certificate or to limit or suspend it in whole or in part, depending upon the extent of the level 1 finding, until successful corrective action has been taken by the ~~operator~~ organisation;
(3) for level 2 findings, grant the organisation at the discretion of the competent authority a corrective action period appropriate to the nature of the finding;
(4) apply any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation.

comment *1214* comment by: *CAA CZ*

AR.GEN.345(b)(2), We recommend tp replace the term "*operato*r" with the word "***organization***".

comment *1348* comment by: *ACI EUROPE*

(a) clarify the term "safety significance"
(b) (2) too severe - revocation of license as an ultimate option

comment *1361* comment by: *Walter Gessky*

Delete AR.GEN.345(a)
Justification:
This should be transfered to AR.GEN.200, Management System

comment *1366* comment by: *Walter Gessky*

a) Reorganise and relocate (b)
(**~~a~~b**) When a **level 1** finding is detected during an audit or by any other means, the competent
authority shall, without prejudice to any additional action required by the Basic Regulation and its implementing rules:
(1) communicate it to the organisation, including a request for corrective actions to address the non-compliances(s) identified; and
(2) ~~for level 1 findings,~~ take immediate appropriate actions to prohibit or limit activities, including, if appropriate, actions to revoke the certificate or to limit or suspend it in whole or in part, depending upon the extent of the level 1 finding, until successful corrective action has been taken by the operator;

~~(3) for level 2 findings, grant the organisation a corrective action period appropriate to the nature of the finding;~~
~~(**3**) apply any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation.~~
(**b**) In the case of level 2 findings
(1) the competent authority shall:
(**i**) ~~for level 2 findings,~~ grant the organisation a corrective action period appropriate to the nature of the finding;

(ii) ~~the competent authority shall~~ assess the corrective actions and the implementation plan proposed by the organisation and accept them if the assessment concludes that they are sufficient to address the non-compliances(s).
(2) where an organisation fails to perform the corrective actions within the time period accepted by the competent authority, the competent authority shall take appropriate enforcement measures, including the suspension or revocation of certificates ~~and the application of any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation~~.
(**c**) The competent authority shall record all findings, corrective actions and date of action closure and, where applicable, the enforcement measures taken or penalties applied.

Justification:
The IR should be divided between level 1 and level 2.
Deletion of (b)(4):
Justification:
No mandate given to the COM in the basic regulation to regulate penalties executed by MS in this IR`s.
According Art 68 of the basic regulation MS shall lay down penalties for infringement of this regulation.
According the basic regulation the COM shall regulate in the Implementing Rules conditions to issue, maintain, amend, suspend or revoke approvals and certificates.
If there are standardisation problems known, than Guidance Material may be issued to formalize the additional enforcement process.
Penalties are regulated according national laws and shall be executed by the NAA.
The Austrian Airworthiness Authorities does not apply punitive measures directly , this will be done under control of another ministry by regional administration authorities).

In addition to that as the requirement is written it implies that penalties have to be applied – in any case -
right after the detection of a finding (level 1 or 2) . A noncompliance in the initial certification process could not be penalties.

Deletion of (c)(4) last sentence
Justification:
When the organisation fails to perform the corrective action plan, only the certificate shall be suspended or revoked.
Penalties are only required, when operation is continued or a level 1 finding was investigated during
an audit/inspection.

comment *1404* comment by: *Glenn Cronin*

For the reasons set out in our comments on AR.GEN.305, the UK Department for Transport agrees with comments from the UK CAA on this section.

comment *1440* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

(a) clarify the term "safety significance"
(b) (2) too severe - revocation of license as an ultimate option

comment *1449* comment by: *CAE*

AR.GEN.345 (b) (4) & (c) (2) Page 10/11

Penalties applied through member States will result in a non-level playing field. Change: "laid down by the Member State" to "laid down by the agency" or "laid down by the commission", and establish common fines.

Article 68 of the Basic Regulation needs to be revised to ensure there is a standard schedule of penalties which are applicable to all.

comment *1453* comment by: *AOPA-Sweden*

Where are these levels of findings defined?

comment *1487* comment by: *MOT Austria*

Delete AR.GEN.345(a)
Justification:
This should be transfered to AR.GEN.200, Management System

comment *1489* comment by: *MOT Austria*

a) Reorganise and relocate (b)
(**~~a~~b**) When a **level 1** finding is detected during an audit or by any other means, the competent authority shall, without prejudice to any additional action required by the Basic Regulation and its implementing rules:
(1) communicate it to the organisation, including a request for corrective actions to address the non-compliances(s) identified; and
(2) ~~for level 1 findings,~~ take immediate appropriate actions to prohibit or limit activities, including, if appropriate, actions to revoke the certificate or to limit or suspend it in whole or in part, depending upon the extent of the level 1 finding, until successful corrective action has been taken by the operator;
~~(3) for level 2 findings, grant the organisation a corrective action period appropriate to the nature of the finding;~~
~~(**3**) apply any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation.~~
(**b**) In the case of level 2 findings
(1) the competent authority shall:
(**i**) ~~for level 2 findings,~~ grant the organisation a corrective action period appropriate to the nature of the finding;

(ii) ~~the competent authority shall~~ assess the corrective actions and the implementation plan proposed by the organisation and accept them if the assessment concludes that they are sufficient to address the non-compliances(s).

(2) where an organisation fails to perform the corrective actions within the time period accepted by the competent authority, the competent authority shall take appropriate enforcement measures, including the suspension or revocation of certificates ~~and the application of any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation~~.
(**c**) The competent authority shall record all findings, corrective actions and date of action closure and, where applicable, the enforcement measures taken or penalties applied.

Justification:
The IR should be divided between level 1 and level 2.
Deletion of (b)(4):
Justification:
No mandate given to the COM in the basic regulation to regulate penalties executed by MS in this IR`s.
According Art 68 of the basic regulation MS shall lay down penalties for infringement of this regulation.
According the basic regulation the COM shall regulate in the Implementing Rules conditions to issue, maintain, amend, suspend or revoke approvals and certificates.
If there are standardisation problems known, than Guidance Material may be issued to formalize the additional enforcement process.
Penalties are regulated according national laws and shall be executed by the NAA.
The Austrian Airworthiness Authorities does not apply punitive measures directly , this will be done under control of another ministry by regional administration authorities).

In addition to that as the requirement is written it implies that penalties have to be applied – in any case - right after the detection of a finding (level 1 or 2) . A noncompliance in the initial certification process could not be penalties.

Deletion of (c)(4) last sentence
Justification:
When the organisation fails to perform the corrective action plan, only the certificate shall be suspended or revoked.
Penalties are only required, when operation is continued or a level 1 finding was investigated during an audit/inspection.

comment *1625* comment by: *Civil Aviation Authority Finland*

Comment:
AR.GEN.345(b)(2) Level 1 findings must bee specified, because this type of finding has a severe cosequence to the organisation.
AR.GEN.345(b)(3) Level 2 findings must be specified.

comment *1630* comment by: *Icelandic CAA*

It should be specified that only the competent authority that has issued the relevant authorization can establish findings and request corrective actions as a result of audit.

comment *1642* comment by: *FlightSafety International*

If penalties are applied through member States, these might produce a non-

level playing field. Organizations will possibly file in countries with the lowest possible penalties.
Change to: "laid down by the Member State" to "laid down by the agency", and establish common fines.
Article 68 needs to be revised to ensure there is a standard schedule of penalties which are applicable to all.

To establish a level playing field.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 3 - AR.GEN.350 Enforcement measures and penalties - persons p. 11

comment *187* comment by: *DGAC FRANCE*

AR.GEN.350 (c) (1)

Comment :

If we agree globaly on the content of the paragraph, we consider that the relationship between "authority" and "competent authority" is not clear. We propose to improve the text to distinguish the "competent authority" in the sense that has issued the certificate or received and checked a declaration and the authority in the sense that the activities are performed on its territory.

(d) The wording "In other cases" isn't cleat at all. It is preferable to write

Modification :
(b) replace "competent authority" by "authority" since any authority can raise a finding and not only the competent authority

(c) read : When the ~~competent~~ authority that raised the finding ~~is the one that issued the licence, certificate, rating, authorisation or attestation,~~ **is the competent authority as defined in AR GEN 001** it shall :
1) (inchanged)
2) (inchanged)
(d) ~~In other cases,~~**when the authority** that raised the finding **is not the competent authority, it** shall inform the competent authority which shall take action in accordance with paragraph (c) above and inform the authority that raised the finding.

comment *217* comment by: *DGAC FRANCE*

AR.GEN.350(c) and (d)

These provisions don't set out the case where a licence, certificate, rating, authorisation or attestation is not issued by an Authority e.g. AME, GMP under its oversight. An authority needs to be able to limit, suspend or revoke a medical certificate that has been issued by an AeMC, AME or GMP.

comment *218* comment by: *DGAC FRANCE*

AR.GEN.350 (e)

The scope of this paragraph is not clear

Who are the "person not holding a licence certificate …" Is that designing an activity for which a declaration is required?

comment *410* comment by: *Civil Aviation Authority of Norway*

Comment to (d);
What procedure shall apply in case of a certificate, rating or attestation was issued by an independent organisation like a training organisation or an operator? Shall the competent authority who raised the finding also notify that organisation, or is this the task of the competent authority in whose territory the certificate, rating or attestation was issued?

comment *443* comment by: *European CMO Forum*

AR.GEN.350(c)(d)

Comment:
In (c) and (d) it is written that all certificates (including medical certificates) are issued by an authority which will not be the case for all medical certificates.

For a licence, certificate, rating, authorisation or attestation issued by somebody outside the authority, e.g. an AME, GMP there is no corresponding provision for the authority to take action.

Justification:
An authority needs to be able to limit, suspend or revoke a medical certificate that has been issued by an AeMC, AME or GMP.

Proposed Text:
Change to: '…**that raised the finding is the one that has issued or has the responsibility for oversight of the issue of the licence, certificate etc**…' etc..

comment *494* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

AR.GEN.350 (c) (1)
EASA should prepare possible entries in the license for standardization.

comment *560* comment by: *UK CAA*

Page No: 11

Paragraph No: AR.GEN.350

Comment: Where one authority refers a case to another authority, which has issued the licence etc. in question, the issuing authority is required to take appropriate action. But it may require the support of the referring authority including the provision of necessary evidence and perhaps witnesses. Ought there not to be some obligation on the referring authority to provide assistance? It may be considered that AR.GEN.030(b) deals with this but perhaps a more specific reference would be better.

comment *561* comment by: *UK CAA*

Page No: 11

Paragraph No: AR.GEN.350

Comment: Although AR.GEN.340 requires competent authorities to take action in accordance with AR.GEN.350 as applicable; there is no mention of declarations in AR.GEN.350 which raises the question of which parts are applicable (see other UK CAA comments).

Justification: See earlier UK CAA comments – to ensure clarity it might be sensible to include reference to declarations in this requirement.

comment *562* comment by: *UK CAA*

Page No: 11

Paragraph No: AR.GEN.350 (c) (d)

Comment:
Medical certificates are not necessarily issued by an authority.

Justification:
An authority may need to limit, suspend or revoke a medical certificate that has been issued by an AeMC, AME or GMP as well as a certificate that has been issued by the authority.

Proposed Text :
Change to:

AR.GEN.350 (c) 'When the competent authority that raised the finding is the one that has issued **or has the responsibility for oversight of the issue of** the licence, certificate …' etc..
AR.GEN.350 (d) 'In other cases, the competent authority that raised the finding shall inform the competent authority that issued **or has the responsibility for oversight of the issue of** the licence, certificate…' etc

comment *563* comment by: *UK CAA*

Page No: 11

Paragraph No: AR.GEN.350(e)

Comment: It is not understood why this requirement only refers to persons, with no parallel requirement with regard to organisations not holding a certificate or approval or declaration etc. The reference to "further" enforcement measures is not understood.

Justification: There does not appear to be any similar requirement with respect to organisations. If such a requirement is needed for persons then one should be needed for organisations. Nor is there any requirement in earlier parts about taking other enforcement measures in respect of persons not holding a licence, certificate, rating, authorisation or attestation; indeed it is not clear what such measures would be.

Proposed Text (if applicable):
[? Add a similar provision to AR.GEN.345]
Delete "further".

comment *716* comment by: *Luftfahrt-Bundesamt*

It is very doubtful that this requirement will provide for uniform and consistent enforcement measures and penalties. Quite contrary, this requirement might even lead to powerless authorities regarding enforcement measures. First, it might be difficult to identify the competent authority, and even if a competent authority might be identified, it might not know about the activities taking place in its area of competency (please note our comment on AR.GEN.355). Next thing is, article 68 of the basic regulation does not provide any specific penalty requirements. Since the degrees of penalties are up to national legislation, differences in the degree of penalties are supposed to lead to a distortion of competition. Especially in Germany where the AMC concept is conflicting the national legislation system any finding might have no consequences at all for the non-compliant (please also note our comment on OR.GEN.350).

comment *807* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (c) (2):

The Swedish Transport Agency cannot apply any penalties. It is the judicial system in Sweden that decides when it comes to penalties.

Member States shall lay down penalties for infringement of the Basic Regulation and its implementing rules. This is stated in Article 68 of Regulation (EC) No 216/2008 and shall not be part of the implementing rules for the competent authorities to apply. The possibility of imposing penalties also comes into conflict with the authorisation and supervision responsibility of the competent authorities when it is not recommended for one organisation to be both the legislator and the imposer of penalties.

Proposal (c) (2):

The proposal is probably outside the scope of the implementing rules as the question is already regulated in article 68 of Regulation (EC) No 216/2008.

Delete the possibility for the competent authorities to impose penalties.

Comment for (c) (1):

Which of the three alternatives, limit, suspend or revoke, is to be chosen? This is unclear and has to be specified to achieve uniform application all over Europe. If not, it is a great risk that the legislation is put into practice in different ways. For example, some countries might choose to limit a certificate while another choose to suspend it, regarding the same finding.

Proposal (c) (1):

Specify in which case a certain alternative of sanctions is to be chosen.

Comment for (c) and (d):

In points (c) and (d) it is taken for granted that all certificates (including

medical certificates) are issued by an authority. As proposed in NPA 2008-17 this will not be applicable to medical certificates with the implication that this paragraph will be obsolete for medical certificates. For a licence, certificate, rating, authorisation or attestation issued by somebody outside the authority, e.g. an AME, GMP or FE, there is no corresponding provision for the authority to take action.

Proposal for (c) and (d):

Clarification is needed as to medical certificates and attestations.

Comment for (e):

The competent authority may not have any legal force to take any enforcement measures against persons not holding an approval from the authority. This can only be done through the national legal system.

General Medical Practitioners (GMP) will not hold any authorisation from the competent authority and this paragraph would then be applicable to them. The effects will be especially serious concerning GMPs showing non-compliance with the requirements where it would be impossible for the competent authority to prevent the continuation of an infringement. According to medical legislation only the National Board of Health can take enforcement measures against a GMP, and only if patients are at risk.

Proposal for (e):

The legal situation and its consequences need to be clarified.

comment *870* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

(b) (d)
COMMENTS
(b) (d) Maximum delays are not precised.

PROPOSAL
Delays shall be precised, with a quantitative maximum limit, e.g. 2 weeks max.

JUSTIFICATION
A 2 week maximum delay is provisioned within AMC1 to AR-ATO200(a)(1)
Any other values shall be consistent or justified.

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since so me articles ref er to not y et-published (or even not yet -established) pieces of regulation or are not self-con sistent, these comments are also limited to their u nderstanding not considering t he r egulation a s a w hole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is comme nted SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has r equested a delay for c ommenting and propo sed to EA SA to sett le meanwhile a common and constructive approach between the Agency, the NAAs and the ind ustry in order to id entify and discuss the issues of the proposed re gulation. This comment SHALL BE considered as (and only as) the

first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *977* comment by: *DCAA*

AR.GEN.350
This article needs further legal evaluation.

comment *1149* comment by: *Unique (Zurich Airport)*

Not applicable to Aerodromes

comment *1164* comment by: *Irish Aviation Authority*

In (c) and (d) all certificates (including medical certificates) are issued by an authority which is not be the case for all medical certificates. An authority needs to be able to limit, suspend or revoke a medical certificate that eas issued by an AeMC, AME or GMP. Change to: '…**that raised the finding is the one that has issued or has the responsibility for oversight of the issue of the licence, certificate etc**…' etc..

AR 27/05/09

comment *1216* comment by: *CAA CZ*

AR.GEN.350 (d), Procedure should be specified stating the steps should be followed in the case that, in the State where the offense was committed, is charged a fine, but under the law of the State issuing the license for this offense does not fine apply (see AR.GEN.350(c)(2) and AR.GEN.355(b)).

comment *1349* comment by: *ACI EUROPE*

Not applicable

comment *1381* comment by: *IACA International Air Carrier Association*

(d)
"The competent authority that raised the finding…" suggests that there may be more than one "competent authority", which is in contradiction with OR.GEN.001.

comment *1391* comment by: *Walter Gessky*

AR.GEN.350
Title:
Delete **penalties** from the title
Justification:
No mandate is given in Art 68 to the COM in the basic regulation to regulate penalties executed by MS in a IR. According Art 68 of the basic regulation MS shall lay down penalties for infringement of this regulation.
According the basic regulation the COM shall regulate in the Implementing Rules conditions to issue, maintain, amend, suspend or revoke approvals and

certificates.

lit. (a) and (b) shall be deleted or transferred to AR.GEN.345
Justification:
To raise a finding is a procedure issue and shall be transferred either to AR.GEN.200 Management System or to AR.GEN.345
Recording of findings is not an enforcement measure. This is a procedure issue and shall be transferred either to AR.GEN.345

Add the following changes to (c):
(c) When the competent authority that raised the finding is the one that issued the licence, certificate, rating, authorisation or attestation, it shall:
(1) limit, suspend or revoke the licence, certificate, rating, authorisation or attestation, in case a safety issue has been identified **and the corrective actions was not performed within the time period accepted**.
(2) take any further enforcement measures necessary to prevent the continuation of an infringement, ~~including the application of any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation~~.
Justification::
No penalty possible in the initial certification process, because no breach of the regulations happend.
The action can only be taken when the corrective actions are not complied within the accepted period.
d. Deleted the text after the sentence from (c)(2), because MS has to laid down penalties according national law. No mandate is given in Art 68 to the COM to regulate this in an IR.

comment *1441* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

Not applicable

comment *1491* comment by: *MOT Austria*

AR.GEN.350
Title:
Delete **penalties** from the title
Justification:
No mandate is given in Art 68 to the COM in the basic regulation to regulate penalties executed by MS in a IR. According Art 68 of the basic regulation MS shall lay down penalties for infringement of this regulation.
According the basic regulation the COM shall regulate in the Implementing Rules conditions to issue, maintain, amend, suspend or revoke approvals and certificates.

lit. (a) and (b) shall be deleted or transferred to AR.GEN.345
Justification:
To raise a finding is a procedure issue and shall be transferred either to AR.GEN.200 Management System or to AR.GEN.345
Recording of findings is not an enforcement measure. This is a procedure issue and shall be transferred either to AR.GEN.345

Add the following changes to (c):
(c) When the competent authority that raised the finding is the one that issued the licence, certificate, rating, authorisation or attestation, it shall:

(1) limit, suspend or revoke the licence, certificate, rating, authorisation or attestation, in case a safety issue has been identified **and the corrective actions was not performed within the time period accepted**.
(2) take any further enforcement measures necessary to prevent the continuation of an infringement, ~~including the application of any penalties laid down by the Member State in accordance with article 68 of the Basic Regulation~~.
Justification::
No penalty possible in the initial certification process, because no breach of the regulations happend.
The action can only be taken when the corrective actions are not complied within the accepted period.
d. Deleted the text after the sentence from (c)(2), because MS has to laid down penalties according national law. No mandate is given in Art 68 to the COM to regulate this in an IR.

comment *1554* comment by: *ERA*

"The competent authority that raised the finding…" suggests that there may be more than one "competent authority", which is in contradiction with OR.GEN.001.

comment *1627* comment by: *Civil Aviation Authority Finland*

Question:
What is the prosedure in case of certificate, rating, authorisation or attestation which is issued by an independent training organisation or an operator?

comment *1632* comment by: *Icelandic CAA*

The applicability of penalties in accordance with article 68 of the basic regulation for NON-EU states may possibly be limited, depending on how this provision is incorporated into national regulatory framework.

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comment *10* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Die Vorschrift regelt die Zusammenarbeit zweier Mitgliedstaaten im Bereich der Aufsicht, wenn eine Organisation im Staat A genehmigt wurde, aber im Staat B tätig wird (z. B. Tätigkeit einer Flugschule).

Es ist richtig, dass die Behörde des Staates, in dem die Tätigkeit der Organisation stattfindet, in Amtshilfe des Genehmigungsstaates auf Antrag "inspections" durchführt. Es sollte jedoch noch deutlicher klargestellt werden, dass primär der Genehmigungsstaat für "Enforcement measures" wie Ruhensanordnung oder Widerruf der Genehmigung zuständig ist, nicht der Staat, in dem die Aktivität stattfindet.

Zur Abwehr von Gefahren sollte es jedoch auch möglich sein, dass der Staat, in dem die Aktivität stattfindet, der die Genehmigung jedoch nicht erteilt hat, selbst Maßnahmen ergreift (z. B. Ruhensanordnung). Nur so können etwaige Verzögerungen vermieden werden, die infolge einer möglicherweise

schwierigen Kontaktaufnahme mit der Behörde des anderen Staates (Zuständigkeit, Sprachschwierigkeiten) ansonsten drohen würden.

comment *67* comment by: *Luftamt Nordbayern*

Bei grenzüberschreitenden Aktivitäten und Dienstleistungen steht die Aufsicht nach dieser Vorschrift sowohl der Ausstellungsbehörde als auch der Behörde des Mitgliedstaates zu, in dem die Aktivität ausgeübt wird ("shall be carried out in conjunction"). Dies dürfte in der Praxis zu Schwierigkeiten führen. So wäre es denkbar, dass Ausstellerstaat und Ausübungsstaat zeitgleich tätig werden, aber unterschiedliche bzw. sich widersprechende Maßnahmen anordnen. Die Abstimmung des Vorgehens dürfte schon aufgrund der räumlichen Distanz, der unterschiedlichen Verwaltungsabläufe und auch Sprachbarrieren problematisch sein.

Kommt es z.B. zum Widerruf einer Genehmigung, so wäre es nicht praktikabel, wenn eine deutsche Verwaltungsbehörde z.B. einen polnischen Bescheid widerrufen müsste. Abgesehen von den schwierigen rechtlichen Fragen die sich hierbei ergeben, dürfte dies bereits an der Sprachbarriere scheitern.

Sinnvoll wäre es, wenn die Behörde des Ausübungsstaates die Ausstellerbehörde zwar informiert, Maßnahmen aber von der Ausstellerbehörde getroffen werden. Bei Uneinigkeit zwischen Aussteller- und Ausübungsstaat über zu ergreifende Maßnahmen sollte eine "Schiedsstelle" geschaffen werden.

comment *132* comment by: *ECA- European Cockpit Association*

Include the comment for the need for information exchange between the authorities when different bases are established.

comment *188* comment by: *DGAC FRANCE*

AR.GEN.355

Comment : AR.GEN.355 a)
1. There is no obligation in the BR regulation to organise a collective oversight. We understand that article 10.1 of the BR is in the view of EASA the legal hook to justify collective oversight but in our point of view it is not sufficient to cover the concept or collective oversight for all the activities covered by the BR since it has for scope SAFA procedures. So, this paragraph is too prescriptive and we propose to replace the obligation "shall" by a possibility "may".
2. Nevertheless, in case of doubt about an organisation that operates on the territory of a member state, the authority of this member state should be able to get information on the oversight or this organisation. In order to organise this cooperation we propose to add a paragraph e)
It is only compulsory in the frame of SES regulation (EC) 2004-550 ; This paragraph may have to be modified when ATM is in the scope of EASA
In this case, the member states shall have concluded an agreement in order to share the oversight responsibilities.
2. We don't understand the wording "undertaking" and we propose to delete it
3. the whole paragraph will have to be reviewed again after the publication of the NPA on TCO

Modification :
AR.GEN.355 Activities in more than one Member State

(a) Where the activity of a person, organisation ~~or undertaking~~ involves more than one Member State the oversight ~~shall~~ **may** be **organised, agreed by and then** carried out in conjunction with the competent authorities from the Member States in whose territory the activities are performed.

Comment : AR.GEN.355 b) an d)
delete the word "competent" before authority or authorities

Comment : AR.GEN.355 c)
delete the whole paragraph since it is already covered by AR GEN 350 (d)

Add AR.GEN.355 e)
e) The competent authority responsible for the oversight of an organisation that operates in an other state shall answer to any request from the authority of this state about the oversight of this organisation

comment *259* comment by: *Susana Nogueira*

(a)This oversight must be defined more precisely

comment *260* comment by: *Susana Nogueira*

Definition of **person** as subject of involvement of more tahn one state

comment *376* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Die Vorschrift regelt die Zusammenarbeit zweier Mitgliedstaaten im Bereich der Aufsicht, wenn eine Organisation im Staat A genehmigt wurde, aber im Staat B tätig wird (z. B. Tätigkeit einer Flugschule).

Es ist richtig, dass die Behörde des Staates, in dem die Tätigkeit der Organisation stattfindet, in Amtshilfe des Genehmigungsstaates auf Antrag "inspections" durchführt. Es sollte jedoch noch deutlicher klargestellt werden, dass primär der Genehmigungsstaat für "Enforcement measures" wie Ruhensanordnung oder Widerruf der Genehmigung zuständig ist, nicht der Staat, in dem die Aktivität stattfindet.

Zur Abwehr von Gefahren sollte es jedoch auch möglich sein, dass der Staat, in dem die Aktivität stattfindet, der die Genehmigung jedoch nicht erteilt hat, selbst Maßnahmen ergreift (z. B. Ruhensanordnung). Nur so können etwaige Verzögerungen vermieden werden, die infolge einer möglicherweise schwierigen Kontaktaufnahme mit der Behörde des anderen Staates (Zuständigkeit, Sprachschwierigkeiten) ansonsten drohen würden.

comment *411* comment by: *Civil Aviation Authority of Norway*

Comment to (a);
The term “activity” related to this paragraph should be defined, as this can be interpreted as being any activity, such as normal operations into airports.

comment *422* comment by: *Civil Aviation Authority of Norway*

Comment to section (b):
Has the Competent Authority in whose territory an activity is being performed, the authority to revoke or suspend an approval issued by another competent authority?
The enforcement policy needs to be specified more clearly with regard to which Competent Authority has the final decision regarding enforcement actions. Otherwise we foresee that this can create difficulties when different Competent Authorities disagree on what enforcement action that shall be applied.

comment *482* comment by: *Air Berlin Technik*

The whole issue dealt with by this paragraph in our opinion is in contradiction with the idea of harmonisation, because it is in conflict with the principle of mutual recognition and the concept of the "pricipal place of business". By this, it even jeopardizes an equal playing field because it especially opens the door for national protectionism.
Delete the whole paragraph completely including all related Section 2 material.

comment *487* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

Paragraph AR.GEN.355 should thus be limited to cooperation between competent authorities in cases where Commercial Air Carriers do have large operational bases in more than one Member State. In the interest of safety all oversight activities should be coordinated and all enforcement action shall be taken by the corresponding competent authority that issued the certificate of the Air Carrier as this authority will also be in charge of a potential suspension or withdrawal of the certificate.

comment *564* comment by: *UK CAA*

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Paragraph No: AR.GEN.355

Comment:
There is lack of clarity as to who is carrying out "the oversight" mentioned in (a), given that AR.GEN.305 seems to require all competent authorities to establish oversight programmes for activities in their territories. The UK CAA comment on AR.GEN.305 indicates that such a requirement is not appropriate.

Moreover it seems unnecessarily prescriptive to require that oversight "shall be carried out in conjunction" with other competent authorities. Also, the word "undertaking" appears for the first time, with no indication of how this differs from an organisation or person.

Justification:
This requirement continues the lack of clarity throughout this section as to the responsibilities of different competent authorities for monitoring, establishing oversight programmes, and taking certification and/or enforcement actions. Moreover, it may not be necessary or practicable for all Member States to work together in all cases where activities are carried out in more than one Member State, although they may need to be aware of actions the certifying authority is taking. To require authorities to work in conjunction seems to go beyond

the Basic Regulation, which at Article 10 requires Members States "to cooperate". See also UK CAA comment on AR.GEN.305

Proposed Text (if applicable):
(a) **Where persons or organisations exercise activities in the territory of more than one Member State, the competent authority responsible for issuing the relevant certificate or receiving a declaration shall cooperate with the competent authority for any Member State in whose territory the activities are performed, to the extent necessary to ensure proportionate oversight**.
(b) The competent authority in whose territory the activities are performed shall apply the provisions as defined in AR.GEN.305 and AR.GEN.350, **in so far as agreed with the competent authority responsible for issuing the relevant certificate or receiving a declaration;**
(c) In addition,……the competent authority **where the activity is carried out, if not the certifying authority,** shall inform:
(1)…
(e) **Where competent authorities have agreed to cooperate in oversight, such cooperation shall include the handling of any** corrective action(s)

comment *578* comment by: *CAA-NL*

Comment
The Basic Regulation (Article 10) does not provide a legal basis for specific requirements on cooperation between the Member States. It is therefore suggested to make AR.GEN.355 more generic. Reference is also made to the comment on AR.GEN.30. Whether and how Member States cooperate with respect to the oversight where the activity of a person, organisation or undertaking involves more than one Member State, is up to those Member States.

Text proposal
(a) Where the activities of a person, organisation or undertaking involves more than one Member State, the Member States involved shall make arrangements for close cooperation.
(b) Without prejudice to the competencies of the Member States, in cases involving more than one Member State, the concerned competent authorities shall assist each other in carrying out the necessary oversight action.

comment *600* comment by: *OAA Oxford*

(a) This clause states that "oversight shall be carried out in conjunction with the competent authorities from the Member States in whose territory the activities are performed.

(c) and (c) (2) indicates that the competent authorities from the Member States in whose territory the activities are performed may undertake a separate inspection.

Recommendation: The Member State, as determined by the place of business criteria, should determine the scope of all inspections carried out on ATOs operating in another Member State with due regard to the requirements of the host State. Any regulatory compliance issue should also be dealt with by this single Member State.

comment *662* comment by: *Irish Aviation Authority*

Unless there is an onus on the person, organisation or undertaking to inform all the CA's of the MS's involved in the activity, this section will be unworkable.

A common EASA form for registering your intention to operate within the Member State should be developed and organsiations must complete the form before commencing activities.

A new paragraph (a) is suggested:

(a) Where the activity of a person, organisation or undertaking involves more than one Member State the person, organisation or undertaking shall make a declaration (see OR.GEN.040) to the authorities in the Member States in whose territories the activities are to be performed, before the activity commences.

The following paragraphs will then have to be renumbered (b), (c), (d) and (e).

comment *695* comment by: *Boeing*

AR.GEN.355
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CONCERN: Oversight by EASA is not mentioned for non-EU organizations, for operations outside the territory, or for organizations that have activities in more than one Member State. Where there are multiple audits by multiple authorities for centers that reside in multiple Member States, how is there an assurance that the audit and findings are consistent, applicable, and objective?

REQUESTED CHANGE: The text should clarify whether or not EASA will act as the competent authority for these activities and organizations, instead of the national authorities. We also suggest including provisions for EASA to delegate these responsibilities via a bilateral aviation safety agreement (BASA).

JUSTIFICATION: Clarification is needed. Most multiple center ATOs will have centers residing in multiple Member States. This situation should be recognized in the regulation.

comment *717* comment by: *Luftfahrt-Bundesamt*

Which authority will be the competent one with regard to monitoring of activities if a proficiency check is conducted in an aircraft registered in Member State A in the territory of Member State A by an examiner who’s examiner certificate has been issued by an authority in Member Sate B and the pilot’s licence has been issued by an authority in Member Sate C? Whereas the authorities of Member States B and C are very unlikely to know about this proficiency check before its completion, the authority of Member State A probably might never get to know about this proficiency check though this authority appears to be the competent one according to AR.GEN.355 (b).

Thus, AR.GEN.355 can hardly be applied to the oversight of examiners. Because EASA decided to grant examiner privileges on behalf of the community, an authority that is considered as the competent one might not even know about the activities it shall oversee unless the examiners are obliged to notify the competent authority about their intention to exercise their

privileges in the territory of the Member State concerned. Thus, an examiner shall not exercise his examiner privileges in a Member State other than the State of certification issue unless he has been approved by the competent authority in the appropriate Member State (please also note our comment on AR.GEN.030 and AR.FCL.205).

The provisions of AR.GEN.355 do also apply to Commercial Air Carriers. As the activities of these Commercial Air Carriers are not limited to the boundaries of the Member State that issued the AOC and the Operating License of this carrier, a large number of other Member States will have to apply the provisions of this paragraph. This will lead to a high and absolutely unnecessary administrative and bureaucratic burden for the Member States which can not be fulfilled with present manpower resources. For example an Air Carrier with ten transport category aircraft may have activities within ten to 15 Member States and up to 30 different airports. The provisions of AR.GEN.355 would require the competent authorities of all 15 Member States and the regional offices of all 30 airports to make themselves acquainted with the corresponding airlines procedures and operational aspects, carry out audits and/or inspections, communicate results with the operator and other competent authorities, take enforcement action etc. The amount of work will rise dramatically when implementing this new requirement without any advantage in terms of safety.

From our point of view the surveillance of foreign operators is not possible. We as national CAA have no information about organisation, staff, procedures, national legal requirements etc of this operator. Therefore a check can be performed only based on our requirements. What is about the legal situation, when there are some findings? Who is – if it is necessary – allowed to decide, which penalties, which legal activities have to follow? Which legal system shall be used – our or the system of the operator-state? Furthermore the staff-capacity in our Authority will be not able to cover these additional tasks.

Paragraph AR.GEN.355 should thus be limited to cooperation between competent authorities in cases where Commercial Air Carriers do have large operational bases in more than one Member State. In the interest of safety all oversight activities should be coordinated and all enforcement action shall be taken by the corresponding competent authority that issued the certificate of the Air Carrier as this authority will also be in charge of a potential suspension or withdrawal of the certificate.

comment

745 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The proposed text in point (b) implies that the competent authority of a Member State will be responsible for the oversight of all activities within its territory, regardless of which state has issued the approval of that organisation or person. This might have both economic and human resources impacts on a state responsible for oversights of organisations from other states.

Points (a) and (d) do not clearly define which authority has the responsibility, only that they shall co-operate. This would lead to serious legal implications with nobody having the formal responsibility. The legal systems might be different between the state giving the approval and the state(s) where the activities, oversight and enforcement take place.

Also, there is no clear requirement for one competent authority to co-operate with, or at least inform, a second competent authority on whose territory it has given an initial approval to an organisation or person to perform activities. This should be required.

In point (a), the word "undertaking" is added together with "organisation" and "person". What is the difference between an "undertaking" and an "organisation"?

With all these ambiguities and shortcomings it is impossible to accept such a collective oversight system.

Proposal:

The proposed oversight system cannot be accepted in its current form. A considerable number of clarifications is required to make a meaningful analysis possible of its economic and other consequences for both Industry and the national aviation authorities.

comment *833* comment by: *AEA*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states `Recognition of Certificates `Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
We propose to add the following statement
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *871* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

(a)
COMMENTS
(a) In nearly all cases, air transport activities are conducted in more than one

Member State, and depend from various aeronautical agreed organizations (in-house our not). To that extend, the nature and designation of the different Competent authorities involved is unclear.
An organization might be fully aware of the Competent authorities it depends and of the pieces of information about itself, exchanged between them.

PROPOSAL
The wording shall be more explicit, or definitions shall be granted, incl. :

- activities (if an airline also has a specific activity in a given country - selling donuts ? -, shall the conjunction with the competent authorities from this Member States in whose territory the activities be performed ? In the donuts' case, who would be this competent authority ?)
- Competent authorities

(See comments AR.GEN.005)

The frame and conditions of information exchanged shall be more explicit. At least shall be clearly defined by the regulation :

- The Competent authority and its areas of privileges, in terms of geographic areas, areas of competencies, etc.

- The concerned Competent authorities

(See comments AR.GEN.030)

JUSTIFICATION
Obvious

QUESTION
What happen when an organization is settled (management & back-office) in a Member state and has no flight activity in this country ?

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *879* comment by: *CAA Belgium*

(a) & (d) are similar.

comment *978* comment by: *DCAA*

AR.GEN.355
This article needs further legal evaluation.

comment *1020* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.
In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.
In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates: Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation.' Multiple oversight as proposed by EASA is therefore against EU law.
Proposal:
We propose to add the following statement:
"Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remain under the MS responsibility."

comment *1049* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart GEN - Section 3 - AR.GEN.355 Activities in more than one Member State

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state

in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
We propose to add the following statement
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1092* comment by: *KLM*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
We propose to add the following statement
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1102* comment by: *Virgin Atlantic Airways*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more

than one Member State the oversight shall be carried out in conjunction with the competent authotries from the Member States in whose territory the activities are performed.

Comment:

The term Activities needs to be defined.

Airlines operate their aircraft in various Member States (both destinations and alternate aerodromes) and oversight should remain the responsibility of the competent Authority who granted the AOC.

In an EU member states territory where common aviation safety regulation exists which is under the surveillance of the Agency and subject to EASA standardisation inspections, there should be no additional oversight by the state in which the activities are performed if it duplicates the oversight undertaken by the Competent Authority which granted the certificate.

Proposal:
EASA must reconsider this regulation taking Article 11 of the basic EASA regulation (216/2008) and the whole premise of a harmonised Aviation regulatory system into account.

comment *1111* comment by: *Ryanair*

AR.GEN.355 – Activities in more than one Member State

This Regulation introduces collective oversight. It is unacceptable that a single operator could be subject to direct regulatory oversight by the Competent Authorities of currently 27 Member States and be expected to satisfy the oversight requirements of these Member States for example – accountable manager meetings, countless inspections, varying audit programmes etc all of which require the allocation of additional resources by the operator.

Proposal
Delete: (b) The competent authority in whose territory the activities are performed shall apply the provisions as defined in AR.GEN.305 and AR.GEN.350, as applicable.

GEN.355 Activities in more than one Member State
(a) Where the activity of a person, organisation or undertaking involves more than one
Member State the oversight shall be carried out by the Competent Authority of the state of Registry and findings copied to the competent authorities from the Member States in whose territory the activities are performed.
(c) In addition, where during an inspection or by any other means, evidence is found
showing a non-compliance with the Basic Regulation and its implementing rules, the
competent authority of the state of registry shall inform:
(1) the person or organisation;
(2) the competent authority *of the Member State whose territory the activities are performed ;* and
(3) the State in which the aircraft is registered, if applicable.
(d) The competent *authority of the State of Regist ry shall take appropriate enforcement*

measures and the application of penalties.

comment *1118* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates: Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation.' Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
We propose to add the following statement:
"Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remain under the MS responsibility."

comment *1151* comment by: *Unique (Zurich Airport)*

does not apply to aerodromes (recital 6 and Art. 8a2d BR)

comment *1217* comment by: *CAA CZ*

AR.GEN.355 (a), Measures which should be taken by the NAA should be specified when authorized organization operates in more then one country, and has not sufficient funds or staff to ensure the necessary cooperation/coordination?
The possible use of authorization by "qualified entity" or by any other authority should be considered.

comment *1295* comment by: *AIR FRANCE*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the

activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation.

Proposal:
We propose to add the following statement
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility.

comment *1322* comment by: *International Air Transport Association (IATA)*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law.

Proposal:
We propose to add the following statement
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which

remains under the MS responsibility.

comment *1350* comment by: *ACI EUROPE*

does not apply to aerodromes (recital 6 and Art. 8a2d BR)

comment *1383* comment by: *IACA International Air Carrier Association*

(a)
The concept of "collective oversight" is not in compliance with the Basic Regulation 216/2008. Delete the concept of "collective oversight" and replace by the known concept of "principal place of business".

Justification: Basic Regulation 216/2008 article 2 (c) specifies "duplication at national and European level shall be avoided". Additionally, whereas (10) thereof clearly specifies "…Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules."
The concept of "principal place of business" prevails already in Regulations 2042/2003 (Airworthiness) and 1702/2003 (Certification).

comment *1405* comment by: *Glenn Cronin*

For the reasons set out in our comments on AR.GEN.305, the UK Department for Transport agrees with comments from the UK CAA on this section.

comment *1442* comment by: *Arbeitsgemeinschaft Deutscher Verkehrsflughäfen e.V.*

does not apply to aerodromes (recital 6 and Art. 8a2d BR)

comment *1461* comment by: *CAE*

AR.GEN.355 Page 11

There is no need to have multiple authorities auditing a single organization. This introduces the possibility of differing interpretations of the requirements which may be resolved eventually by EASA but in the interim will cause undo financial burden on the organization without any increase in safety. For example, most multiple center ATO's will have centers residing in multiple member states. This will have an adverse affect on the decision of the organization to increase its physical presence in other EU member states.

One member state should be competent enough to handle the oversight of one organization.

comment *1521* comment by: *CAA Norway*

AR.GEN.355

See our comments to AR.GEN.005(d)

comment *1541* comment by: *ERA*

The concept of "collective oversight" is not in compliance with the Basic Regulation and should be replaced by the known concept of "principal place of business".

comment *1581* comment by: *Icelandair*

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed.
Comment:

comment *1607* comment by: *Oxford Aviation Academy*

The impact of this requirement needs further addressing and development for those organisations operating in more than one EU jurisdiction and the implications, i.e. how it is going to be carried out, clearly stated in guidance material. The potential for applying different methods of oversight by a competent authority which is not the approving organisation may well place added and unnecessary technical and financial burden on a training organisation without any safety basis. The text sounds fine, but the practical implementation is much more difficult. Specifically does this apply to the operation of FSTDs in other EU Member States other than the approving competent authority?

comment *1633* comment by: *Icelandic CAA*

Any shared responsibilities between states must be clearly defined. This should however normally only apply when requested by the competent authority that issued the relevant authorization.

comment *1643* comment by: *FlightSafety International*

Oversight by EASA is not mentioned for non-EU organizations or for operations outside the territory, and for organizations that have activities in more than one member state. Where there are multiple audits by multiple authorities for centers which reside in multiple member states, how is there an assurance that the audit and findings are consistent, applicable and objective.

EASA will be the Competent Authority for activities and organizations outside the territory. This is not reflected in this paragraph. Most multiple center ATOs will have centers residing in multiple member states.

comment *1659* comment by: *CB*

Having reviewed the enclosed in detail, bmibaby (AOC GB.2244) concurs with the comments of the AEA.

Relevant Text:
(a) Where the activity of a person, organisation or undertaking involves more than one Member State the oversight shall be carried out in conjunction with the competent authories from the Member States in whose territory the activities are performed

Comment:
"The term Activities must be defined. Airline operates their aircraft in various Member States (every destination and alternate aerodrome) but oversight is the responsibility of the competent Authority who has issued the AOC.

In the EU member states territory where a common aviation safety regulation is in place, under the surveillance of the Agency and subject to EASA standarisation inspections, there should be no additional oversight by the state in which the activity are performed if it is in addition to the oversight done by the Competent Authority which delivered the certificate. Implementing such a system would be a signal of mistrust between the EASA Member States and therefore undermine the objectives of creating EASA.

In this context the AEA would like to point out that Article 11 of the basic EASA regulation (216/2008) clearly states 'Recognition of Certificates 'Member States shall without further technical requirements or evaluation recognize certificates issued in accordance with this regulation. Multiple oversight as proposed by EASA is therefore against EU law,

Proposal:
We propose to add the following statement
Any activity covered by this regulation which is subject to oversight by the CA which is the one delivering the organisation approvals is subject to monitoring by this CA excluding ramp inspections performed on MS territories which remains under the MS responsibility

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO p. 12

comment *1510* comment by: *Airbus*

General comment on Subpart ATO and related AMC/GM:
NPA 2009-01, on Operational Suitability Certificate, proposes a requirement for OEMs, under Part 21 Subpart C, to provide the "data" to support simulator qualification. If this requirement is adopted, the requirements for simulator qualification in Subpart ATO should refer, where appropriate, to the set of data issued under the operational suitability certificate.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 1 p. 12

comment *1218* comment by: *CAA CZ*

AR.ATO.(f.e.110), page 12
The requirements regarding the approval of ATO relating to carrying out an inspection before issuing a licence should be provided, as in AR.AeMC.010 (see page 19) for approval AeMC (see JAA AGM / JIP, Section Five, Part 2, para 9.1):

„…upon receiving an application for the issue of the approval for an ATO, the competent authority shall conduct an inspection of the organization before issuing an approval certificate"

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 1 - AR.ATO.020 Record-keeping p. 12

comment *302* comment by: *RAeS ICFQ*

To facilitate the adoption future ICAO criteria for FSTDs the use of specific description for types of training devices should be avoided in this section.

Re-word AR.ATO.020 to read

(b) The co mpetent authority shall keep and update a programme listing the qualified FSTDs, under its supervision, the dates when evaluations are due and when such evaluations were carried out.

response *Accepted*

The specific descriptions will be replaced by FSTD according to your proposal, but anyway the Agency decided that a new rulemaking process will be necessary to align the Implementing Rules, Certification Specifications and AMCs with the new ICAO document 9625, 3rd edition.

comment *470* comment by: *Ryanair*

RYR Comment
Authorities approve Training Programs and ATOs run courses based on the approved Training Programs. A Course is the actual implementation of a Training Program. We suggest the word Course be substituted with the phrase "Training Programmes" to avoid an interpretation that might require an ATO to provide detail of individual courses rostered by an ATO to an Authority.

RYR Alternative text proposal
"……..of record keeping details of ~~courses~~ *training programmes* provided by the ATO …."

comment *592* comment by: *UK CAA*

Page No:
12 and throughout following parts of NPA

Paragraph No: AR.ATO.020; AR.FCL.020 and all other requirements in following sections.

Comment: CAA notes that there is no "vertical" consistency in the use of requirement numbering between the AR.GEN requirements and the subject specific requirements. For example, AR.GEN.220 covers the general requirements on competent authorities with regards to record keeping but the additional requirements for record keeping are in the 020 not 220 series. The same comment applies to **all** the requirements in AR.ATO and AR.FCL.

Justification: It would seem more logical – and an aid to use of the proposed e-tool for finding requirements – to maintain consistency in numbering of related requirements.

comment *696* comment by: *Boeing*

AR.ATO.020
Para *(b)*
Page 12

CONCERN: Are the listings intended to be available to industry through each Member State individually, or will EASA consolidate them into a "master listing"?

REQUESTED CHANGE: Please clarify this item.

JUSTIFICATION: A wide distribution of information could add to an increased probability of errors. The requirement should address a means to ensure this cannot occur.

comment *1162* comment by: *CAA Finland*

Amend. Harminization with FCL + BITD is missing.

~~FFS, FTD or FNPT~~ **FSTD**

comment *1219* comment by: *CAA CZ*

AR.ATO.020 (a), „…the competent authority shall include in its system of record-keeping **details of c ourses pr ovided by th e ATO**, and if applicable, records related to FSTD used for training."
It should be clarified whether the Authority must keep records (details) of all individual courses, conducted in the ATO or shall keep only a list of approved (types/kinds) of courses for the ATO.

comment *1454* comment by: *AOPA-Sweden*

What do the acronyms FFS, FTD, and FNPT stand for?

comment *1493* comment by: *CAE*

AR.ATO.020(b) Page 12

Are the listings intended to be available to industry by each member state or will EASA consolidate them into a master listing?

EASA control and distribution of information will increase efficiency and productivity.

comment *1649* comment by: *FlightSafety International*

Are the listings intended to be available to industry by each member state or will EASA consolidate them into a master listing?

Wide distribution of information will add to an increased probability of errors.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 1 - AR.ATO.105 Monitoring of activities - ATOs p. 12

comment *11* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Sofern mit "monitoring of course standards" gemeint ist, dass der (theoretische) Unterricht an allen Flugschulen von der Behörde regelmäßig stichprobenartig zu überprüfen/beaufsichtigen ist, halten wir dies für eine nicht erforderliche Überregulierung von Sicherheitsstandards.

Das Prüfprogramm bei Zulassung der Flugschule und des Lehrpersonals sowie die in AR.GEN.305 vorgeschriebenen "inspections" sind nach unserer Auffassung ausreichend, um einen hinreichenden Sicherheitsstandard zu gewährleisten.

Eine Überwachung der "course standards" sollte nur nach Ermessen der Behörde erfolgen, z. B. wenn Hinweise auf etwaige diesbezügliche Defizite eingehen.

comment *35* comment by: *George Knight*

It is hard to see how it will be possible to sample training flights with students in gliders. I'm not aware of any three-seat gliders in use in Europe for training. The same will apply to most SLMGs, TMGs and microlights used for training and a significant percentage of the light aircraft used for SEP training.

I think that the wording needs to become "... including the sampling of training flights with students when suitable aircraft are used for that purpose."

comment *52* comment by: *British Gliding Association*

Within gliding, the majority of training takes place within a club environment, on weekends and using volunteer instructors. The students frequently attend the club on an ad-hoc basis. Pre-planning and requiring competent authority sampling flights with students is unworkable. Course standards can be analysed through experience of flight test outcomes.

Proposal. Remove the sentence part ',including the sampling of training flights with students'.

comment *377* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Sofern mit "monitoring of course standards" gemeint ist, dass der (theoretische) Unterricht an allen Flugschulen von der Behörde regelmäßig stichprobenartig zu überprüfen/beaufsichtigen ist, wird dies als eine nicht erforderliche Überregulierung von Sicherheitsstandards gesehen.

Das Prüfprogramm bei Zulassung der Flugschule und des Lehrpersonals sowie die in AR.GEN.305 vorgeschriebenen "inspections" sind nach hiesiger Auffassung ausreichend, um einen hinreichenden Sicherheitsstandard zu gewährleisten.

Eine Überwachung der "course standards" sollte nur nach Ermessen der

Behörde erfolgen, z.B. wenn Hinweise auf etwaige diesbezügliche Defizite eingehen.

comment *471* comment by: *Ryanair*

RYR Comment
Are there to be any EASA approved procedures for implementing this rule? What notice will an ATO have of the oversight? What are the terms of reference for the Inspector conducting the oversight? What authority does the Inspector have when conducting the oversight? What are the lines of reporting following an oversight? Will the Inspector de-brief the crew or the ATO management? **ETC ETC...**

PROPOSAL

Publish clear terms of reference for all involved in the oversight process

comment *825* comment by: *EUROPEAN GLIDING UNION*

Page 12
Within gliding, the majority of training takes place within a club environment, on weekends and using volunteer instructors. The students frequently attend the club on an ad-hoc basis. Pre-planning and requiring competent authority sampling flights with students is impractical and unworkable. Course standards can be analysed through experience of flight test outcomes, and the application of FCL proposed rules and syllabi. They do not require an additional layer of monitoring of individual students through their training programme.

Proposal. Remove the sentence part 'including the sampling of training flights with students'.

comment *904* comment by: *Dassault Aviation*

AR ATO 105

We suggest to add at the end of the sentence:
, and pro cesses suc h as change ma nagement, cha nge noti fication and Standardization .

Explanation
An initial course being approved, it is paramount that:

- An efficient standardization control process be in place to ensure that a same course is being taught in the same manner by the different instructors in the different centers,
- An efficient Change Management Process be in place to maintain the course up-to-date in flow with aircraft, documentation or regulatory relevant evolutions,
- An approved Change Notification Process be in place with agreed criteria defining
    - When the authority must be informed of changes
    - When a new approval of the course from the authority should be expected

comment *995* comment by: *Royal Danish Aeroclub*

In some air sports (gliding, ballooning and some power flying), the majority of training takes place in a clubs. This is typically on weekends and and holidays. The instructors are volunteer instructors. The student pilots and members frequently attend the club when they have free time on an ad-hoc basis. Pre-planning and requiring competent authority sampling flights with students is unworkable.
Course standards can be analysed through experience of flight test outcomes.

Proposal:
Remove the sentence part ',including the sampling of training flights with students'.

comment *1600* comment by: *Europe Air Sports PM*

Within the air sports regulated by EASA rules, and particularly gliding, the majority of training takes place within a club environment, on weekends and using volunteer instructors. Students frequently attend the club on an ad-hoc basis. Pre-planning and requiring Competent Authority sampling flights with students is impractical and unworkable.

Course standards can be analysed through experience of flight test outcomes, and the application of FCL proposed rules and syllabi. They do not require an additional layer of monitoring of individual students through their training programme.

For non-commercial ballooning the same comments apply but with even more emphasis due to the critical aspects of weather. Ballooning takes place generally in the early morning or early evenings. Would the CA personnel visit a ballooning take off site at 4 a.m. or 8 p.m, at sites that can vary at very short notice?

Proposal. Remove the sentence part 'including the sampling of training flights with students'.

comment *1636* comment by: *Danish Powerflying Union*

We suggest to delete **"including the sampling of training flights with students".**

The majority of training acitivity in our aeroclubs takes place during weekends and holidays, when the students and instructors have free time. It will be difficult to pre-plan sampling flights with students.

The level of standard can be evaluated from the flight test results.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 2 - AR.ATO.200 Initial evaluation procedure p. 13

comment *36* comment by: *George Knight*

A number of gliding clubs use simple, low-cost, unapproved flight simulators to enable pupils to practice on bad weather days when otherwise they would go

home. This is also true of some flying clubs. This recreational usage of simulators does not constitute a formal part of the training and is not recorded in logbooks. There is a significant risk that all the regulations regarding simulators etc. spread throughout NPA2008-22 will have the unintended consequence of making it illegal for a recreational gliding or flying club to operate a simulator for recreational purposes – whereas any other organisation would be able to do so.

I think that the rules need a specific statement that an ATO may operate an unapproved FSTD as long as it is not a formal part of a training course and that time spent in such a device is not logged.

comment *264* comment by: *UK CAA*

Page No:
13, 51

Paragraph No: AR.ATO.200 (a) and associated AMC material.

Comment:

Paragraph AR.ATO.200 (a) does not include a requirement for the competent authority to satisfy itself, through subjective testing, that the simulator accurately represents the aircraft during all normal and abnormal operations and under adverse operating conditions, e.g. sudden engine failure during take-off. This is seen as a deficiency in the requirements which could lead to a reduction in safety by allowing simulators to be approved to a level of fidelity which is less than optimum.

Justification:

The UK CAA has considerable experience in conducting initial simulator evaluations and routinely uses authority test pilots and flight test engineers as part of the evaluation team. From this involvement, the UK CAA has found that many simulators, despite appearing to match QTG data, often do not behave like the aircraft during normal and abnormal operations and under adverse operating conditions. Furthermore, the flight test team often uncover errors in the implementation of aerodynamic and control law modelling. Examples include, but are not limited to, the following:

1. Sudden engine failure during take off (above and below V1)
2. Mis-trimmed take-offs
3. Aircraft behaviour in crosswind
4. General aircraft handling within and at the edges of the normal flight envelope
5. Stall handling characteristics
6. Effect of CG variation
7. Performance on wet and contaminated runways

The consequence of a simulator not representing the aircraft in any of the above examples is that crews could be trained to respond incorrectly under adverse operating conditions and, what would appear to be the correct control input in the simulator, could be entirely inappropriate in the aircraft and could result in a hazardous or catastrophic situation.

UK CAA has proved that inputs from an experienced flight test team, can

greatly enhance the fidelity of a synthetic training device and can identify potential safety issues which may go undetected by an evaluation team such as that proposed in AMC 4 to AR.ATO.200 (a)(1) of this NPA. This is because the FSTD inspector or flight inspector are unlikely to have the relevant certification flight test background and will be unfamiliar with the types of test techniques involved. In CAA's experience, the flight test evaluation can normally be accommodated within the 3-day timescale suggested in AMC 3 to AR.ATO.200(a)(1).

With more and more reliance being placed on the use of simulators in today's training environment, and the potential for unrepresentative devices to result in 'negative training' issues as discussed above, UK CAA strongly recommends the involvement of flight test teams in the initial simulator evaluation process in order to maintain safety levels.

In order to minimise the regulatory burden, it is recommended that flight test team involvement is limited to FSTDs which represent new aircraft types for each different simulator manufacturer or which have new motion or visual system technology that has not been previously evaluated, or any other technology which has not been previously modelled or assessed.

Proposed Text :

1. Add new sub-paragraphs (4) and (5) to AR.ATO.200 (a) as follows:

The competent authority shall:

(4) for FSTDs representing a new aircraft type for a simulator manufacturer or which have new motion or visual system technology that has not been previously evaluated, or any other technology which has not been previously modelled or assessed, satisfy itself, by conducting testing using a flight test team, that the FSTD accurately represents the aircraft during normal and abnormal operations and under adverse operating conditions as identified in AMC 1 to AR.ATO.200(a)(4).

(5) where appropriate, for FSTDs falling outside the criteria specified in (4) above, call upon a flight test team to participate in the initial evaluation.

2. Add new AMC 1 to AR.ATO.200(a)(4) as follows:

AMC 1 to AR.ATO.200(a)(4) Initial evaluation procedure
FLIGHT TEST EVALUATION

The flight test evaluation should be conducted by a flight test team as defined in AMC 4 to AR.ATO.200(a)(1) paragraph 1 b. The evaluation should consist of a series of tests which will ensure that the simulator accurately represents the aircraft under normal, abnormal and adverse operating conditions. A typical series of tests for fixed wing and rotary wing aircraft are given below:

<u>Fixed Wing Aircraft Tests</u>

a. Recording of engine acceleration times, low altitude, landing configuration
b. Check of climb performance with one engine inoperative in take-off and en-route configurations, forward cg.
c. Windmill and assisted engine relights including check of engine rundown characteristics at maximum altitude.

d. Check of low cabin pressure indications and alerts
e. Aircraft handling at high Mach Number (Mmo+0.03)
f. Buffet boundary check
g. Dutch roll damping and Yaw Damper operation at maximum altitude
h. Check of cabin over-pressure indications and alerts
i. Check of instrument and equipment behaviour including reversionary modes.
j. Aircraft handling at Vmo+20kts
k. General assessment of audio levels and ambient noise.
l. Stall speed evaluation, forward cg
m. Stall handling assessment, aft cg
n. Emergency landing gear extension
o. Crosswind landing, aft cg
p. Emergency brake check
q. Sudden engine failure during take-off, below V1, light weight aft cg
r. Sudden engine failure during take-off, Vmcg, light weight aft cg
s. Sudden engine failure during take-off, above V1, heavy weight ,forward cg at performance-limiting airfield
t. Landing with one engine inoperative
u. Go-around with one engine inoperative
v. De-rated thrust take-off
w. Mis-trimmed take-offs, forward and aft cg
x. Check of flying control system failures
y. Check of accelerate-stop distances, wet and dry runways
z. Check of accelerate-stop distance and aircraft behaviour on contaminated runway

Rotary Wing Aircraft Tests

a. Qualitative assessment of take-off and landing
b. Aircraft handling in the hover, including side and tail wind cases and axial turns
c. Flight to maximum speed Vne for assessment of handling and vibration characteristics
d. Qualitative assessment of handling qualities within and at extremes of flight envelope
e. Entry to and recovery from autorotation
f. Check of autorotative rotor rpm.
g. Check of climb performance. For single-engined aircraft, this should be a climb at maximum continuous power. For multi-engined helicopters, the climb should be carried out with one engine inoperative.
h. Engine handling and performance. Engine acceleration characteristics should be checked. Engine power assurance and, in some cases, max N_g (topping) checks should also be performed.
i. Aircraft systems functioning. Tests, particularly of the AFCS, should be generally directed towards examination of reversionary modes and failure/discrepancy detection.

3. Retain existing text of Item 1, sub-section b. of AMC 4 to AR.ATO.200(a)(1), and re-designate as sub-section c.

4. Create new text for Item 1, sub-section b. of AMC 4 to AR.ATO.200(a)(1) as follows:

b. A flight test team comprising a test pilot and flight test engineer who have significant experience of the aircraft type ideally gained from participation in the aircraft certification flight test programme. In particular, the flight test

team should have detailed knowledge of the aircraft's handling qualities and performance under normal and abnormal conditions. A good understanding of the aircraft's systems, powerplant and the effect of failures is also required.

Note that, on a case-by-case basis, it may be acceptable to use a flight test team provided by the aircraft manufacturer provided they have been involved in the aircraft certification flight test programme and are independent of the simulator manufacturer and the approved training organisation.

comment *697* comment by: *Boeing*

AR.ATO.200
Para (a)(3)
Page 13

CONCERN: The meaning of "subjective tests" is not apparent.

REQUESTED CHANGE: We suggest either eliminating the term "subjective" or providing a clearer definition.

JUSTIFICATION: This change is appropriate to avoid differences between Member States and to maintain a level playing field.

comment *1591* comment by: *CAE*

Paragraph a(3) should read "to establish the Master Qualification Test Guide (MQTG)"

comment *1644* comment by: *FlightSafety International*

What are considered "subjective tests"?

Eliminate "subjective". Or better definition.

To avoid differences between Member States and maintain a level playing field.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 2 - AR.ATO.220 Continuation of a FSTD qualification p. 13-14

comment *266* comment by: *UK CAA*

Page No:
13 of 77

Paragraph No: AR.ATO.220

Comment:
Propose to delete the word "continuously" from paragraph (b)

Justification:
A competent authority will monitor the approved training organisation as required to carry out the items listed. The use of the word continuously indicates a high level of involvement, which may not be appropriate to fulfil these functions.

Proposed Text (if applicable):
Paragraph (b) to read : The competent authority shall monitor the approved training organisation operating the FSTD to verify whether: (remainder unchanged)

comment *303* comment by: *RAeS ICFQ*

To facilitate the adoption future ICAO criteria for FSTDs the use of specific description for types of training devices should be avoided in this section.

Replace existing wording in (b) (1) by

(1) t he complete MQ TG is progressively run between each evaluation of a FSTD

comment *676* comment by: *Irish Aviation Authority*

It is not clear from this what interval is envisaged under ' recurrent evaluations'. Is it annual as currently or triennial as in (b)(1).

Also it is not clear what interval is envisaged by 'continuously monitor'.

Can guidance be provided please?
DCr 210509

comment *698* comment by: *Boeing*

AR.ATO.220
Para (b)(1)
Page 13

CONCERN: By identifying specific training devices in this regulatory text, new technology devices will not be addressed as they become available.

REQUESTED C HANGE: The terms FNPT, FTD, FFS, and BITD should be referred to only as "Flight Simulation Training Devices (FTSD)."

JUSTIFICATION: Although the specified training devices are currently used in today's setting, there likely will be additional newer, different devices that the regulation must address as the technology advances and matures. Rather than changing the regulation to address each new device as it becomes available, EASA should revise the text to use "FSTD" as a term to encompass all training devices and thus establish a "global" standard.

comment *1172* comment by: *CAA Finland*

Amend. Text is possibly not harmonized with OR.ATO.375

comment *1499* comment by: *CAE*

AR.ATO.220 (b)(1) Page 13

FNPT, FTD, FFS, BITD should be referred to only as FSTD

This is so there is provision to add new technology and training devices and for the adoption of new global standards.

comment *1593* comment by: *CAE*

The guidance for the "progressive" runs of the MQTG on an annual basis should be clearer with respect to the breakdown through the year; normally the MQTG is divided into 4 portions, each run during each quarter period of the year. Each portion is composed of tests from different sections of the QTG, so that no one complete section is run at the same time.

comment *1650* comment by: *FlightSafety International*

FNPT, FTD, FFS, BITD should be referred to only as FSTD

This is so there is provision to add new technology and training devices and for the adoption of new global standards.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 2 - AR.ATO.230 Changes p. 14

comment *1564* comment by: *AIRBUS*

It is understood that simulators qualified before JAR STD1A Amendment 3 (o NPA-STD 11) became applicable could maintain their approval under the previous JAR criteria. It is at the discretion of the Authority to decide if majo updates or relocation of the simulator would require a change to Amendment 3 or CS-FSTD(A) requirements.
Flight Test data is not necessarily available to support updates of such devices Use of existing test definitions (as defined in the Master QTG for the FSTD) fo flight dynamics and performance sections could be an alternative means o compliance.

Airbus considers necessary to clarify the EASA position concerning Full Fligh Simulators already in service before JAR STD1A Amendment 3 became applicable. Additional Flight Test data would in any case not necessarily be available, and thus the changes (which would use engineering validation source data) would bring limited added value.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart ATO - Section 2 - AR.ATO.235 Findings and corrective actions - FSTD qualification certificate p. 14

comment *1594* comment by: *CAE*

The process for the re-instatement of the FSTD qualification should be addressed here also.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 1- AR.FCL.020 Record-keeping p. 15

comment *93* comment by: *DCA Malta*

AR.FCL.020 Record keeping
Clarify the meaning 'thoeretical **examinations an d ex aminations** and assessments of pilot's skills'

comment *133* comment by: *ECA- European Cockpit Association*

Comment: add the following paragraph (source: appendixes 1 and 2 to JAR-FCL 1.535):

Implementation Monitoring – Multi-Crew Pilot Licence Advisory Board
(a) An exchange of information between Competent Authorities, training organizations and operators that are involved in MPL(A) training and pilot representative bodies is required to achieve the successful implementation of the MPL. An advisory panel, designated the "MPL Advisory Board" is established to use this information to provide guidance to Competent Authorities and Interested Parties on the implementation and improvement of MPL(A) training courses.
(b) Training organizations approved to give MPL(A) training courses shall provide regular feedback, in accordance with the approval conditions, to the Competent Authority as set out in Appendix 1 to JAR-FCL 1.535, specifically for the purpose of providing relevant information to the MPL Advisory Board.

Justification:

Old JAR-FCL 1.535 and its two appendixes are missing. It was agreed among all parties that an MPL advisory Board was to be constituted for the assurance of a correct implementation of the MPL licenses. Moreover, this entity is an ICAO requirement.
ECA cannot agree on the deletion of any MPL AB related text. Industry already have examples of how some NAA and FTOs do not fully comply with the regulation (step by step, ATC environment, ab-initio entrant, etc.), which is not acceptable. ICAO is looking for an information collective body, MPL is created in Australia and other parts. EASA is walking backwards deleting this paragraph.

comment *219* comment by: *DGAC FRANCE*

AR FCL 020

comment : the paraph referred to in AR FCL 020 is AR GEN 220 (a) and not the whole paragraph ; thus the term "examination" of this paragraph needs to be clarified

modification :

In addition to the records required in AR GEN 220 **(a)** , the competent authority shall include system of record-keepings details of theoretical knowledge examinations and **skill test and proficiency check.**

comment *306* comment by: *Susana Nogueira*

The sentence 'theoretical knowledge examinatios and examinations and

assesments of pilot's skill'

Duplication of word 'examinations' is a mistake?
or
Is a different kind of examinations not in use in actual regulation?

comment *475* comment by: *Ryanair*

COMMENT

There is no guidance as to how the Authority should comply with this rule.

PROPOSAL
Confirm that the normal LST & LPC documentation supplied to the Authority by the ATO will be sufficient for the Authority.

comment *489* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Proposal:

The paragraph FCL.020 should read:
…shall include in its system of record-keeping details of theoretical knowledge and flight examinations.

comment *718* comment by: *Luftfahrt-Bundesamt*

This requirement generally is supported, but there seems to be an inconsistency in the terminology. In this paragraph the term Theoretical Examination is ranked at the same level as the term Examination.
In order to avoid confusions and misinterpretations the term Examination should used as the **general term** ("umbrella term"). The terms theoretical knowledge examination and practical flight Examination represent subcategories. By using the term Examination both subcategories should be included, unless the distinctness will be attained by superscriptions or headlines.
The paragraph FCL.020 should read: ……***shall include in its system of record-keeping details of theoretical knowledge and flight examinations.***

comment *746* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

What is the meaning of "and examinations"? What kinds of examinations are intended? Skill tests? A clarification or different wording is necessary.

Proposal:

Clarification is needed.

comment *979* comment by: *DCAA*

Clarification of terms:

The following terms need clarification:
- Theoretical knowledge Examination,
- Examinations,
- Assessments of pilots skills.

comment *1220* comment by: *CAA CZ*

AR.FCL.020, „…the competent authority shall include in its system of record-keeping **details of theoretical knowledge examin ations an d examinations and assessments of pilot´s skill**."
It should be clearly defined whether the Authority has to to keep the record-keeping details of all individual theoretical knowledge examinations (i.e. all tests carried out in all the subjects and all attempts, not only the successful), for at least 5 years or has to keep records only the results of these examinations.

comment *1522* comment by: *CAA Norway*

AR.FCL.020

The wording should be reconsidered, as it is not clear what is meant by "*..theoretical knowledge examinations and examinations..”*.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 p. 16

comment *782* comment by: *CAA Belgium*

Proposal: Modify the title as follows: "Procedure for issue, revalidation and renewal of..."

Reason: this paragraph also has provisions how to renew licences, ratings or certificates.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 - AR.FCL.200 Procedure for issue and revalidation of a licence, rating or certificate p. 16

comment *94* comment by: *DCA Malta*

AR.FCL.200 (b)
Can an examiner revalidate or renew a rating or has it got to be the competent authority?

comment *95* comment by: *DCA Malta*

AR.FCL.200 (d)
Add in (2) after competent authority 'for those persons who do not hold a licence'.

comment *220* comment by: *DGAC FRANCE*

AR FCL 200

comment :

AR FCL 200 (b) : It seems contradictory with Part FCL (NPA 17) which states that examiners can revalidate licence, ratings and certificates ; its an examiner's task.

AR FCL 200 (c) : remove instructor certificate from (d) and add it to (c)

AR FCL 200 (d) : we need an harmonised format for all licences and certificates (including examiners certificate**).**

modification :
AR FCL 200 (c) : add "instructor certificate" after ratings

AR FCL 200 (d) : Issue of ~~instructor and~~ flight **and synth etic** examiner certificates. When satisfied that the applicant il in compliance with the applicable requirements **and oth er criteri a**, the competent authority shall issue the certificate as a separate document, in a form and manner specified in **appendix xxx.**

comment *309* comment by: *Susana Nogueira*

(b) when satisfied thet the applicant meets the requirements, the competent authority shall issue, renew or **revalidate** the relevant licence, rating or certificate.

This paragraph is in contradiction with FCL.1030 (b) (2) 'in the case of proficiency checks for revalidation or renewal, (the examiner) **endorse t he pilots licence** or certificate with the new expiry date of the rating or certificate.

comment *312* comment by: *Susana Nogueira*

(d) Delete 'flight' before examiner

This is a rule for all examiners not only for flight examiners (FI)

comment *315* comment by: *Susana Nogueira*

(d)(2) Modify this sentence: 'a separate document, in a form and manner specified by the competent Authority **for th ose pers ons not havi ng pilot's licence**'

In cases of a holder of licence this posibility should not be

comment *677* comment by: *Irish Aviation Authority*

1. Under (b) it says that the competent authority shall issue, renew or revalidate the relevant licence, rating or certificate.

This is contrary to FCL.1030 (b)(2) where it says that it is an obligation of an examiner to do this.

To remove this contradiction, it is suggested that FCL.1030 be altered as in our submission to the CRT for NPA 2008-17b.
2. Under (d), the term ' flight examiner ' is a specific role in Subpart K Section 2 of FCL - viz FE. Therefore other examiners such as TRE, CRE, IRE, SFE, FIE, would not be covered by this rule.

It is recommended that the word 'flight' should be removed, so that it is consistent with the term 'instructor' and in line with other rules in this Section and with FCL Subpart K.
DCr 220509

comment *720* comment by: *Luftfahrt-Bundesamt*

According to AR.FCL.200 (b), each pilot will finally be qualified to become an examiner by age and experience, eventually leading to every individual pilot having his own professional examiner.

Is it EASA'S approach to enhance aviation safety by providing an unlimited number of examiners thereby lowering experience and continuous examiner duties (recency) for a larger number of examiners having less current experience? To our understanding aviation safety and performance assessment of examiners would require a curtailed and manageable amount of examiners with a lot of current experience. Therefore we see the necessity to regulate the number of examiners and request an appropriate requirement (see below, and also our comments with regard to NPA 17). We also suggest an age limit for examiners exercising their (EU) privileges and propose to set a limit at the age of 68 or 70.

Because by ICAO standards examiners are part of the regulatory process of licensing, it should be clear that examiners fulfil a regulatory task and therefore each licence/rating/certificate holder who has to be in contact with a certificated examiner for his own licence privileges has a right to be protected from certificate holders with a doubtful character or other deficiencies, which do not lead to revocation, limitation or suspension of a pilot licence but are disqualifying to act in a regulatory process.
Additionally, experience has shown that applicants who have been rejected as examiners by the state of licence issue have been issued an examiner certificate by another EU/JAA member state although this issuing state did not have any licence records of the applicant. This is a non-acceptable procedure parallel to the way car drivers, whose licence have been revoked, have been issued a new car driver's licence by another member state; but with one major difference: the competent national aviation authority will be almost powerless with regard to enforcement and penalty procedures. We do not see any safety enhancement, but do consider the EASA requirement to counterproductive with regard to aviation safety.

AR.FCL.200 (b) would force national authorities to grant examiner privileges to persons these authorities probably would never consider suitable for such a regulatory task. Thus, though any case of a probable 'malfunction' of an examiner cannot be blamed on the authority, most probably it will be the authority that has to deal with all the work that results from cases taken to an administrative court in this respect.

AR.FCL.200 (d):
Flight examiner (FE) is only one category of examiners, but AR.FCL.200 (d) should apply to all examiner categories (CRE, TRE, IRE, FIE, etc.) We think this

editorial mistake needs to be rectified.

Regarding AR.GEN.(d)(1) we like to refer to our comment on the licence format according to Appendix III to Annex 1 Part 1 AR. Not only because examiner privileges might be conditioned, there might not be enough space available in the licence to specify the required evident privileges given to an examiner.

The national flexibility according to AR.GEN.(d)(2) might not provide a level playing field if national requirements/restrictions to examiners would apply, thus an EASA document would be required for his purpose.

comment *783* comment by: *CAA Belgium*

(d)

Proposal: Delete the word "flight".

Reason: All kind of examiners (FE, TRE, CRE,...) must be foreseen.

comment *785* comment by: *CAA Belgium*

(d) (2)

Proposal: Replace this paragraph by:
(2) a separate document, in a form and manner specified by the Agency, for those persons who don't have a licence.

Reason: This harmonises:
- that is must be add on the licence if you have one;
- that the other document is harmonised in all Members States (instead of 27 several documents).

comment *1183* comment by: *CAA Finland*

Amend. Text is not clear when comparing with examiner privileges and AR.FCL.220. Additionally it has been unclear how to revalidate SEP/TMG by experience and training flight.

(b) When satisfied that the applicant meets the requirements, the competent authority shall issue, renew or revalidate the relevant licence, rating or certificate.
(1) Revalidation of ratings may also be conducted by a relevant examiner.
(2) In case of SEP or TMG class ratings the relevant instructor may also make the revalidation. The instructor shall follow the requirement FCL.1030 and App 9 to FCL for the training flight.

comment *1187* comment by: *CAA Finland*

Attachments #3 #4 #5

(b) New forms required. For harmonized approach model certificates shall be used within all NAAs. The certificate shall hold all required information that NAA needs to cross check towards the requiement. 3 model certificates are attached.

comment *1222* comment by: *CAA CZ*

AR.FCL.200 (d), AR.FCL.205 (b), Requirements should be specified for the issue of certificate „**senior** examiner" (see **Part FCL**, page 65 FCL.1025(b)(3), page 577 AMC to FCL.1015, 2.3…).
Part FCL states also „senior flight examiner", but Part AR speaks only about „inspector of the competent authority".

comment *1223* comment by: *CAA CZ*

FCL.200 (b),(c), page 16
The possibility should be given to ravalidate (not renew) the rating may be revalidated also by the endorsement to the licence by authorized examiner (see Part FCL.1030(b)(2), page 65), if due to changes in the way of authorisation of examiners will not arise, that the endorsement in the licence may be entered only by the Authority.

In Part FCL.1030 (b)(2) (see page 65) clarification should be provided, that the examiner shall endorse of revalidation of the rating into a licence **only in the case when** the proficiency check **has successfully been completed**:

(b) After completion of the skill test or proficiency check, the examiner shall:

(1) inform the applicant whether he passed or not the test or check. When the applicant hasn't passed the test or check, the examiner shall also inform him/her of the consequences of that fact, of the requirements he/she will have to comply with in order to exercise the privileges
sought, and of his/her right of appeal to the competent authority that issued, or to whom the pilot has applied for the issue of, the licence, rating or certificate for which the skill test or proficiency check was performed;

(2) in the case **when the proficiency check for revalidation** ~~or renewal~~ **has successfully been completed**, endorse the pilot's licence or
certificate with the new expiry date of the rating or certificate;

comment *1385* comment by: *IACA International Air Carrier Association*

(b)
Add "…within 72 hours from application."

comment *1523* comment by: *CAA Norway*

AR.FCL.200(b)

There are inconsistencies between this paragraph and AR.FCL.215(b), and FCL.1030(b)(2).

In "real life", a pilot flies his/her PC with an examiner. According to FCL.1030, after the pilot passes the PC the examiner shall endorse the license/rating with the new expiry date. Then the PC form is sent to the competent authority of the pilot. According to AR.FCL.215(b), the competent authority shall then enter the (same) new expiry date. This is also a duplication of the procedure described in AR.FCL.200, stating that when satisfied the applicant meets the requirements, the competent authority shall issue, renew or revalidate... This

is a bit late in the process, as the examiner already according to FCL.1030 has endorsed the pilots license with the new expiry date! So what happens when the competent authority discovers that all requirements have not been met, but the examiner already has endorsed the license?

We suggest the whole structure of examiners and the issue/renewal/revalidation process, as described in Part FCL and Part AR be reviewed.

Secondly, the heading of AR.FCL.200 is misleading, as it says "Procedure for issue and revalidation of...", while actually it covers issue, renewal and revalidation.

comment *1524* comment by: *CAA Norway*

AR.FCL.200(d)(2)

In several places, such as EN's, RIA's etc, EASA expressedly wants to get rid of the "..at the discretion of the Authority.." situation. We find this paragraph contradicts this goal, as it leaves the form and manner of the document up to the different competent authorities.

If EASA wants the examiner to be operating as a community resource rather than on behalf of one of the competent authorities, and operating anywhere in the community, the least we must ask is that there is a standard specification to the certificate format, including the language used.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 - AR.FCL.205 Monitoring of examiners p. 16

comment *12* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Um die behördliche Aufsicht über die Examiner gemäß AR.FCL.205 wahrnehmen zu können, ist es erforderlich, dass jeder Prüfer die für den Prüfungskandidaten lizenzführende Behörde frühzeitig (spätestens 48 Stunden) vor der durchzuführenden Prüfung über Ort und Zeit der Prüfung, Person des Prüfungskandidaten sowie Art der Prüfung informiert (vgl. FCL.1030).

Eine Prüfung, die ohne rechtzeitige Information der Behörde stattfindet, ist unwirksam und muss wiederholt werden.

comment *31* comment by: *Luftamt Nordbayern*

NPA 2008-22b AR.FCL.205 sieht eine Aufsicht der "competent authority" über alle von ihr "zertifizierten" und alle sonstigen in ihrem Zuständigkeitsbereich tätigen Prüfern vor. Hierzu sollen behördliche Inspektoren die Prüfer kontrollieren.

Unter der Prämisse, dass freie Prüferwahl besteht, ist es nahezu unmöglich eine Aufsicht über alle im Zuständigkeitsbereich tätigen Prüfer durchzuführen. Wenn keine Prüferzuweisung im Einzelfall erfolgt, erfährt die "competent authority" erst im Nachhinein von der durchgeführten Prüfung. Ein Prüfer der z.B. in Spanien "zertifiziert" wurde, könnte seine Prüferdienste europaweit anbieten und wäre bei freier Prüferwahl kaum behördlich zu überwachen. Die

Zertifizierungsbehörde könnte die Aufsicht aus geographischen Gründen kaum wahrnehmen, die Behörde in deren Zuständigkeitsbereich eine Prüfung abgenommen wird erfährt bei Zugrundelegung der vorliegenden Entwürfe erst im Nachhinein davon. Ob und wann wieder eine Prüfung durch diesen Prüfer in ihrem Zuständigkeitsbereich stattfinden wird, ist ihr auch nicht bekannt. Hier ist ein erheblicher Überwachungsaufwand absehbar.

Es sollte daher zukünftig unbedingt bei dem Grundsatz bleiben, dass Prüfer zugewiesen werden und kein freier Wettbewerb der Prüfer stattfindet (vgl. auch Kommentierung zu NPA 2008-17b, FCL.1010.FE).

Diese Vorschrift sollte teilweise überarbeitet werden und folgende Prüferpflichten enthalten:

1. Der Prüfer muß sich bei der jeweils örtlich zuständigen Luftfahrtbehörde registrieren und in eine Prüferliste aufnehmen lassen.

2. Der Prüfer darf nur Prüfungen durchführen, die ihm jeweils von der zuständigen Luftfahrtbehörde im Einzelfall zugewiesen werden. Prüfer und Prüfling können sich nicht beliebig selbst zuweisen.

3. Zeit und Ort der Prüfung gibt der Prüfer rechtzeitig vorab der zuständigen Luftfahrtbehörde bekannt, damit diese ihre Aufsichtspflichten gemäß NPA 2008-22b ARFCL.205 erfüllen kann.

JAR.FCL 250 sieht vor, dass die Prüferzertifizierung bei Verletzung der Prüferpflichten durch die "competent authority" entzogen werden kann. Im Falle eines z.B. in Spanien zertifizierten aber in Deutschland tätigen Prüfers ergibt sich Klärungsbedarf, wer dann "competent authority" ist.

Auch falls dennoch an dem Konzept eines freien Wettbewerbs der Prüfer mit freier Prüferwahl festgehalten werden soll, so müsste zumindest die zuständige Behörde rechtzeitig, mehrere Tage vor dem geplanten Prüfungstermin über Ort, Zeit, Prüfer und Prüfungskandidat schriftlich oder in Textform informiert werden. Eine Prüfung, die ohne rechtzeitige Information der Behörde stattfindet, ist unwirksam und muss wiederholt werden.

Offen wäre bei freiberuflich tätigen und vorher durch die Behörde nicht bestellten Prüfern auch die Frage der Prüferhaftung. Nach dem bei der Informationsveranstaltung am 13.11.2008 geäußerten Willen der EASA soll die Staatshaftung greifen. Nach Auffassung des Luftamts Nordbayern gibt es hierfür jedoch keinen Grund, wenn sich jeder Prüfling einen Prüfer selbst auswählt und die Prüfer frei ohne vorherige Zulassung und Zuweisung tätig werden. So kann auch ein z.B. in Spanien anerkannter Prüfer in Deutschland Prüfungen abnehmen, ohne hierfür nochmals besonderes beauftragt zu werden. Prüfer würden damit zukünftig völlig frei vom Prüfling gewählt und insoweit Fluglehrern gleichgestellt. Eine Kontrolle und "Auswahl" der Prüfer erfolgt nur noch im Rahmen des Erwerbs und der Verlängerung eines "examiner certificates". Die Prüfer sind nicht Behördenangehörige und bieten als freie Unternehmer ihre Dienste an. Ob die bestandene Examiner-Prüfung als Anknüpfungspunkt für eine Staatshaftung ausreicht, ist nach dem Mitgliedstaatlichen Recht sehr fraglich.

comment *33* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Es fehlt eine Regelung hinsichtlich der Haftung, sofern durch einen Prüfer in

dieser Eigenschaft ein Schaden verursacht wird. Zwar hat die Tätigkeit eines Prüfers prinzipiell hoheitlichen Charakter, was für eine Haftung des Staates sprechen würde. Auf der anderen Seite soll künftig jeder Bewerber, der bestimmte Voraussetzungen erfüllt, einen Anspruch haben, zum Prüfer bestellt zu werden und diese Tätigkeit EASA-weit auszuüben, außerdem soll jeder Prüfling die Möglichkeit bekommen, sich "seinen" Prüfer auf dem freien Markt auszuwählen. Die Prüfungstätigkeit wäre damit weitgehend privatisiert und den staatlichen Einrichtungen entzogen. Konsequenterweise müsste bei Schäden, die durch die Tätigkeit eines Prüfers verursacht werden, auch eine Haftung des Staates ausdrücklich ausgeschlossen werden. Vielmehr sollte eine gesetzliche Verpflichtung für Prüfer eingefügt werden, entsprechende (Haftpflicht-)Versicherungen in näher zu definierender Höhe abzuschließen.

Unklar wäre im Falle einer Staatshaftung darüber hinaus, welcher Staat haftet, wenn ein Prüfer, der im Staat X seine Prüfungslizenz erhalten hat, eine Prüfung im Staat Y abnimmt, was nach dem künftigen Recht ja möglich sein soll.

comment *96* comment by: *DCA Malta*

AR.FCL.205 (a) (2)
It is not possible for the competent authority to know who are the other examiners on the territory of the State, unless there is a requirement that it is informed.

comment *134* comment by: *ECA- European Cockpit Association*

Comment: add the following paragraph:
(c) The competent authority of the Member State where the flight examiner exercises their activity may require the flight examiner to provide it with any information prior to conducting any skill tests or proficiency checks.

Justification:

Clarification required. How is an NAA informed about examiners certified by other NAAs, exercising their privileges in the first country? Paragraph (a)(2) needs to be linked with FCL.1030 (obligation of examiners), so that the Competent Authority is always well informed of any examiner exercising his/her privileges in its territory, as there is no provision for this exchange of information (many doubts about an operator doing training in a different country, with own crew, own examiner, external simulators,…all kinds of combinations may pop up), some text like MED.D.001c)

The paragraph proposed was in the FCL.001 proposal, and it is part of the oversight function the Authority has. It states a possibility, not an imposition, to be complied with at every test, but only when the Authority considers it necessary. Examiners have to be over seen, as well as the rest of the system. It's not a matter of trust, it's safety assurance.

comment *152* comment by: *DGAC FRANCE*

AR.FCL.205

Comment :

The competent authority must have means to implement an oversight programme for the examiners as required in Part AR and the NPA doesn't propose any thing for that matter. The preliminary information by the examiner is necessary for that purpose because in a lot of cases a proficiency check involves only an examiner and a pilot.
The substitution may be necessary in case of an examination in a two seat aircraft if the authority wants to assess by itself the level of an applicant.

Modification, Add two paragraphs as followed :

(c) to implement the oversight programme the competent authority must be inform of any examination planned within its territory or concerning students of an ATO it has issued the approval certificate.
This preliminary notification must be done according to the conditions established by the competent authority. It must allow for an announced or unannounced supervision of the examiner or, if the supervision is not possible due to the number of seat in the aircraft, the substitution of the examiner.
(d) the competent authority may substitute an examiner by an inspector or another examiner.

comment *268* comment by: *UK CAA*

Page No:
16

Paragraph No: AR.FCL.205

Comment: It is not clear which competent authority is intended to develop the oversight programme – the one issuing the approval to the examiner or the one where the examiners are active? If the latter, a mechanism needs to be established to inform the competent authority of examiners who have been approved by another authority who are exercising their privileges within their territory.
(see also UK CAA comment on AR.GEN.220)

Justification: Oversight cannot be undertaken without knowledge.

Proposed Text (if applicable): AMC needs to be developed**.**

comment *271* comment by: *UK CAA*

Page No:
16 and throughout NPA

Paragraph No: AR.FCL.205 and elsewhere

Comment: Where the term **'examiner'** is used without prefix it is assumed this refers to all types of examiner including aeromedical examiners.

Where the term **'certificate'** is used without prefix it is assumed this refers to all types of certificate including medical certificates.

In this paragraph it appears that the terms examiner and certificate refer to flight examiners.

Justification: Clarity

Proposed Text : Amend title to **'Flight examiners, licences, ratings and certificates'** and check whole document to ensure clarity of use of terms throughout.

comment *317* comment by: *Susana Nogueira*

Delete the whole paragraph.

Covered by AR-GEN 300

comment *378* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

NPA 2008-22b AR.FCL.205 sieht eine Aufsicht der "competent authority" über alle von ihr "zertifizierten" und alle sonstigen in ihrem Zuständigkeitsbereich tätigen Prüfern vor. Hierzu sollen behördliche Inspektoren die Prüfer kontrollieren.

Unter der Prämisse, dass freie Prüferwahl besteht, ist es nahezu unmöglich, eine Aufsicht über alle im Zuständigkeitsbereich tätigen Prüfer durchzuführen. Wenn keine Prüferzuweisung im Einzelfall erfolgt, erfährt die "competent authority" erst im Nachhinein von der durchgeführten Prüfung. Ein Prüfer der z.B. in Spanien "zertifiziert" wurde, könnte seine Prüferdienste europaweit anbieten und wäre bei freier Prüferwahl kaum behördlich zu überwachen. Die Zertifizierungsbehörde könnte die Aufsicht aus geographischen Gründen kaum wahrnehmen, die Behörde in deren Zuständigkeitsbereich eine Prüfung abgenommen wird erfährt bei Zugrundelegung der vorliegenden Entwürfe erst im Nachhinein davon. Ob und wann wieder eine Prüfung durch diesen Prüfer in ihrem Zuständigkeitsbereich stattfinden wird, ist ihr auch nicht bekannt. Hier ist ein erheblicher Überwachungsaufwand absehbar.

Es sollte daher zukünftig unbedingt bei dem Grundsatz bleiben, dass Prüfer zugewiesen werden und kein freier Wettbewerb der Prüfer stattfindet (vgl. auch Kommentierung zu NPA 2008-17b, FCL.1010.FE).

Diese Vorschrift sollte teilweise überarbeitet werden und folgende Prüferpflichten enthalten:

1. Der Prüfer muß sich bei der jeweils örtlich zuständigen Luftfahrtbehörde registrieren und in eine Prüferliste aufnehmen lassen.
2. Der Prüfer darf nur Prüfungen durchführen, die ihm jeweils von der zuständigen Luftfahrtbehörde im Einzelfall zugewiesen werden. Prüfer und Prüfling können sich nicht beliebig selbst zuweisen.
3. Zeit und Ort der Prüfung gibt der Prüfer rechtzeitig vorab der zuständigen Luftfahrtbehörde bekannt, damit diese ihre Aufsichtspflichten gemäß NPA 2008-22b ARFCL.205 erfüllen kann.

JAR.FCL 250 sieht vor, dass die Prüferzertifizierung bei Verletzung der Prüferpflichten durch die "competent authority" entzogen werden kann. Im Falle eines z.B. in Spanien zertifizierten aber in Deutschland tätigen Prüfers ergibt sich Klärungsbedarf, wer dann "competent authority" ist.

Auch falls dennoch an dem Konzept eines freien Wettbewerbs der Prüfer mit freier Prüferwahl festgehalten werden soll, so müsste zumindest die zuständige Behörde rechtzeitig, mehrere Tage vor dem geplanten Prüfungstermin über Ort, Zeit, Prüfer und Prüfungskandidat schriftlich oder in Textform informiert werden. Eine Prüfung, die ohne rechtzeitige Information der Behörde stattfindet, ist unwirksam und muss wiederholt werden.

Es fehlt zudem eine Regelung hinsichtlich der Haftung, sofern durch einen Prüfer in dieser Eigenschaft ein Schaden verursacht wird. Zwar hat die Tätigkeit eines Prüfers prinzipiell hoheitlichen Charakter, was für eine Haftung des Staates sprechen würde. Auf der anderen Seite soll künftig jeder Bewerber, der bestimmte Voraussetzungen erfüllt, einen Anspruch haben, zum Prüfer bestellt zu werden und diese Tätigkeit EASA-weit auszuüben, außerdem soll jeder Prüfling die Möglichkeit bekommen, sich "seinen" Prüfer auf dem freien Markt auszuwählen. Die Prüfungstätigkeit wäre damit weitgehend privatisiert und den staatlichen Einrichtungen entzogen. Konsequenterweise müsste bei Schäden, die durch die Tätigkeit eines Prüfers verursacht werden, auch eine Haftung des Staates ausdrücklich ausgeschlossen werden. Vielmehr sollte eine gesetzliche Verpflichtung für Prüfer eingefügt werden, entsprechende (Haftpflicht-)Versicherungen in näher zu definierender Höhe abzuschließen.

Unklar wäre im Falle einer Staatshaftung darüber hinaus, welcher Staat haftet, wenn ein Prüfer, der im Staat X seine Prüfungslizenz erhalten hat, eine Prüfung im Staat Y abnimmt, was nach dem künftigen Recht ja möglich sein soll.

comment *444* comment by: *European CMO Forum*

AR.FCL.205 and elsewhere.
16 and throughout WHOLE NPA

Comment:
This paragraph refers to flight examiners only but needs to be amended to **'flight'** examiners.

Justification:
Clarity.

Proposed Text:
Amend title to **'Flight examiners, licences, ratings and certi ficates'** and check whole document to ensure the term '**flight exami ners'** is used where appropriate throughout the text.

comment *499* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

Regarding AR.FCL.205 (a), a level playing field cannot be provided as long as conduct and performance requirements for evaluation of conduct and performance of examiners in accordance with the oversight program are at discretion of the national authorities.

If an examiner is allowed to exercise his privileges in any Member State without further approval by the competent authority in the respective state, no authority can foresee and / or track the number of examiners exercising their

privileges in the authority's area of responsibility. Thus, no authority will be able to develop an appropriate oversight program according to AR.FCL.205 (a) (2) and it will not be able to define the appropriate number of qualified staff according to AR.GEN.200 (a) (2). In conclusion, from the requirements cited it is evident that examiners intending to exercise their privileges in a Member State other than the Member State of certificate issue need an approval by the competent authority in which the examiner intends to exercise his privileges (please also note our comment on, NPA-17, General, Explanatory Note, No.41). This requirements also remain unclear in the common cases where examiners exercise their privileges in countries outside EU (.i.e. Middle-East, Far-East, GUS-States (former Sowjet-Union etc.)

It remains unclear whether the inspectors the authority shall have need to be employed (i.e. be staff members) or whether they might be external experts fulfilling a delegated task on behalf of the authority.

comment *678* comment by: *Irish Aviation Authority*

NPA 22(b) AR FCL .205 - How will the Member State be able to conduct safety oversight if it is not aware that an examiner who has been licensed in another Member State is operating in their jurisdiction?

1. It will be impossible for a CA to comply with this rule unless there is a provision to oblige examiners to inform the CA of the MS where s/he is exercising their privileges, if this is different from the CA which certified the examiner. Please see the comment to AR.GEN.355 above.

2. (b) precludes the use of 'senior examiners' who are mentioned in Part FCL.1025 (b)(3). 'and senior examiners' should be added here after 'inspectors'.

This paragraph refers to flight examiners only but needs to be amended to **'flight'** examiners for clarity. Amend title to **'Flight examiners, licences, ratings and certificates'** and check whole document to make sure the term '**flight examiners'** will be used when appropriate throughout the text.

comment *699* comment by: *Boeing*

AR.FCL.205
Para (a)(2)
Page 16

CONCERN: The examiners mentioned will not be required to declare their activities and, thus, oversight will be hampered. Additionally, examiners operating outside the territory have to be monitored by EASA.

REQUESTED CHANGE: We suggest establishing a European database for examiners and making it available to all Member States (including scheduling for qualifications).

JUSTIFICATION: Oversight through monitoring of examiners will improve standardization and thus safety.

comment *721* comment by: *Luftfahrt-Bundesamt*

Regarding AR.FCL.205 (a), a level playing field cannot be provided as long as conduct and performance requirements for evaluation of conduct and performance of examiners in accordance with the oversight program are at discretion of the national authorities.

If an examiner is allowed to exercise his privileges in any Member State without further approval by the competent authority in the respective state, no authority can foresee and / or track the number of examiners exercising their privileges in the authority's area of responsibility. Thus, no authority will be able to develop an appropriate oversight program according to AR.FCL.205 (a) (2) and it will not be able to define the appropriate number of qualified staff according to AR.GEN.200 (a) (2). In conclusion, from the requirements cited it is evident that examiners intending to exercise their privileges in a Member State other than the Member State of certificate issue need an approval by the competent authority in which the examiner intends to exercise his privileges (please also note our comment on, NPA-17, General, Explanatory Note, No.41). This requirements also remain unclear in the common cases where examiners exercise their privileges in countries outside EU (.i.e. Middle-East, Far-East, GUS-States (former Sowjet-Union etc.)

It remains unclear whether the inspectors the authority shall have need to be employed (i.e. be staff members) or whether they might be external experts fulfilling a delegated task on behalf of the authority.

comment *786* comment by: *CAA Belgium*

Questions: Does this rule allows Member States to limit the number of examiners ?

Proposal: Delete this paragraph.

comment *1188* comment by: *CAA Finland*

Delete. As EASA has decided that the examiner certificate shall without consideration be issued after fulfilling the experience and training requirement like instructor certificate, it is useless to have separate monitoring system. For revalidation the examiner shall show his/her comptetence. EASA shall decide whether the examiner is under the control of a NAA as a safety card or not. This mixture is more than confusing.

comment *1189* comment by: *CAA Finland*

Delete. The requirement is totally unacceptable. There isn't even a minor chance for a NAA to have control over examiners doing skill tests or proficiency checks in other member state and it is against the freedom of exercising privileges within Europe.

~~(2) the number of examiners certified by other competent authorities exercising~~
~~their privileges within the territory where the competent authority exercises oversight.~~

comment *1224* comment by: *CAA CZ*

AR.FCL.205 (a)(2), (a) The competent authority shall develop an oversight programme to monitor the conduct and performance of examiners taking into account:
(2) the number of examiners certified by other competent authorities exercising their privileges within the territory where the competent authority exercises oversight.
It is unable to provide in advance an acceptable oversight programme of the examiner activities, if the Authority shall also oversight all examiners acting on territory of the State and are certified by other authorities. Additionally, the Autority does not know in advance how many examiners will be acting in a given year, at given time, on the territory of the State.
We recommend to delete this requirement FCL.205(a)(2) .

comment *1225* comment by: *CAA CZ*

FCL.205 (b), page 16
„The competent authority shall have a sufficient number of inspectors to implement the oversight programme to monitor the conduct and performance of examiners."

Due to changing number of examiners, actining in territory of the State, it is difficult to ensure an acceptable way to **standardize** their activity and the **adequate number of se nior ex aminers**. In case when the system of obligation to notify the action of a foreign examiner in our country will be established, the Authority could be short of staff for the processing of such information. The main difficulty is to predict how many staff/senior examiners will be needed over the period due to changing the number of examiners.

comment *1387* comment by: *IACA International Air Carrier Association*

(a)(2)
How can the authority in member state A know about activities within its territory of examiners certified by a competent authority in member state B ?

The concept of "collective oversight" is not in compliance with the Basic Regulation 216/2008.

Justification: Basic Regulation 216/2008 article 2 (c) specifies "duplication at national and European level shall be avoided". Additionally, whereas (10) thereof clearly specifies "…Member States should, without further requirements or evaluation, accept products, parts and appliances, organisations or persons certified in accordance with this Regulation and its implementing rules."

comment *1462* comment by: *CAE*

AR.FCL.205 (a) (2) Page 16

The examiners mentioned will not be required to declare their activities, and thus oversight will be hampered. Also, examiners operating outside the territory have to be monitored by EASA.

Establish a European database for examiners and make it available to all Member states (including scheduling for qualifications).

Oversight through monitoring of examiners will improve standardization and thus safety.

comment *1525* comment by: *CAA Norway*

AR.FCL.205

This paragraph should be deleted, as no competent authority will be able to monitor examiners certificated by other authorities, unless there is a provision requiring all examiners to register with the authority of the member state where they intend to operate.

Until such a provision is put in place by EASA, we can not, as competent authority, accept the responsibility put upon us in this paragraph.

comment *1645* comment by: *FlightSafety International*

The examiners mentioned will not be required to declare their activities, and thus oversight will be hampered. Also, examiners operating outside the territory have to be monitored by EASA.
Establish a European database for examiners and make it available to all Member states (including scheduling for qualifications).

Oversight through monitoring of examiners will improve standardization and thus safety.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 - AR.FCL.210 Information for examiners p. 16

comment *13* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Es ist nicht klar, welchen Sinn diese Vorschrift neben FCL.1015 hat, der die Teilnahme an einem "examiner standardisation course" vorschreibt.
Um welche (zusätzlichen) "safety criteria" geht es hier ?

Nach unserer Auffassung kann diese Vorschrift gestrichen werden. Hilfsweise sollte eine Klarstellung erfolgen, dass es hier "nur" um die Ergebnismitteilung im Anschluss an eine aufsichtliche "Prüfung" geht.

comment *62* comment by: *Axel Ockelmann + Manfred Poggensee Commercial Balloon Operators Germany*

FCL.210 Information for examiners
Authorities should also provide an insurance for examiners in case of damages. An example:
An applicant for a balloon licence is burning a whole in the fabric during the hot inflation. The examiner as the pic is responsable for the damage. Who pays? The problem becomes worse when the balloon used for the skill test belongs neither to the examiner nor to the applicant.

comment *135* comment by: *ECA- European Cockpit Association*

Comment: change text as follows:
~~The competent authority shall provide~~ **During conduct of the skill tests and prof iciency che cks,** flight examiners **shall obser ve** **~~with safety criteria as outlined in AMC AR.FCL.205~~** **~~to be observed in the conduct of the skill tests and proficiency checks~~**.

Justification:
Safety criteria should be harmonised across Europe, standards and criteria should be set by EASA and not each NAA individually. If it refers to any specific national requirements, it should be stated.

comment *221* comment by: *DGAC FRANCE*

AR FCL 210

Which autority are we talking about : the autority which have nominated the examiner, the autority which have issue the licence or the autority of the territory where the test is done. See our comments in AR GEN 300 and AR GEN 305.

comment *320* comment by: *Susana Nogueira*

Change to read:
The **Agency** shall provide...

Since the authority is no longer resposible for regulation this is a task of the EASA

comment *380* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Es ist nicht klar, welchen Sinn diese Vorschrift neben FCL.1015 hat, der die Teilnahme an einem "examiner standardisation course" vorschreibt.
Unklar ist, um welche (zusätzlichen) "safety criteria" es hier geht.

Diese Vorschrift könnte gestrichen werden; hilfsweise könnte eine Klarstellung erfolgen, dass es hier "nur" um die Ergebnismitteilung im Anschluss an eine aufsichtliche "Prüfung" geht.

comment *497* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

Since authorities are no longer responsible, it is a task for EASA to inform about the safety criterias.

comment *679* comment by: *Irish Aviation Authority*

The word 'flight' should be removed. See comment 2. to AR.FCL.200 above.
DCr 220509

comment *723* comment by: *Luftfahrt-Bundesamt*

AR.GEN.210 needs to be revisited because this requirement shall also apply to all other categories of examiners (CRE, TRE, IRE, FIE, etc.) as well.
Furthermore, with regard to examiners exercising their community privileges in different Member States the application of the same safety criteria according to a level playing field appears to be doubtful.

comment *788* comment by: *CAA Belgium*

Proposal: Delete the word "flight".

Reason: Is applicable to all examiners.

comment *981* comment by: *DCAA*

In Part FCL the word Examiners is used, not Flight Examiners.

Therefore change the wording Flight Examiner to Examiners.

comment *1226* comment by: *CAA CZ*

AR.FCL.210, page 16
Because here is not stated that the requirement applies to all examiners, acting in territory of the State. This means that the competent Authority must give the *safety criteria* only examiners who authorised oneself, as follows from the definition of *competent authority* in FCL.001.

comment *1526* comment by: *CAA Norway*

AR.FCL.210

This paragraph should be deleted. If it is intended that anyone who meets the requirements can get an examiners certificate, we assume that the standards laid down also ensures that they are aware of safety criteria, risks, obligations etc.

As soon as it is insisted that examiners are not acting on the behalf of the authorities, but are private entrepreneurs, one consequence is that we (the authorities) can no longer bear any responsibilities for their actions or inactions.

This obligation to inform private entrepreneurs with examiner certificates of safety criteria will be a burden on the authorities. It could also be taken as an indication that it is realized by the rulemaker that all these new examiners might not really be fully aware of all the different factors at play in a Skill Test/ProfCheck. This will only undermine further the authority of our regulatory system.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 - AR.FCL.215 Validity period p. 16

comment *37* comment by: *George Knight*

(c) The competent authority ~~may~~ must develop procedures….

comment *97* comment by: *DCA Malta*

AR.FCL.215
It is not practical if the competent authority has to revalidate the rating and enter the date on the licence every time.

How does this fit in with FCL.1030(b) (2)

FCL.1030 Obligations for examiners
(2) in the case of proficiency checks for revalidation or renewal, endorse the pilot's licence or certificate with the new expiry date of the rating or certificate.

comment *136* comment by: *ECA- European Cockpit Association*

Comment:
The end of the month rule for expiry of ratings is in line with EU OPS but at variance with Part FCL paragraph FCL.740 which gives the validities of ratings as 12 or 24 calendar months.

Proposal:
ECA suggests to add an amendment to Part FCL as part of the consultation process to align all the documents to one requirement.

comment *137* comment by: *ECA- European Cockpit Association*

Ratings will be valid till the end of the month, so should be medical certificates.

Moreover, it appears that only the competent authority can enter the expiry date, not the examiner. It looks as if the delay involved in sending the certificate to the authority, and then returned, is to be covered by a four week period when the pilot may not be in possession of a valid certificate. This is unsatisfactory.

comment *275* comment by: *UK CAA*

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Paragraph No: AR.FCL.215

Comment: This requires the NAA to extend the validity of all ratings to the end of the calendar month when revalidation is due. This appears to conflict with Part FCL which specifies validity periods from date of test. The end of the month option is supported but Part FCL should also reflect this.

Justification: Alignment of Part AR and Part FCL

comment *321* comment by: *Susana Nogueira*

Take the text of JAR-FCL, is more clear

comment *332* comment by: *Susana Nogueira*

(c) Modify as follows: The competent authority may develop procedures to allow privileges to be exercised by the licence of certificate holder for a **temporary period** after ....

To establish a closed timeframe is dangerous taken in account the diferent administrative procedures

comment *387* comment by: *Egon Schmaus*

AR.FCL.215 Validity Period

This para should be deleted in toto.

Reason:
It emphasises an extension of validity, that really does not exist. So far, every pilot and instructor is used to fixed data of expiry of certificates. This should remain unchanged. Nobody is forced to do his revalidation the last day, when papaers allow him a 90 day period to prepare!

comment *476* comment by: *Ryanair*

COMMENT

Regardless of the format of Appendix III, Section XII, this sub paragraph seems to remove the ability of the TRE to administer the re-validation of the Pilot's Licence and Rating immediately after the LPC. If so, this is a major retrograde step that will greatly increase the administration in an ATO. As a minimum it will require the ATO to send the licence to the Competent Authority OR the pilot will be required to travel to the Competent Authority. This could require taking a pilot off the roster if he is based outside the country of the Competent Authority. It will also have implications on when the pilot must be rostered for recurrent training and checking as it may be necessary to bring the pilot in early in order to cater for possible delays in processing the licence revalidation due to the above factors

PROPOSAL

Remove any rule that prevents a TRE administering the re-validation of the licence and rating immediately after the LPC.

Suggest the following text: -

"(b) For Initial Issue of a Licence, Rating or Certificate the competent authority shall enter the expiry date on the licence or the certificate."

comment *477* comment by: *Ryanair*

COMMENT
The relevant Sections of Part FCL relating to Validity Periods state the following: -

FCL.740 Validity and renewal of class and type ratings
(a) The period of validity of class and type ratings shall be 12 calendar months. This period
shall be counted from the date of issue or renewal or, if the rating is

revalidated before its expiry
date, from that expiry date.

FCL.740.A Revalidation of class and type ratings aeroplanes
(a) *Revalidation of type ratings and multiengine*
class ratings. For revalidation of type ratings and multiengine
class ratings, the applicant shall:
(1) pass a proficiency check in accordance with Appendix 9 to this Part in the relevant type or
class of aeroplane, within the three months immediately preceding the expiry date of the rating.

AR FCL.215 and the above sections of Part FCL do not seem to agree.

PROPOSAL
If AR.FCL.215 (c) refers to an *initial* endorsement then that key word should be included in the Section. Suggest: -

"(c) The competent authority may develop procedures to allow privileges to be exercised
by the licence or certificate holder for a maximum period of 4 weeks after successful
completion of the applicable examination(s), pending the ***initial*** endorsement on the
licence or certificate."

comment *498* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Proposal:

Use text from JAR-FCL instead.

comment *597* comment by: *DGAC FRANCE*

AR FCL 215

AR FCL 215 (a) and (b) : Text from JAR FCL to be taken instead

AR FCL 215 (c) : extend the period of four weeks to **eight weeks**.

comment *667* comment by: *CTC Aviation Services Ltd*

AR.FCL.215 Validity period
(a) When issuing, revalidating or renewing a rating or instructor certificate, the competent authority shall extend the validity period of the rating or instructor certificate until the end of the month in which the validity would otherwise expire.
That date shall remain the expiry date of the rating, instructor certificate.

Comment
The end of the month extension applies to all licences, ratings and Instructor certificates but not to Examiners (who hold the same three year validity) which invites errors by multi certificate/rating holders.

Proposed revision

(a) When issuing, revalidating or renewing a rating, instructor **or examiner** certificate, the competent authority shall extend the validity period of the rating, instructor **or examiner** certificate until the end of the month in which the validity would otherwise expire.
That date shall remain the expiry date of the rating, instructor **or examiner** certificate.

comment *668* comment by: *CTC Aviation Services Ltd*

(b) The competent authority shall enter the expiry date on the licence or the certificate.

Comment

Since Examiners will no longer hold delegated authority, all licence or certificate entries will require return of part or all of the licence to the Authority on each issue/revalidation/renewal. This is in conflict with FCL1030.

Proposed amendment
(b) The competent authority shall enter the expiry date on the licence or the certificate **for initial issue**

comment *680* comment by: *Irish Aviation Authority*

Under (a), by omission, the wording precludes an examiner from endorsing a licence. This is contrary to Part FCL.1030 (b)(2). Is this the intention? See Comment 1. to AR.FCL.200 above.
DCr 220509

comment *724* comment by: *Luftfahrt-Bundesamt*

Apparently AR.FCL.215 misses a reference to examiner certificates and ratings, respectively.

comment *747* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The requirement should be valid also for examiners certificate.

Proposal:

When issuing, revalidating or renewing a rating or certificate, the competent authority shall extend the validity period of the rating or certificate until the end of the month.

comment *789* comment by: *CAA Belgium*

(a)

Proposal: Delete the last sentence.

Reason: This is not the case when a rating is renewed.

comment *850* comment by: *CAA Belgium*

(a) First sentence.

Proposal: Replace "shall" by "may".

Reason: There is no reason to make an obligation of this possibility.

comment *851* comment by: *CAA Belgium*

(b)

Proposal: Replace the sentence by "The Competent Authority or the examiner in the case of revalidation of a rating or a certificate enters the expiry date...".

Reason: the examiner should be allowed to enter the new validity date on the licence.

comment *855* comment by: *CAA Belgium*

(c)

Questions:
- Is there a need to have this new provision ? What will happen if the pilot is checked during a SAFA control ?
- What ifhe has an accident and we see afterwards that the training/checking was not in accordance with the regulation ? Who is responsible in that case ? The FTO/TRTO, the candidate, the examiner, the competent autorithy, the rulemaker...?
- "May": so it is not mandatory ?

comment *1227* comment by: *CAA CZ*

AR.FCL.215 (a), (b), page 16
(a) When issuing, revalidating or renewing a rating or instructor certificate, the competent authority shall extend the validity period of the rating or instructor certificate until the end of the month in which the validity would otherwise expire.
That date shall remain the expiry date of the rating or instructor certificate.
According to the wording of this requirement may only the competent Authority enter into the license *expiry date* , what is in conflict with the provisions Part FCL.1030 (b)(2) (see page 65).

comment *1229* comment by: *CAA CZ*

AR.FCL.215 (a), page 16
…the competent authority shall extend the validity period of the rating or instructor certificate until the end of the month in which the validity would otherwise expire.
That date shall remain the expiry date of the rating or instructor certificate.
Just in case when the applicant **has ful filled all nece ssary requ irements**

for the extension of the validity period during previous 3 months preceding the expiry date of the rating, may be maintained the original date of validity of rating (see f.e. Part FCL.625(b)(1), page 32, Part FCL. 740.A, page 37,…).

comment *1281* comment by: *Baden-Württembergischer Luftfahrtverband*

AR.FCL.215(a)
Wording in the NPA
(a) When issuing, revalidating or renewing a rating or instructor certificate, the competent authority shall extend the validity period of the rating or instructor certificate until the end of the month in which the validity would otherwise expire. That date shall remain the expiry date of the rating or instructor certificate

Our proposal
Change:
(a) When issuing, revalidating or renewing a rating or instructor certificate, the competent authority **can** extend the validity period of the rating or instructor certificate until the end of the month in which the validity would otherwise expire. That date shall remain the expiry date of the rating or instructor certificate

Issue with current wording
Leads to service peaks at the end of the month if this is mandatory

Rationale
By concentrating expiry dates at the end of the month there is a high probability for service peaks during this time. A natural distribution of expiry dates over the whole month avoids such peaks. There for this should be made optional. A much bigger issue are the different validity intervals (2 years for ratings, 3 years for the various certificates, 1,2,or 5 years for medicals, 4 or 5 years for language tests, 6 years for proficiency checks) This should really be simplified. Scheduling some of the expiry dates on the end of the month is not of much help and will probably lead to resource problems.

comment *1527* comment by: *CAA Norway*

AR.FCL.215

See our comments to AR.FCL.200, and to FCL.1030, regarding inconsistencies regarding the issue/renewal/revalidation/endorsement of licenses and ratings.

comment *1528* comment by: *CAA Norway*

AR.FCL.215(c)

This limits the temporary permit to fly to 4 weeks. Today, several member states uses 90 days for this purpose. Based on experience, with the time for post to reach the authority, the time needed to establish compliance with all criteria, and the time needed for the return post to bring the new license/rating to the holder, 4 weeks seems to be on the short side.

If we set this time too short, the only thing we achieve is to generate a lot of extra work, as pilots are reaching the 4 week limit, and still not have recieved

their new license. These pilots and the AOC holders employing them will require a lot of our resources to find ways of keeping the pilots flying, whilst the licensing process is running.

There is no safety issue if this time is kept as today, 90 days, to avoid a lot of extra work.

comment *1618* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
(a) When issuing, revalidating or renewing a rating or instructor certificate, the competent authority shall extend the validity period of the rating or instructor certificate until the end of the month in which the validity would otherwise expire. That date shall remain the expiry date of the rating or instructor certificate

Our proposal
To be deleted

Issue with current wording
Results to service peaks at the end of the month and has no performance advantage

Rationale
By concentrating expiry dates at the end of the month there is a high probability for service peaks during this time. A natural distribution of expiry dates over the whole month avoids such peaks.
Simplification should be done at the different validity intervals (2 years for ratings, 3 years for the various certificates, 1,2,or 5 years for medicals, 4 or 5 years for language tests, 6 years for proficiency checks) Scheduling some of the expiry dates on the end of the month does not help and will probably lead to resource problems.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 - AR.FCL.220 Procedure for the re-issue of a pilot licence p. 17

comment *98* comment by: *DCA Malta*

AR.FCL.220(b)
Only valid ratings,
or
ratings which have expired by not more than X years, should be transferred.

comment *155* comment by: *DGAC FRANCE*

AR.FCL .220

Consistency and clarification.

AR. FCL.220(a)
(1) after the initial issue of a rating or its renewal **except when the renewed rating is still mentioned in the page 4 of licence.**

AR.FCL 220

(b) **Only the** valid ratings shall be transferred to the new licence document by the competent authority

comment *276* comment by: *UK CAA*

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Paragraph No: AR.FCL.220

Comment: The requirement to re-issue a licence after renewal of a rating is an undesirable administrative burden for the competent Authority. The re-issue is also in conflict with Part FCL.1030(b)(2) that empowers examiners to make a renewal entry in the applicants licence.

Justification: Compatibility with Part FCL and reduction of administrative burden.

Proposed Text (if applicable):

(a)(1) Delete "or its renewal"

comment *322* comment by: *Susana Nogueira*

(b) **Only** valid ratings shall be ...
To avoid any doubts

comment *790* comment by: *CAA Belgium*

Proposal: Add the word "only" in front of the text.

Reason: Some Member States are still transferring non valid ratings.

comment *1230* comment by: *CAA CZ*

Note: The obligation to issue the licence at least one time in 5 years remains.
AR.FCL.220 (a) (see page 17)
The competent authority shall re-issue the licence whenever necessary for administrative reasons and:
(1) after initial issue of a rating or its renewal;
(2) when paragraph XII of Appendix III to this Part in the licence is completed and no further spaces remain.

Appendix III to Annex 1 Part AO (see page 35):
IX. This licence is to be re-issued not later
than .....

Re-issue takes place **every 5 years** from the date of initial issue shown in item II.

comment *1529* comment by: *CAA Norway*

AR.FCL.220(b)

Amend the paragraph to read "**Only** *valid ratings shall be transferred to the new license...."*

B. Draft Rules - I. Draft Opinion Part-AR - Subpart FCL - Section 2 - AR.FCL.250 Limitation, suspension and revocation of licences, ratings and certificates p. 17

comment *2* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Diese Kommentierung gilt entsprechend für FCL.070 (NPA 2008-17 b).

Die beiden Vorschriften sehen nur in eng begrenztem Umfang die Möglichkeit vor, das befristete Ruhen einer Lizenz anzuordnen bzw. eine Lizenz zu widerrufen.
Bereits bei der Anmeldung zur Ausbildung als Flugschüler stellt sich die Frage, ob der Bewerber als zuverlässig zum Führen eines Luftfahrzeugs angesehen werden kann. Die NPA`s enthalten - abgesehen vom Erfordernis eines Tauglichkeitszeugnisses - keine Vorschrift, welche Voraussetzungen ein Bewerber mitbringen muss, um überhaupt als Flugschüler zugelassen zu werden. Um die charakterliche Zuverlässigkeit eines Bewerbers beurteilen zu können, ist es erforderlich, dass der zuständigen nationalen Behörde mit der Schülermeldung durch die Flugschule ein Führungszeugnis (über etwaige Vorstrafen) sowie ein Auszug aus dem Straßenverkehrsregister (über erhebliche Ordnungswidrigkeiten im Straßenverkehr) vorgelegt wird. Diese sind vom Flugschüler vor Aufnahme der Ausbildung selbst zu besorgen. Die Behörde kann dann prüfen, ob ernstliche Zweifel bestehen, ob der Schüler beim Umgang mit dem Luftfahrzeug die jeweiligen bereichsspezifischen Regeln und Zielsetzungen des Luftverkehrs beachten wird.
So wie ein Pilot regelmäßig seine gesundheitliche Tauglichkeit der Behörde nachweisen muss, muss es auch eine Verpflichtung für Piloten (alle Lizenzen) geben, regelmäßig (z. B. alle zwei Jahre) einen aktuellen Verkehrszentralregisterauszug/ein aktuelles Führungszeugnis der lizenzführenden Behörde vorzulegen, um das Fortbestehen seiner charakterlichen Zuverlässigkeit zu überprüfen.

In der Praxis handelt es sich hier um Fälle, in denen sich charakterliche Mängel aus der Begehung erheblicher Straftaten oder auch (wiederholter) Ordnungswidrigkeiten etwa des Straßenverkehrs (z. B. Trunkenheitsfahrten, aber auch wiederholte erhebliche Geschwindigkeitsüberschreitungen) oder des Waffenrechts ergeben. Hier kommt es auf eine individuelle Einzelfallbetrachtung an. Ein konkreter Bezug der (Straf-)Tat zum Luftverkehr ist nicht erforderlich, um einen (angehenden) Luftfahrer im Einzelfall als unzuverlässig anzusehen. In der Praxis wurden in der Vergangenheit bereits Luftfahrer wegen unterschiedlichster Straftaten oder Ordnungswidrigkeiten "gegroundet" (z. B. Hehlerei mit gestohlenen Flugzeugteilen, Versicherungsbetrug mit Hubschrauber, erhebliche Vermögensstraftaten, Gewaltdelikte, Verstöße gegen das Waffenrecht, Drogenhandel mit dem Flugzeug usw.). Auch wurden in mehreren Fällen Piloten, die durch erhebliche Ordnungswidrigkeiten im Straßenverkehr aufgefallen waren, nach einer von uns angeordneten medizinisch-psychologischen Untersuchung in einem flugmedizinischen Zentrum für untauglich erklärt und das vorübergehende Ruhen der Lizenz angeordnet.

Vorgenannte Fälle könnten künftig nicht mehr erfasst werden, da die neuen

Vorschriften - soweit hier ersichtlich - keine Regelung enthalten, wie die Lizenzierungsbehörde die entsprechenden Informationen erhält und welche Konsequenzen sie daraus ziehen kann. Vielmehr beschränken sich die Vorschriften FCL.070 und AR.FCL.250 im Wesentlichen auf Fälle des Fälschens von Dokumenten oder des Fliegens unter Alkohol- oder Drogeneinfluss. Die Praxis hat jedoch gezeigt, dass z. B. die Begehung erheblicher Verstöße im Straßenverkehr ein deutliches Indiz dafür sein kann, dass der Pilot es generell mit der Einhaltung von Normen (auch des Luftverkehrs) nicht allzu genau nimmt. Hier sollte dringend eine gesetzliche Möglichkeit geschaffen werden, derartige Piloten und Bewerber bereits aus dem (Luft-)Verkehr zu ziehen, BEVOR sie Verstöße gegen luftrechtliche Vorschriften begangen haben.

Wir schlagen daher vor , den Katalog der Vorschrift AR.FCL.250 um mehrere Fallgruppen zu ergänzen, bei denen zwingend von einer Unzuverlässigkeit zum Führen von Luftfahrzeugen auszugehen ist:

1. Bei rechtskräftiger Verurteilung wegen einer vorsätzlichen Straftat zu einer Freiheitsstrafe von mindestens einem Jahr, wenn seit Eintritt der Rechtskraft fünf Jahre noch nicht verstrichen sind,

2. Bei wiederholten, erheblichen Verstößen gegen straßenverkehrsrechtliche Vorschriften, wenn diese Verstöße für die Beurteilung der Zuverlässigkeit von Personen im Umgang mit Luftfahrzeugen von Bedeutung sind,

3. Bei regelmäßigem Alkohol- oder Rauschmittelmissbrauch,

4. Wenn sonstige Tatsachen vorliegen, die den Bewerber als unzuverlässig erscheinen lassen, die beabsichtigte Tätigkeit als Luftfahrtpersonal auszuüben.

Die letzte Fallgruppe soll der Behörde die Möglichkeit geben, auch Fälle zu erfassen, die nicht unter die anderen Fallgruppen subsumiert werden können, bei denen aber aufgrund der konkreten Einzelfallumstände eine Unzuverlässigkeit anzunehmen ist (z. B. Verstöße gegen das Waffenrecht oder Transport von illegalen Betäubungsmitteln mit dem Luftfahrzeug; laufende strafrechtliche Ermittlungen bezüglich erheblicher Straftaten).
Konkretisierend sollte die Möglichkeit vorgesehen werden für den Fall der Begehung von Straftaten unter erheblichem Alkoholeinfluss oder Drogeneinfluss oder erheblichen Auffälligkeiten im Straßenverkehr die Lizenz so lange ruhen zu lassen, bis durch ein flugmedizinisch-psychologisches Gutachten einer Stelle, die durch die lizenzführende Behörde bestimmt wird, die Zuverlässigkeit des Luftfahrers nachgewiesen wird (daneben stellt sich in diesen Fällen zusätzlich die Frage der flugmedizinischen Tauglichkeit).

Ergänzend weisen wir darauf hin, dass in der Vorschrift die Möglichkeit eines Lizenzentzugs für den Fall aufgeführt werden sollte, dass der Pilot sein flugmedizinisches Tauglichkeitszeugnis fälscht oder bei der Tauglichkeitsuntersuchung falsche Angaben macht (vgl. NPA 2008-17-c MED.A.065).

In Angleichung an die Vorschrift AR.MED.250 sollte der erste Satz wie folgt ergänzt werden: "...including, but not limited to, the following:". Damit wird klargestellt, dass die Aufzählung nicht abschließend ist, sondern auch weitere, nicht näher genannte Fälle von Sicherheitsdefiziten umfasst sind.

comment 6 comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Absatz (a) (8) sieht für den Fall von mangelndem praktischen Können des Luftfahrers ("malpractice") die Möglicheit des Widerrufs der Lizenz oder einer Ruhensanordnung vor.

Eine konkrete Rechtsfolge für den Luftfahrer, wie er anschließend wieder zu seiner Lizenz kommt bzw. Wie seine fliegerischen Fähigkeiten überprüft werden können, ist für diese Fallgruppe aus den Authority Requirements nicht klar ersichtlich.

Da nicht jeder Flugfehler gleich schwer wiegt, erscheint es auch aus Gründen der Verhältnismäßigkeit nicht als angezeigt, bei jedem Fall von "malpractice" ein sofortiges Ruhen der Lizenz oder einen Widerruf anzuordnen. Vielmehr wäre es in derartigen Fällen sinnvoll, wenn seitens der zuständigen Behörde vor einem etwaigen Ergreifen weitergehender Maßnahmen zunächst eine Überprüfung des praktischen Könnens (fliegerische Fähigkeiten) des Luftfahres durch einen entsprechend qualifizierten "Inspector of the Authority" angeordnet werden könnte. Diese Überprüfung muss sich nicht zwangsläufig auf das gesamte Prüfprogamm einer praktischen Prüfung beziehen; vielmehr sollte sie individuell auf die erkannten fliegerischen Defizite abgestimmt sein. Erst wenn diese behördliche Überprüfung vom Luftfahrer abgelehnt wird oder ergibt, dass der Lizenzinhaber ein ausreichendes praktisches Können nicht mehr besitzt, kann der Widerruf der Lizenz angeordnet werden.

Je nach Art und Schwere der erkannten fliegerischen Defizite sollte auch die Möglichkeit bestehen, zunächst eine genau zu definierende Nachschulung anzuordnen, die vor der Überprüfung zu absolvieren ist.

Diese Möglichkeiten könnten in einem neuen Abs. (c) (, der Absatz (a) (8) ergänzt,) geregelt werden.

comment *32* comment by: *Luftamt Nordbayern*

Nach Auffassung des Luftamtes Nordbayern ist in NPA 22b FCL 250 der Katalog im Bezug auf die luftverkehrsrechtliche Zuverlässigkeit und charakterlichen Eignung für Luftfahrer zu knapp ausgeprägt. Strafrechtliche Verfehlungen bzw. Verstöße gegen Verkehrsvorschriften fehlen hier vollständig. Eine charakterliche Ungeeignetheit praktisch ausschließlich bei Verstößen im Zusammenhang mit der Lizenz und dem Führen von Luftfahrzeugen anzunehmen, ist erheblich zu kurz gegriffen.

Ungeeignet wäre nach dem Entwurf ein Pilot z.B erst, wenn er die Rechte aus der Lizenz unter Alkohol- oder Drogeneinfluss ausübt. Selbst wenn ein Pilot konkret als alkohol- oder drogenabhängig bekannt und bereits die Fahrerlaubnis aufgrund diesbezüglicher Verstöße entzogen wäre, dürfte dieser Pilot noch fliegen. Die Luftfahrtbehörde müsste abwarten, bis ein Flug unter Alkohol- oder Drogeneinfluss tatsächlich stattgefunden hat bzw. aufgedeckt wurde. Angesichts des hohen Gefahrenpotentials im Luftverkehr ist es unvertretbar, derartige Risiken einzugehen. Es sollte daher unbedingt ein dem § 24c LuftVZO vergleichbares Instrument geschaffen werden für den Fall, dass sich Zweifel an der Zuverlässigkeit und der charakterlichen Eignung ergeben (z.B. durch Trunkenheitsfahrten im Straßenverkehr).

Um das von der EASA für ihren Entwurf ins Auge gefasste hohe Sicherheitsniveau erreichen zu können, muss der Katalog der für fehlende luftverkehrsrechtliche Zuverlässigkeit und charakterlichen Eignung in Frage

kommenden Umstände deutlich ausgeweitet werden und auch entsprechende Informationspflichten geschaffen werden. Hier könnte § 24 Abs. 2 LuftVZO als Vorbild dienen.

Vorschlag:

"Die erforderliche Zuverlässigkeit besitzen Bewerber um eine Lizenz in der Regel nicht,

1. die rechtskräftig verurteilt worden sind
   a) wegen eines Verbrechens, wenn seit dem Eintritt der Rechtskraft der letzten Verurteilung zehn Jahre noch nicht verstrichen sind,
   b) wegen sonstiger vorsätzlicher Straftaten zu einer Freiheitsstrafe oder Jugendstrafe von mindestens einem Jahr, wenn seit dem Eintritt der Rechtskraft der letzten Verurteilung fünf Jahre noch nicht verstrichen sind,
2. die erheblich oder wiederholt gegen verkehrsrechtliche Vorschriften verstoßen haben, wenn diese Verstöße für die Beurteilung der Zuverlässigkeit von Personen im Umgang mit Luftfahrzeugen von Bedeutung sind,
3. die erheblich oder wiederholt gegen verkehrsrechtliche Vorschriften verstoßen haben, wenn diese Verstöße für die Beurteilung der Zuverlässigkeit von Personen im Umgang mit Luftfahrzeugen von Bedeutung sind,
4. wenn sonstige Tatsachen vorliegen, die den Bewerber als unzuverlässig erscheinen lassen, die beabsichtigte Tätigkeit als Luftfahrtpersonal auszuüben."

comment *99* comment by: *DCA Malta*

AR.FCL 250(b)
How will the applicant and even another Authority know that the examiner's certificate has been suspended?

comment *114* comment by: *Johanna KildenSmith NextJet*

Comment to NPA 2008-22b
AR.GEN.350 and AR.FCL.250

I am very concerned about the above mentioned propositions. If a penalty to person is to be used it has to be strictly regulated beforehand. It should be very clear exactly what actions are considered as misconduct and this be clearly communicated to all licence holders affected.

The reason I oppose these paragraphs is flight safety related. We operate 10 aircrafts, all below 27 tonnes so we do not have a Flight Data Monitoring system. One of the major pillars in our Accident Prevention Program is our Reporting System. We rely on our pilots and cabin crew to report all abnormalities. It has taken time to build up enough trust in this system to be non-punitive and non-blame and to get it effective.

If a crew can be fined, punished or have his/her licence suspended/revoked when involved in an incident or makes a mistake, these report will with certainty reduced to zero. Hence, our Reporting System will crumble and the Accident Prevention Program (soon to be Safety Management System) with it.

I realize that it is, presently, difficult to deal with a licence holder with an attitude problem. However I do not think this can be corrected through fear management or penalties but only through training.

I strongly suggest that you rephrase these paragraphs or delete it.

/Johanna Kildén Smith
Flight Safety Coordinator NextJet Sweden

comment *138* comment by: *ECA- European Cockpit Association*

Comment: delete paragraph (a)(3):
(a) ~~**(3) during the investigation following an incident or accident in which the licence holder is involved when exercising the privileges of his licence, rating or certificate;**~~

Justification:
IR appears to mean that a licence will be revoked after an incident or accident. This is unacceptable as a full investigation entails a long period in which the pilot would be unable to be employed, no matter whether exonerated or not.
It has been demonstrated that, following an accident, the pilot needs to fly just after the accident and cannot stay for so long without flying, waiting for the investigation to determine the causes of it. The amount of time an investigation may last makes convenient to specify the requirement further, as having an accident may not be sufficient cause to limit or suspend a pilot license. If a safety issue has been identified, or non-compliance with the rules has been demonstrated, then there are already other paragraphs in the rule to limit the license. All the other safety issues are already covered by other paragraphs.
ECA strongly suggests that an accident alone cannot be the cause for revoking or limiting the license privileges, taking into account the period of time it may take.

comment *140* comment by: *ECA- European Cockpit Association*

Comment: delete paragraph (a)(5):
~~**(5) exercising the privileges of a licence, rating or certificate when adversely affected by alcohol or drugs;**~~

Justification:
This may be a medical matter which should be covered by review of medical certification, not the revocation of the licence. This is covered under Medical Part.MED.A.065

comment *154* comment by: *DGAC FRANCE*

AR FCL.250

first comment :

It is important to state that the legal system (enforcement system) must apply in these cases.

modification, add to paragraph (a) the following sentence:

The limitation, suspension and revocation mentionned above have to be done in conformity with the legal system of the competent authority's Member state.

Second comment :

AR FCL 250 (b) : EASA is asked for clarification in order to have a procedure established how a candidate can check if an examiner's certificate has been limited / revoked, etc...

comment *278* comment by: *UK CAA*

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Paragraph No: AR.FCL.250(a)(3)

Comment: This requires the authority to take licensing enforcement action whenever an accident or incident investigation is taking place. The CAA opposes this requirement and notes that the FCL.001 group was unanimously against this proposal as it assumed "guilty until proven innocent" and could put an authority liable for legal redress should the pilot subsequently be found blameless. Nevertheless, the Authority should act if pilot competence is thought to be a factor.

Justification: Blanket requirement for enforcement action legally unsustainable**.**

Proposed Text (if applicable):

(a) (3) during the investigation following an incident or accident in which the licence holder is involved when exercising the privileges of his licence, rating or certificate if there is a possibility that pilot competence may be a causal factor;

comment *325* comment by: *Susana Nogueira*

(a) To modify as: .... a safety issue has been identified **taken into account national law**

Delete all paragraphs (1) to (9)

Incompatible with national law of many countries.

comment *330* comment by: *Susana Nogueira*

(b) EASA is asked for clarification in order to have a procedure establishing how a candidate can check if an examiner's certificate has been limited, revoked, suspended, ...

comment *379* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Diese Kommentierung gilt entsprechend für FCL.070 (NPA 2008-17 b).

Die beiden Vorschriften sehen nur in eng begrenztem Umfang die Möglichkeit vor, das befristete Ruhen einer Lizenz anzuordnen bzw. eine Lizenz zu widerrufen.
Bereits bei der Anmeldung zur Ausbildung als Flugschüler stellt sich die Frage, ob der Bewerber als zuverlässig zum Führen eines Luftfahrzeugs angesehen werden kann. Die NPA`s enthalten - abgesehen vom Erfordernis eines Tauglichkeitszeugnisses - keine Vorschrift, welche Voraussetzungen ein Bewerber mitbringen muss, um überhaupt als Flugschüler zugelassen zu werden. Um die charakterliche Zuverlässigkeit eines Bewerbers beurteilen zu können, ist es erforderlich, dass der zuständigen nationalen Behörde mit der Schülermeldung durch die Flugschule ein Führungszeugnis (über etwaige Vorstrafen) sowie ein Auszug aus dem Straßenverkehrsregister (über erhebliche Ordnungswidrigkeiten im Straßenverkehr) vorgelegt wird. Diese sind vom Flugschüler vor Aufnahme der Ausbildung selbst zu besorgen. Die Behörde kann dann prüfen, ob ernstliche Zweifel bestehen, ob der Schüler beim Umgang mit dem Luftfahrzeug die jeweiligen bereichsspezifischen Regeln und Zielsetzungen des Luftverkehrs beachten wird.
So wie ein Pilot regelmäßig seine gesundheitliche Tauglichkeit der Behörde nachweisen muss, muss es auch eine Verpflichtung für Piloten (alle Lizenzen) geben, regelmäßig (z. B. alle zwei Jahre) einen aktuellen Verkehrszentralregisterauszug/ein aktuelles Führungszeugnis der lizenzführenden Behörde vorzulegen, um das Fortbestehen seiner charakterlichen Zuverlässigkeit zu überprüfen.

In NPA 22b FCL 250 ist der Katalog im Bezug auf die luftverkehrsrechtliche Zuverlässigkeit und charakterlichen Eignung für Luftfahrer jedoch zu knapp ausgeprägt. Strafrechtliche Verfehlungen bzw. Verstöße gegen Verkehrsvorschriften fehlen hier vollständig. Eine charakterliche Ungeeignetheit praktisch ausschließlich bei Verstößen im Zusammenhang mit der Lizenz und dem Führen von Luftfahrzeugen anzunehmen, ist erheblich zu kurz gegriffen. Ungeeignet wäre nach dem Entwurf ein Pilot z.B erst, wenn er die Rechte aus der Lizenz unter Alkohol- oder Drogeneinfluss ausübt. Selbst wenn ein Pilot konkret als alkohol- oder drogenabhängig bekannt und bereits die Fahrerlaubnis aufgrund diesbezüglicher Verstöße entzogen wäre, dürfte dieser Pilot noch fliegen. Die Luftfahrtbehörde müsste abwarten, bis ein Flug unter Alkohol- oder Drogeneinfluss tatsächlich stattgefunden hat bzw. aufgedeckt wurde. Angesichts des hohen Gefahrenpotentials im Luftverkehr ist es unvertretbar, derartige Risiken einzugehen. Es sollte daher unbedingt ein dem § 24c LuftVZO vergleichbares Instrument geschaffen werden für den Fall, dass sich Zweifel an der Zuverlässigkeit und der charakterlichen Eignung ergeben (z.B. durch Trunkenheitsfahrten im Straßenverkehr). Um das von der EASA für ihren Entwurf ins Auge gefasste hohe Sicherheitsniveau erreichen zu können, muss der Katalog der für fehlende luftverkehrsrechtliche Zuverlässigkeit und charakterlichen Eignung in Frage kommenden Umstände deutlich ausgeweitet werden und auch entsprechende Informationspflichten geschaffen werden. Hier könnte § 24 Abs. 2 LuftVZO als Vorbild dienen.

Formulierungsvorschlag:

"Die erforderliche Zuverlässigkeit besitzen Bewerber um eine Lizenz in der Regel nicht,
1. die rechtskräftig verurteilt worden sind
a) wegen eines Verbrechens, wenn seit dem Eintritt der Rechtskraft der letzten Verurteilung zehn Jahre noch nicht verstrichen sind,

b) wegen sonstiger vorsätzlicher Straftaten zu einer Freiheitsstrafe oder Jugendstrafe von mindestens einem Jahr, wenn seit dem Eintritt der Rechtskraft der letzten Verurteilung fünf Jahre noch nicht verstrichen sind,
2. die erheblich oder wiederholt gegen verkehrsrechtliche Vorschriften verstoßen haben, wenn diese Verstöße für die Beurteilung der Zuverlässigkeit von Personen im Umgang mit Luftfahrzeugen von Bedeutung sind,
3. die erheblich oder wiederholt gegen verkehrsrechtliche Vorschriften verstoßen haben, wenn diese Verstöße für die Beurteilung der Zuverlässigkeit von Personen im Umgang mit Luftfahrzeugen von Bedeutung sind,
4. wenn sonstige Tatsachen vorliegen, die den Bewerber als unzuverlässig erscheinen lassen, die beabsichtigte Tätigkeit als Luftfahrtpersonal auszuüben."

Die letzte Fallgruppe soll der Behörde die Möglichkeit geben, auch Fälle zu erfassen, die nicht unter die anderen Fallgruppen subsumiert werden können, bei denen aber aufgrund der konkreten Einzelfallumstände eine Unzuverlässigkeit anzunehmen ist (z. B. Verstöße gegen das Waffenrecht oder Transport von illegalen Betäubungsmitteln mit dem Luftfahrzeug; laufende strafrechtliche Ermittlungen bezüglich erheblicher Straftaten).
Konkretisierend sollte die Möglichkeit vorgesehen werden für den Fall der Begehung von Straftaten unter erheblichem Alkoholeinfluss oder Drogeneinfluss oder erheblichen Auffälligkeiten im Straßenverkehr die Lizenz so lange ruhen zu lassen, bis durch ein flugmedizinisch-psychologisches Gutachten einer Stelle, die durch die lizenzführende Behörde bestimmt wird, die Zuverlässigkeit des Luftfahrers nachgewiesen wird (daneben stellt sich in diesen Fällen zusätzlich die Frage der flugmedizinischen Tauglichkeit).

Ergänzend wird darauf hingewiesen, dass in der Vorschrift die Möglichkeit eines Lizenzentzugs für den Fall aufgeführt werden sollte, dass der Pilot sein flugmedizinisches Tauglichkeitszeugnis fälscht oder bei der Tauglichkeitsuntersuchung falsche Angaben macht (vgl. NPA 2008-17-c MED.A.065).

In Angleichung an die Vorschrift AR.MED.250 sollte der erste Satz wie folgt ergänzt werden:
"...including, but not limited to, the following:".
Damit wird klargestellt, dass die Aufzählung nicht abschließend ist, sondern auch weitere, nicht näher genannte Fälle von Sicherheitsdefiziten umfasst sind.

comment

381

comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Absatz (a) (8) sieht für den Fall von mangelndem praktischen Können des Luftfahrers ("malpractice") die Möglicheit des Widerrufs der Lizenz oder einer Ruhensanordnung vor.

Eine konkrete Rechtsfolge für den Luftfahrer, wie er anschließend wieder zu seiner Lizenz kommt bzw. wie seine fliegerischen Fähigkeiten überprüft werden können, ist für diese Fallgruppe aus den Authority Requirements nicht klar ersichtlich.

Da nicht jeder Flugfehler gleich schwer wiegt, erscheint es auch aus Gründen der Verhältnismäßigkeit nicht als angezeigt, bei jedem Fall von "malpractice" ein sofortiges Ruhen der Lizenz oder einen Widerruf anzuordnen. Vielmehr wäre es in derartigen Fällen sinnvoll, wenn seitens der zuständigen Behörde vor einem etwaigen Ergreifen weitergehender Maßnahmen zunächst eine

Überprüfung des praktischen Könnens (fliegerische Fähigkeiten) des Luftfahres durch einen entsprechend qualifizierten "Inspector of the Authority" angeordnet werden könnte. Diese Überprüfung muss sich nicht zwangsläufig auf das gesamte Prüfprogamm einer praktischen Prüfung beziehen; vielmehr sollte sie individuell auf die erkannten fliegerischen Defizite abgestimmt sein. Erst wenn diese behördliche Überprüfung vom Luftfahrer abgelehnt wird oder ergibt, dass der Lizenzinhaber ein ausreichendes praktisches Können nicht mehr besitzt, kann der Widerruf der Lizenz angeordnet werden.

Je nach Art und Schwere der erkannten fliegerischen Defizite sollte auch die Möglichkeit bestehen, zunächst eine genau zu definierende Nachschulung anzuordnen, die vor der Überprüfung zu absolvieren ist.

Diese Möglichkeiten könnten in einem neuen Abs. (c) (, der Absatz (a) (8) ergänzt,) geregelt werden.

comment *615* comment by: *DGAC FRANCE*

AR.FCL.250

The redaction of this paragraph is over prescriptive ; the opportunity to take any action shall be let to the appreciation of the competent authority ; herefore the word "**shall" must be replaced by "can"**

A strict application of this paragraph could be disproportionate in some cases contrary to the innocence presumption ; in order to respect this principle, it should be stated that any action shall be done

comment *669* comment by: *CTC Aviation Services Ltd*

AR.FCL.250 Limitation, suspension and revocation of licences, ratings and certificates
(a) Th e c ompetent authority shall li mit, suspen d or revok e a pilot licence and associated
ratings or a certific ate where a s afety issue has been identifi ed, including the following:
(1) obtaining the pilot licence, rating .... certificate records;
(3) during the investigation following an incident or accident in which the licenc e hold er i s invol ved when e xercising t he pri vileges of his licence, rating or certificate;
(4) the licence .... or fraudulent use of the certificate; or

<u>Comment</u>

In (a) 3 Unless the term Incident is more closely defined as Serious in accordance with ICAO Annex 13 defi nitions, licence suspension will be required following e very minor occurr ence wh ere a s afety i ssue h as been identified.
This coul d be seriou sly disru ptive to lin e oper ations, but presumabl y also to all Simulator safety incidents.

<u>Proposed Amendment</u>

(3) during the investigation following an accident or serious **incident in which the licence holder is involved when exercising the privileges of his licence, rating or certificate;**

serious incident **– defined as in ICAO Annex 13**

comment *681* comment by: *Irish Aviation Authority*

1. Where a list such as in (a) is included in a rule, then the preamble should say: 'including, but not limited to, the following' instead of just 'including the following' so that by default it does not become the definitive list. A list of examples like this, should ideally be transferred to an AMC.

2. Under (a)(3), an investigation could take as much as 3 years. Is it the intention that all licence holders involved shall have their licence, ratings and certificates limited, suspended or revoked for the full duration of the investigation, even where it is clear that an individual licence holder has no safety case to answer? If so, this seems to be unfair to the individual. If not, this wording does not allow for it.

DCr 220509

3. Under (a), no guidance is given as to how a licence, rating or certificate that has been limited, suspended or revoked can be restored.

4. Under (b), how will a CA know if an Examiner Certificate issued by another CA has been revoked or suspended? There is no proposed process for notification between CAs SW 270509

comment *744* comment by: *Luftfahrt-Bundesamt*

The rules proposed in AR.FCL.250 give a catalogue of constituent facts for limitation, suspension or revocation of licences. Those elements strike some aspects of characteristics and special offences of a pilot, but the listing is very incomplete leaving aside all possible judicial decisions to individuals not directly affecting privileges of an aviation licence/rating or an examiner certificate (judicial decisions based on personnel character and behaviour outside aviation, like: car driving under alcohol or drugs, maybe on the way to flight duty; dealing violently with members of family or other persons; assault; cheating; dealing with drugs; robbery; tax fraud etc.). With a view to consistent requirements there should be a complete catalogue with regard to security.

Concerning elements of security could be a great scope for European requirements, but actually there is no legal base in Regulation (EC) No. 216/2008. Before implementing a basis of authorization AR.FCL.250 should be eliminated.

comment *748* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The text is too restrictive since a person can be involved in an incident without

being the cause of the incident. The provision in this sentence is very far-reaching and severe. For professional pilots the suggestion would lead to suspension during the investigation which may proceed for a long time. The consequences for a professional pilot might be considerable, especially regarding his/her financial situation. To be judged before being proved guilty is also against the rule of law.

Proposal:

Change the text according to the following: 3) during the investigation following an incident or accident in which the licence holder is involved, if the investigation shows that the holder has not followed the regulations when exercising the privileges of his or her licence, rating or certificate;

comment *791* comment by: *CAA Belgium*

(a)

Proposal: Delete all after the word "identified".

Reason: don't limit to the case stipulated in the actual text.

comment *792* comment by: *CAA Belgium*

(b)

Question: Is there a list of examiners and the validity of their certificates available to the Member States ? If not we can not check. Central data bank is needed.

comment *836* comment by: *ECA- European Cockpit Association*

Comment: change text as follows:
AR.FCL.250 Limitation, suspension and revocation of licences, ratings and certificates
(a) The competent authority, **following due process under the applicable legislation,** shall limit, suspend or revoke a pilot licence and associated ratings or a certificate where a safety issue has been identified, including the following: […]

Add new paragraph:
AR.FCL.260 Review Policy
The competent authority shall establish an independent committee to consider and advic e on the action appropri ate to identi fied s afety issues.

The c ommittee s hall be c omposed of repr esentatives from th e authority and the airlines and the professional crew associations.

Justification:
The Limitation, suspension or revocation of licenses are actions which could have severe personal consequences to the professional involved.

The Competent Authority shall follow due process and respect the rights to defence.

The establishment of an advisory committee to help the authority in determining the extent of the safety issues and the appropriate actions will be a value added.

comment *1192* comment by: *CAA Finland*

Move text. Subparagraphs (1) - (9) are good examples, but shall be as an AMC because there may appear situations that are not coverred by the list.

comment *1231* comment by: *CAA CZ*

AR.FCL.250 (a)(3), page 17
(a) The competent authority **shall limit, suspend or revoke** a pilot licence …:
(3) during the investigation following an incident or accident in which the licence holder is involved when exercising the privileges of his licence, rating or certificate;
It should be clarified, if the intent of the requirement is that the Authority during the investigation of any incident/accident has to **limit, su spend or revoke** a pilot license.

comment *1282* comment by: *Baden-Württembergischer Luftfahrtverband*

AR.FCL.250(b)
Wording in the NPA
(b) All skill tests and proficiency checks conducted during suspension or after the revocation of an examiner's certificate will be invalid.

Our proposal
(b) All skill tests and proficiency checks conducted during suspension or after the revocation of an examiner's certificate will be invalid. Depending on the case the competent authority may approve the examination as valid.

Issue with current wording
How can the examinee check that the examiner can execute a valid examination? There should be an option for the competent authority to accept an otherwise invalid examination.

Rationale
An examinee usually does not have the knowledge to check if his examiner can execute a valid examination.
Also the chance that an examiner might overlook that he is not authorized for a specific test is quite high due to the complex validity intervals but also due to fine differences e.g. between LPL(S) and SPL. The competent authority should be given the option to accept an otherwise invalid examination.

comment *1450* comment by: *AOPA-Sweden*

(a) (3): AOPA-Sweden cannot accept a limitation, suspension or revocation of a license, if a pilot is involve in an incident or accident without any responsibility in the situation, e.g. a delivery truck hits the airplane during some service. AOPA-Sweden's position is that such a withdrawal of privileges shall NOT occur until a fair a complete investigation is done.

(b): Can it be the responsibility to a single pilot to check the status of the examiner each time, a skill or proficiency check has to done? Will the competent authority publish all suspensions or revocations on their web-site, is that possible due to integrity?

comment *1530* comment by: *CAA Norway*

AR.FCL.250(a)

This paragraph has to be restructured and rewritten. It starts out with stating that a pilot license shall be limited, suspended or revoked under certain circumstances, leaving the authorities no other options.

Then the paragraph lists 9 situations for this to happen. Making lists like this can be quite challenging. Such a list will be considered exhaustive, even if stated otherwise, but in this case there is not even such a statement.

One example of the consequences this might have: If a pilot is involved in an accident, obviously not his/her responsibility, e.g. a technical failure or an ATC error, this paragraph clearly says that the authority shall limit/suspend/revoke the license during the investigation. Such an investigation can easily last a year or two. In the mean time, the pilot is grounded. We do not think this was the purpose when the paragraph was written.

We propose to delete all the 9 situations, and rewrite the paragraph as follows:

"The competent authority shall limit, suspend or revoke a pilot license and/or associated relevant ratings or certificates where a safety issue has been identified."

This will also cater for the case where e.g. something happens to a pilot in a balloon or a sailplane, and the pilot is also e.g. a B777 captain, instructor and examiner. The mishap might be minor and very balloon- or sailplane-specific, but as it is written in the NPA, and having only ONE license containing all privileges, a pilot could easily loose all these privileges. The new wording gives the authority the possibility to react in a proportional manner, just as Article 64 in the basic regulation was introduced to enable proportional reactions.

comment *1531* comment by: *CAA Norway*

AR.FCL.250(b)

Quote the paragraph: *"All skill tests and proficiency checks conducted during suspension or after the revocation of an examiner's certificate will be invalid"*

How is this to be upheld? Even if a pilot asks to see the examiner certificate, it will be unsure if this examiner can be used. The only way this paragraph can be functional is to have a central EASA-run database of examiners. Otherwise, the "consumers" – the pilots needing the PCs – will have no access to the essential information they need.

This regulation can also have severe backfiring consequences, if a pilot who has done a PC with a "revoked" examiner later has an accident – what will be the implications insurancewise? The pilot had no way of knowing if the

examiners certificate was revoked.

We strongly suggest to reconsider this paragraph in light of the above arguments.

comment *1620* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
(b) All skill tests and proficiency checks conducted during suspension or after the revocation of an examiner's certificate will be invalid.

Our proposal
(b) All skill tests and proficiency checks conducted during suspension or after the revocation of an examiner's certificate will be invalid. **Depending on the case the competent authority may approve the examination as valid.**

Issue with current wording
How can the examinee check that the examiner is allowed to execute a valid examination? An option for the competent authority is necessary to accept an otherwise invalid examination.

Rationale
An examinee usually does not have the knowledge to check if the examiner can execute a valid examination.
The competent authority should be given the option to accept an otherwise invalid examination.

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comment *38* comment by: *George Knight*

(b)
(1) ~~syllabi~~ syllabus

comment *85* comment by: *Nigel Roche*

(f) The competent authority shall ban applicants, who are proven to be cheating, from taking any further examination within 12 months of the date of the examination in which they were found cheating.

I am the Chief Ground Instructor for a professional flight training company in the UK and in my humble opinion stating that a candidate who is caught cheating his/her way into a professional career as a pilot should only be banned for 12 months sends out a **pathetically weak** signal to all candidates.

If a candidate is willing to cheat their way through the theory examinations as a means of becoming an professional pilot, or to achieve a rating, what does this say for their abilities to handle and process information.

With the increase in more complicated systems to manage and the amount of information that can be displayed to the flight crew, our pilots need to be able to assimilate data quickly and efficiently.

I would also ask, what does cheating this say about the candidates' personal integrity and how will this feed into their professionalism in flight operations. What does it say about thier work ethic.

I would like to see the regulations state; that anybody who was believed to be cheating during an examination will have their results put on hold until an investigation by the Competent authority has been carried out.

That anybody where it is determined that they have cheated should be **banned** from sitting any further professional/rating examinations within the EU again.

I appreciate that this might be to Draconian for some to accept so also offer the alternative:

That anybody where it is determined that they have cheated should be banned from sitting any further professional/rating examinations within the **EU for a period of 60 months**.

This would send a strong message and at the same time allow a candidate who was foolish enough to cheat when studying in their early to mid twenties, to mature and re-sit the exams at a latter date, leaving them time to pursue a career as a pilot.

A question the regulators should ask themselves when reviewing these comments is; would you have the confidence in a surgeon when you are about to undergoing heart or brain surgery if you found out that they had cheated their way through the medical exams.

comment *110* comment by: *DCA Malta*

AR.FCL.300 (b) (1)

Reference to the CQB missing

comment *111* comment by: *DCA Malta*

AR.FCL.300 (f)

This is not possible to control without a central data bank.

comment *141* comment by: *ECA- European Cockpit Association*

Comment: add points 1, 2, 3 and 4 of the AMC AR.FCL.300 and all the missing requirements from JAR-FCL Subpart J

Justification:
There is no safety reason to justify the deleting of these paragraphs or their inclusion into AMC. ECA cannot share EASA's view of sending very important requirements for the proper conduct of the examinations into AMCs, or not even taking them onto the regulation.

comment *142* comment by: *ECA- European Cockpit Association*

Comment:
More requirements from JAR-FCL need to be added.

Justification:
There is only maximum length of the course and examination. It seems that there is not a maximum period between the starting of the theoretical exams and the completion of the theoretical modular course, which means that theoretically, it would be possible to finish the theoretical ATPL modular curse and start the examinations 10 years later.

comment *156* comment by: *DGAC FRANCE*

AR.FCL.300 (b)(1)

Comment :

The sentence is not readable if it is not said from what are selected the questions.
Moreover, the JAA CQB which takes a long time and big burden and money to be created, must be maintained and improved too. In the new regulatory context, the agency should naturally in charge of this CQB.

Modification :

AR.FCL.300
(b)
(1) Questions for an examination shall be selected by the competent authority **from a common CQB managed by EASA,** according to a common method which allows coverage of the entire syllabi in each subject.

comment *222* comment by: *DGAC FRANCE*

AR.FCL300(b)(1)

Reference has to be done to Common Questions Bank.

the sentence indicate that the competent autority have to selected questions without communication about the origin of the question. It's important to keep and develop the bank built up in the last years and which have cost a lot of money to the states which have participated.
Airship and private exams have to be added to this bank.

Modification :

(b) (1) Questions **from a common questions bank established and maintained by EASA** for an examination shall…..

comment *335* comment by: *Susana Nogueira*

(b)(1) Reference to CQB is missing

comment *336* comment by: *Susana Nogueira*

Question:

Should there not be a regulation limiting the timeframe between completition of theory course and the start of theoretical examination?

comment *337* comment by: *Susana Nogueira*

The number of seatings is not included

comment *496* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comments:
(f) Not possible, as there is no centralized data bank for licence holders.
A centralised questionnaire database would be helpful.
Proposal:
Create such databases and its legal framework.

comment *654* comment by: *ENAC TLP*

AR FCL 300 lett. (f): we think that 12 months (even if suggested also by JAA) is too much: it could be better to graduate from a minimum of 3 up to 6 months depending on the seriousness of the cheat.

comment *670* comment by: *CTC Aviation Services Ltd*

AR.FCL.300 Examination procedures
(a) The competent authority shall put in place the necessary arrangements and procedures to allow applicants to undergo theoretical knowledge examinations in accordance with the applicable requirements of PartFCL.
(b) In the case of professional licences and instrument ratings, those procedures shall comply with the following:

(1) Questions for an examination shall be selected by the competent authority according to a common method which allows coverage of the entire syllabi in each subject;

Comment

At present theoretical knowledge examination questions are chosen by the ATO and approved by the Authority. There is no delegation option within these Competent Authority requirements.

Proposed amendment

(1) Questions for an examination shall be selected by the competent authority **or the ATO under Authority approval** according to a common method which allows coverage of the entire syllabi in each subject;

comment *671* comment by: *CTC Aviation Services Ltd*

(c) The competent authority shall …… within 12 months of the date of the examination in which they were found cheating.

Comment

Items (c) through (f) all state that the competent authority shall …. These are all functions of ATO examining procedures.

Proposal

There must be a clearly defined mechanism for delegation of Competent Authority activity to the ATO for the Schools to function without continuous referral back to the Authority.

comment *683* comment by: *Irish Aviation Authority*

Under (f), does EASA have a procedure for informing other CA's of such a ban? Otherwise such a ban would have no effect.
DCr 220509
Under (b)(1), for clarity, should read "Questions for an examination shall be selected by the competent authority ***from the EASA Question Bank,*** according to a common method which allows coverage of the entire syllabi in each subject;
(b)(e) is confusing - the punishment for an exam applicant found not complying with examination procedures should be clear - the rule as written suggests that the applicant can be failed in either one exam or the whole lot! How does a CA determine one way or the other? To get consistent application across all CAs, the rule must written one way or the other. Suggest that (e) be re-written to read
(e) If the competent authority finds that the applicant is not complying with the examination procedure during the examination, the CA shall fail the applicant in that examination subject.

comment *700* comment by: *Boeing*

AR.FCL.300
Para (b)(1)
Page 18

CONCERN: Allowing each different competent authority to select questions for the examination may not be supportive in creating a level playing field.

CHANGE: We suggest that the agency develop and maintain an accessible database for these questions.

JUSTIFICATION: To avoid differences between Member States and maintain a level playing field.

comment *749* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (b):

The subparagraphs are placed too far to the right. They should be moved to the left and follow the format of subparagraphs a and b to prevent misunderstandings.

Proposal for (b):

Change the format according to the comment.

comment *794* comment by: *CAA Belgium*

(b)(1)

Proposal: Add the words "from the Central Question Bank" between the words "selected" and "by the competent authority".

Reason: This is the only place where questions may be selected by the competent authority.

comment *796* comment by: *CAA Belgium*

(f)

Question: Not part of paragraph (e) ?

Proposal: Delete the whole paragraph.

Reason: Can not be checked if there is no central data bank.

comment *858* comment by: *CAA Belgium*

The paragraphs (c), (d), (e) and (f) should be aligned with paragraphs (a) and (b).

comment *993* comment by: *DCAA*

Examination procedures:

Questions for an examination shall be selected by the competent authority according to a common method whic allows coverage of the entire syllabi in each subject.

Comments:
One of the keystones in the harmonisation under the JAA system was a common theoretical examination based on a Central Question Bank (CQB). In the text shown in the reference the requirement to select questions from a CQB is missing.

Add after Authority in the ref: from the EASA Question Bank

comment *994* comment by: *CAA Finland*

Please indicate clearly if this only applies to professional licences and instrument ratings.

Who should arrange the theoretical examinations to SPL/LPL/BPL/PPL? ATO or the competent authority?

comment *1193* comment by: *CAA Finland*

Add text.
(b)(1)...each subject. **In case of CPL, ATPL or IR the questions shall be selected from central question bank (CQB);**

comment *1194* comment by: *CAA Finland*

New text. Time limit between the training course and intial examination is missing.

(g) The competent authority shall require refresher training before the applicant may take an exam if the training has been completed for more than 3 years ago.

comment *1200* comment by: *CAA Finland*

Amend. The confidentiality is not clear. It shall be.

(d) The competent authority shall establish appropriate procedures **to ensure that the examinations has fully confidental status. The applicant is not allowed to see a question before the exam. The applicant may go through a question after the exam if he/she has clearly marked his/her disagreement of the question during the exam on answer sheet / computerised feedback. The writing of the feedback does not stop the time counting. If the NAA has doupts that feedback is used for training purposes, the applicant is not allowed to continue the feedback.**

comment *1290* comment by: *Adventia, European College of Aeronautics*

Adventia, European Aviation College, Spanish certified FTO (Reg. Number E011) presents the following comments to the NPA Nº 2008-22,

- As far as AR.FCL.300 is concerned, this organization considers that, in order to guarantee the equal rights of all European student pilots, the regulation should standardize/establish the minimum frequency for theoretical knowledge examinations, as nowadays there are national authorities which allow monthly sessions, whereas others, such as the Spanish Authority, allow only 4 sessions a year. This means an unnecessary prolongation of the course for those students who do not pass at the first attempt and the consequent delay in entering the labour market.

On the other hand, we propose the possibility of holding the theoretical knowledge exams in institutions appointed by the authorities (as it is happening at present with flight examiners), such as the Universities, which count on facilities, trained staff and technological resources to streamline the bureaucratic process.

comment *1464* comment by: *CAE*

AR.FCL.300 (b) (1) Page 18

If questions are selected by the competent authority, there is the possibility that one authority will have a less stringent test, possibly resulting in one training location being favored by candidates.

The agency should develop and maintain an accessible database for these questions.

comment *1532* comment by: *CAA Norway*

AR.FCL.300(b)(1)

Amend text to read "*Questions for an examinatio n shall be selected by the competent authority* **from the E ASA Cent ral Questi on Bank** *ac cording to a....*"

This is a very important amendment!

comment *1533* comment by: *CAA Norway*

AR.FCL.300(e)

We assume that the wording "*...this shall be assessed with a view to failing the applicant...*" to be an editorial mistake, as this wording does absolutely not create the level playing field.

If an applicant shows non-compliance with examination procedure, he/she has to be assessed as failing the subject. Repeated non-compliance fails the examination as a whole.

Regulations should be clear and consistent, and not use wording such as "*..assessed with a view to failing..*"

comment *1634* comment by: *Icelandic CAA*

The application of central question bank should be specified in this section.

comment *1646* comment by: *FlightSafety International*

If questions are selected by the competent authority, there is no level playing field.
The agency should develop and maintain an accessible database for these questions.

To avoid differences between Member States and maintain a level playing field.

comment *1655* comment by: *Aéro.Sport asbl. Luxembourg*

Our proposal:
The degree of difficulty concerning the theoretical examination varies from one country to another. We also know that the authority even has problems to establish questions for theoretical examination. Therefore, we suggest to add:
(g) The competent authority shall establish, update and publish a catalogue of possible questions.
Remark: to harmonize the examinations, it would even be more appropriate to replace "authority" by "agency".

B. Draft Rules - I. Draft Opinion Part-AR - Subpart AEMC - Section 1 - AR.AeMC.005 Continuing oversight and monitoring of activities p. 19

comment *19* comment by: *Oliver Brock MD PhD AME*

Why must audits being carried out, if certification for AeMC is unlimited?
Also: AeMC´s and AME´s are not working on behalf of the authority anymore, but more "independant".
There would be problems with the professional insurers, if a AeMC or AME is "directed" by the CA, but onthe other hand is fully responsible for its decisions/actions.
Either the audits are voluntarily or the actions/decisions of the AeMC´s and AME´s are covered by the CA´s professional insurance.

comment *112* comment by: *DCA Malta*

AR.AeMC.005

Replace the '36 months' in (a) and (b) by '24 months'

comment *340* comment by: *Susana Nogueira*

Change 36 months by **24 months**

As in other cases of this regulation

comment *503* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
In Subpart AeMC the time frame in AR.AeMC.005 (b)(2) has been extended to 3 years for AeMC. The surveillance period should be same for all organisations including AeMC. AR.AeMC.005 can be deleted.
The deletion of AR.AeMC.005 requires to add the head of AeMC in AR.GEN.305 (b) (ii).

Poposal:

Delete AR.AeMC.005.

comment *751* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

All organisations shall be audited every 2 years except the AeMCs where the time frame is proposed to be 3 years. If this inconsistency should exist, the corresponding requirement in AR.GEN should be deleted and the time frames should only appear in each subpart (AR.ATO, AR.FCL, AR.AeMC, AR.MED, AR.OPS). If kept in AR.GEN.305, then AR.AeMC.005 should be deleted. Both the Swedish Transport Agency and the AeMC in Stockholm propose to keep the 24-month period as described in AR.GEN.305 also for AeMC.

Proposal:

Delete AR.AeMC.005

comment *899* comment by: *FAA*

In the United States there is no equivalent to an AeMC.

comment 982 comment by: DCAA

(b) 36 months should be changed to 24 months which is equal to the validity period.

comment 1452 comment by: AOPA-Sweden

AOPA-Sweden considers that the audits even for AeMC shall be carried out at 24 months intervals in accordance with rest of the "operators" described in AR.GEN.305

B. Draft Rules - I. Draft Opinion Part-AR - Subpart AEMC - Section 1 - AR.AeMC.010 Certification procedure p. 19

comment 163 comment by: DGAC FRANCE

AR.AeMC.010

The requirement for a physical inspection is appreciated and supported.

comment 445 comment by: European CMO Forum

AR.AeMC.010

Comment:
The requirement for a physical inspection is appreciated and supported.

Justification:

Proposed Text:

comment 752 comment by: Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)

Comment:

The requirement for a physical inspection is appreciated.
Proposal:

Maintain the requirement for a physical inspection.

comment 1168 comment by: Irish Aviation Authority

The requirement for a physical inspection is supported.

AR 27/05/09

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED p. 20

comment 566 comment by: UK CAA

Page No: 20

Paragraph No: Subpart MED

Comment:
The lack of mention in this NPA or elsewhere in the EASA proposals of a central European database of Class 1 applicants who have been assessed by one of the States as long term unfit is a concern.

Justification:
Without a database, applicants who choose not to declare some or all of their relevant medical history or that they have been denied a Class 1 certificate by another State previously may not be identified. Medical assessments rely heavily on accurate knowledge of an applicant's medical history and incorrect judgements may be made if the history given is incomplete or inaccurate.

Proposed Text (if applicable):
A central database with core information about applicants who have been assessed as long term unfit for Class 1 medical certification would enable Authorities to check whether the applicant has previously been denied a Class 1 certificate where there is doubt that the declared medical history is complete or accurate.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 1 - AR.MED.020 Medical assessor p. 20

comment *14* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Zunächst dürfen wir auf unsere Kommentierung zu MED.A.030 verweisen. Eine stärkere Einbeziehung der Behörde in fachmedizinische Fragen der Tauglichkeit als es bisher im deutschen Recht der Fall ist, halten wir für nicht angebracht. Die medizinische Verantwortung sollte bei den behördenexternen Flugmedizinern verbleiben. Dann bedarf es auch keines "Medical Assessor" bei der Behörde, was zu einem deutlich erhöhten Verwaltungsaufwand führen würde.

Hilfsweise wäre der Absatz (b) zu streichen und das AMC zu AR.MED.020 entsprechend abzuändern. Die geforderte Erfahrung in "aviation medicine") (Ausstellung von mindestens 200 Klasse-1-Medicals) bringen nur erfahrene Klasse-1-Flugmediziner mit. Die Anzahl dieser Mediziner ist überschaubar. Wie es jeder Luftfahrtbehörde gelingen soll, einen solchen (erfahrenen und spezialisierten) Mediziner als "Medical Assessor" in der Behörde zu gewinnen, bleibt ungelöst und dürfte in der Praxis nur in den seltensten Fällen gelingen.
Hier sollte daher das Erfordernis einer entsprechenden Aus- und Fortbildung genügen.

comment *20* comment by: *Oliver Brock MD PhD AME*

As at least in Germany the CA´s would be on a regional level, there would be now way to have a Medeical assesor with the requirements in AR.MED.020 available, as the regional CA´s usually only have general administration staff on hand for the administration of licences.
If the CA would NOT be delegated to the regional authorities, the only CA in Germany (Federal Aviation Authority) would not be able to be staffed adequately, as the JAR system lead to another system with competen AME´s

and AeMC´s.

comment *68* comment by: *Luftamt Nordbayern*

Hier wird der "Medical assessor" bei der Behörde geregelt. Wir sind der Auffassung, daß dieser eingespart werden und bei der Beurteilung der Tauglichkeit ein anderes System zur Anwendung kommen sollte.

In Absatz (d) der Vorschrift MED.A.030 wird der lizenzierenden Behörde die grundsätzliche Möglichkeit eröffnet, selbst das Tauglichkeitszeugnis auszustellen. Dies korrespondiert mit den Vorschriften MED.A.045, wonach die Behörde eigene Limitations für das Medical verhängen kann, sowie mit AR-MED.315, wonach die Behörde die Untersuchungsberichte erhält und das Medical selbst zu widerrufen hat, wenn sie der Auffassung ist, dass es falsch ausgestellt wurde. Dieses System der Einbindung der lizenzierenden Behörde in den medizinischen Teil der Beurteilung der Tauglichkeit der Luftfahrer halten wir für nicht wünschenswert, weder für die Luftfahrer noch für die Behörden. Es erscheint aufgrund der Erfahrungen in der Vergangenheit unnötig bürokratisch, die Behörde zusätzlich zu den qualifizierten Sachverständigen auf fachmedizinischer Ebene in das Verwaltungsverfahren einzubinden. Im Übrigen dürfte die Entscheidung i.d.R. komplexer medizinischer Fragen ohne unmittelbare Kenntnis des Patienten, allein anhand einer Akte, sehr anfällig für Fehlentscheidungen sein. Abgesehen davon ist es aus Gründen des Datenschutzes bedenklich, wenn die Behörde künftig Einsicht in sämtliche Untersuchungsergebnisse der Bewerber nimmt. Nach dem in Deutschland bisher geltenden System ist der flugmedizinische Sachverständige allein für die medizinische Begutachtung des Luftfahrers verantwortlich. Er trifft seine Entscheidung nach unmittelbarer Untersuchung des Probanten und kann auftretende Rückfragen unmittelbar mit diesem klären. Um als Flugmediziner anerkannt zu werden, muss er Spezialkenntnisse der Flugmedizin nachweisen. Die örtlich zuständige Luftfahrtbehörde erkennt einen Mediziner auf dessen Antrag als flugmedizinischen Sachverständigen an, wenn er die medizinischen und verwaltungsmäßigen Voraussetzungen seiner Praxis nachweist. Für die Untersuchungsinhalte und die Entscheidung über die Tauglichkeit ist ihm die Verantwortung (und damit auch die Haftung) übertragen. Das ist auch angemessen, da er die Untersuchungsbefunde erhebt. Jede medizinische Entscheidung steht und fällt mit der Sorgfalt der durchgeführten körperlichen Untersuchung. Für die Behörde ergibt sich daher auch eine haftungsrechtliche Problematik bei unrichtig durchgeführter Untersuchung durch den Flugmediziner. Eine Tauglichkeitsentscheidung und Verantwortung des unmittelbar untersuchenden Flugmediziners ist einer nur aufgrund einer Aktenauswertung bei der Behörde zu treffenden medizinischen Beurteilung daher unbedingt vorzuziehen. Ist ein Pilot mit dem Ergebnis seiner Untersuchung nicht einverstanden, kann er bisher bei der nächsthöheren flugmedizinischen Stelle (Flugmediziner Klasse 1, flugmedizinisches Zentrum) eine Überprüfung beantragen. Diese Überprüfung erfolgt jedoch abermals nicht ohne persönliche Kenntnis und Untersuchung des Patienten. Erhält die lizenzierende Behörde die Mitteilung, dass ein Pilot für untauglich befunden wurde, hat sie die Möglichkeit das Ruhen der Lizenz anzuordnen. Dieses System gewährleistet eine saubere Trennung von Fragen der Lizenzierung und der fachlichen medizinischen Begutachtung (unter Berücksichtigung der ärztliche Schweigeverpflichtung). Die angedachte Letztentscheidungbefugnis der Behörde über medizinische Fragen würde ohne Not die Kompetenz der Flugmediziner in Frage stellen. Die Vorhaltung eines flugmedizinischen Sachverständigen bei der Behörde wird auch erhebliche Kosten verursachen, die letztlich wiederum auf die Piloten umgewälzt werden müssten, ohne die

Qualität der medizinischen Tauglichkeitsentscheidungen steigern zu können. Es dürfte im Übrigen aus den genannten Gründen im gesamten medizinischen Bereich unüblich sein, dass ein Arzt weitreichende medizinische Entscheidungen trifft, ohne den Patienten jemals selbst gesehen bzw. untersucht zu haben

comment *279* comment by: *UK CAA*

Page No:
20

Paragraph No: Sub Part Medical - General

Comment: The use of the Term 'Competent Authority' vs 'Licensing Authority'.
There is confusion about the use of these terms. Several areas require clarification and in particular the issue of to which Authority AMEs will send their examination reports requires comment. Is the competent authority the one that issued the certificate to the examining AME or the one in whose territory the AME is practising? Both of these could be different to the pilot's licensing authority.

In Part Medical (NPA 17c Page 4 MED.A.030 Competence for the issue, revalidation and renewal of medical certificates) the text states ' in the case of referral the licensing authority may issue the medical certificate'. In our view this is correct and infers that the examining AME should send their report to the pilot's licensing authority. However the Licensing Authority will only be in a position to issue a certificate if it can make a decision on the applicant's fitness for certification and medical assessments can only be done in conjunction with access to the applicants' full aeromedical history, especially past electrocardiograms. Therefore the repository of the aeromedical records has to be the licensing authority. Otherwise the repository could change with every medical examination. This would result in the need for transfer of medical files around Europe on a massive scale and has considerable translation implications. The safety and cost implications of delays in making certificatory decisions are clear. The specific comments on individual paras are presented in AR.MED.025, AR.MED.120 (a); AR.MED.315; AR.MED.320; AR.MED.325; AMC to AR.MED.025(1) and (2).

comment *382* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Im Zusammenhang mit der vorliegenden angedachten Regelung wird auch auf unsere Kommentierungen zu MED.A.030 und MED.A.050 verwiesen. Eine stärkere Einbeziehung der Behörde in fachmedizinische Fragen der Tauglichkeit als es bisher im deutschen Recht der Fall ist, ist nicht erforderlich und wird abgelehnt. Die medizinische Verantwortung sollte bei den behördenexternen Flugmedizinern verbleiben. Es bedarf keines "Medical Assessors" bei der Behörde. Die neue Regelung würde auch zu einem deutlich erhöhten Personal- und Verwaltungsaufwand führen. Der Medical Assessor kann jedoch eingespart werden; zudem sollte bei der Beurteilung der Tauglichkeit ein anderes System zur Anwendung kommen.

In Absatz (d) der Vorschrift MED.A.030 wird der lizenzierenden Behörde die grundsätzliche Möglichkeit eröffnet, selbst das Tauglichkeitszeugnis

auszustellen. Dies korrespondiert mit den Vorschriften MED.A.045, wonach die Behörde eigene Limitations für das Medical verhängen kann, sowie mit AR-MED.315, wonach die Behörde die Untersuchungsberichte erhält und das Medical selbst zu widerrufen hat, wenn sie der Auffassung ist, dass es falsch ausgestellt wurde. Dieses System der Einbindung der lizenzierenden Behörde in den medizinischen Teil der Beurteilung der Tauglichkeit der Luftfahrer ist nicht erforderlich und auch nicht wünschenswert, weder für die Luftfahrer noch für die Behörden. Es erscheint aufgrund der Erfahrungen in der Vergangenheit unnötig bürokratisch, die Behörde zusätzlich zu den qualifizierten Sachverständigen auf fachmedizinischer Ebene in das Verwaltungsverfahren einzubinden. Im Übrigen dürfte die Entscheidung i.d.R. komplexer medizinischer Fragen ohne unmittelbare Kenntnis des Patienten, allein anhand einer Akte, sehr anfällig für Fehlentscheidungen sein.

Abgesehen davon ist es aus Gründen des Datenschutzes bedenklich, wenn die Behörde künftig Einsicht in sämtliche Untersuchungsergebnisse der Bewerber nimmt. Nach dem in Deutschland bisher geltenden System ist der flugmedizinische Sachverständige allein für die medizinische Begutachtung des Luftfahrers verantwortlich. Er trifft seine Entscheidung nach unmittelbarer Untersuchung des Probanten und kann auftretende Rückfragen unmittelbar mit diesem klären. Um als Flugmediziner anerkannt zu werden, muss er Spezialkenntnisse der Flugmedizin nachweisen. Die örtlich zuständige Luftfahrtbehörde erkennt einen Mediziner auf dessen Antrag als flugmedizinischen Sachverständigen an, wenn er die medizinischen und verwaltungsmäßigen Voraussetzungen seiner Praxis nachweist. Für die Untersuchungsinhalte und die Entscheidung über die Tauglichkeit ist ihm die Verantwortung (und damit auch die Haftung) übertragen. Das ist auch angemessen, da er die Untersuchungsbefunde erhebt. Jede medizinische Entscheidung steht und fällt mit der Sorgfalt der durchgeführten körperlichen Untersuchung. Für die Behörde ergibt sich daher auch eine haftungsrechtliche Problematik bei unrichtig durchgeführter Untersuchung durch den Flugmediziner. Eine Tauglichkeitsentscheidung und Verantwortung des unmittelbar untersuchenden Flugmediziners ist einer nur aufgrund einer Aktenauswertung bei der Behörde zu treffenden medizinischen Beurteilung daher unbedingt vorzuziehen. Ist ein Pilot mit dem Ergebnis seiner Untersuchung nicht einverstanden, kann er bisher bei der nächsthöheren flugmedizinischen Stelle (Flugmediziner Klasse 1, flugmedizinisches Zentrum) eine Überprüfung beantragen. Diese Überprüfung erfolgt jedoch abermals nicht ohne persönliche Kenntnis und Untersuchung des Patienten. Erhält die lizenzierende Behörde die Mitteilung, dass ein Pilot für untauglich befunden wurde, hat sie die Möglichkeit das Ruhen der Lizenz anzuordnen. Dieses System gewährleistet eine saubere Trennung von Fragen der Lizenzierung und der fachlichen medizinischen Begutachtung (unter Berücksichtigung der ärztliche Schweigeverpflichtung). Die angedachte Letztentscheidungbefugnis der Behörde über medizinische Fragen würde ohne Not die Kompetenz der Flugmediziner in Frage stellen.

Die Vorhaltung eines flugmedizinischen Sachverständigen bei der Behörde würde auch erhebliche Kosten verursachen, die letztlich wiederum auf die Piloten umgewälzt werden müssten, ohne die Qualität der medizinischen Tauglichkeitsentscheidungen steigern zu können. Es dürfte im Übrigen aus den genannten Gründen im gesamten medizinischen Bereich unüblich sein, dass ein Arzt weitreichende medizinische Entscheidungen trifft, ohne den Patienten jemals selbst gesehen bzw. untersucht zu haben.

Hilfsweise wäre der Absatz (b) zu streichen und das AMC zu AR.MED.020

entsprechend abzuändern. Die geforderte Erfahrung in "aviation medicine") (Ausstellung von mindestens 200 Klasse-1-Medicals) bringen nur erfahrene Klasse-1-Flugmediziner mit. Die Anzahl dieser Mediziner ist überschaubar. Wie es jeder Luftfahrtbehörde gelingen soll, einen solchen (erfahrenen und spezialisierten) Mediziner als "Medical Assessor" in der Behörde zu gewinnen, bleibt ungelöst und dürfte in der Praxis nur in den seltensten Fällen gelingen.
Hier sollte daher das Erfordernis einer entsprechenden Aus- und Fortbildung genügen.

comment *461* comment by: *European CMO Forum*

AR.MED.120

Comment:
There is no requirement for all reports to be sent to an authority in the National language(s) acceptable to that Authority or English (as per the JIP) in the EASA requirements.

Justification:
It is essential for authorities to be able to read and understand medical reports.

Proposed Text:
Add to **AR.MED.120 new paragraph (d):**
All reports should be submitted to the licensing authority in a language acceptable to the authority. The authority shall state the language(s) in which reports will be accepted.

comment *504* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

The description of 'medical assessor' in the proposal (AR. MED.020) does only describe the tasks but does not explicitly include being responsible for the aero medical tasks.

Poposal:

The responsibility (if any) of a medical assessor should be clarified.

comment *801* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

- Point (b) needs to be further specified in terms of level of knowledge/training and experience (partly included in AMC to AR.MED.020)
-
- Point (c) needs to be further specified

ICAO Annex 1 will in the future also require specific training in aeromedical risk assessment, which should be included.

Proposal:

One more subparagraph should be added: ”(d) specific training in aeromedical risk assessment.”

Further details of points (b), (c) and (d) should be included in an AMC to AR.MED.020.

comment *1268* comment by: *CAA CZ*

The reference to SPL should be added.

comment *1438* comment by: *European Society of Space and Aviation Medicine (ESAM)*

Author:
Group General Requirements – European Society of Space and Aviation Medicine (ESAM)

SUBPART MED – SPECIFIC REQUIREMENTS RELATED TO AEROMEDICAL CERTIFICATION
Section: 1
GENERAL
Page: **20**

AR. MED 0.20 Medical assessor
Relevant Text:
The competent authority shall have one or more medical assessors to undertake the tasks described in this Section. A medical assessor shall be licensed and qualified in medicine and have
(a) undergone postgraduate training in medicine of at least 5 years
(b) specific knowledge and experience in aviation medicine; and
(c) specific training in medical certification.

Proposal:
For Federal States in the European Union more flexibility must be provided due to medical confidentiality on every level of federal organisations and due to a fast effective and economical decision process. Therefor EASA should provide the possibility of delegation of competence from the competent authority/liecensing authority to AMCs and AMEs, provided that the same safety standards are guaranteed by oversight procedures of the competent authority.

comment *1447* comment by: *CAA Belgium*

(a)

What does exactly mean "postgraduate training" ?
Does this point overlap with point (b) and (c) ?

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 1 - AR.MED.025 Referral to the competent authority p. 20

comment *57* comment by: *Prutech Innovation Services Ltd.*

AR.MED.025(b): Better to say "request further examinations and tests, WHERE necessary; and
Reason: *The subtle difference in words is that "where necessary" makes it more clear that the need for extra examinations and tests is not self-evident at the outset and they shouldn't be demanded simply as a matter of course (i.e. "protect my back" by demanding extra evidence automatically).*

comment *162* comment by: *DGAC FRANCE*

AR**.** MED.025

comment :

The competent authority and the licensing authority may be different, and according to Part MED, the AEMC or AME or GMP refers to the licensing authority. The licensing authority will hold the aeromedical records and they are needed to undertake a fitness assessment on applicants who are referred.
But for oversight purpose, it must be necessary to refer to the competent authority as well.

Modification :

When an AeMC or AME or GMP has referred the decision on the fitness of an applicant, the competent authority **and the licensing authority** shall :
.....

comment *280* comment by: *UK CAA*

Page No:
20

Paragraph No: AR.MED.025

Comment: The title should be changed to 'Referral to the Licensing Authority' rather than 'Referral to the Competent Authority'. It is the licensing authority that assesses the applicant's fitness. The licensing authority will hold the aeromedical records and these are needed to undertake a fitness assessment on applicants that are deferred.

This has important implications as the competent authority would have to obtain previous medical records to make a judgement on fitness and that would potentially require complete translation of those records. EASA has stated that in reality they expect the pilot to decide to deal with their licensing authority as the bureaucratic effort otherwise involved would be immense and result in considerable delays in decisions being made.

comment *423* comment by: *Civil Aviation Authority of Norway*

The referral to the competent authority is unprecise. The licensing authority will hold the confidential aeromedical records and will assess referred cases. We therefore propose to change "competent authority" to "licensing authority".

response *Noted*

Duplication of comment

comment *446* comment by: *European CMO Forum*

AR.MED.025
Referral to the Competent Authority

Comment:
It should be the licensing authority that assesses the applicant's fitness.

Justification:
The licensing authority will hold the aeromedical records and these are needed to undertake a fitness assessment on applicants that are deferred.

Proposed Text:
Change 'competent authority' to 'licensing authority'

comment *803* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

According to Part-MED, the referral should not go to the competent authority responsible for the AeMC, AME or GMP, but to the licensing authority responsible for the applicant.

•

• Part-AR does not describe the next step of the procedure, the issue of the medical certificate. Part-MED (MED.A.030) describes that the licensing authority shall take the decision and may issue the medical certificate. It might be more appropriate to have this provision included in Part-AR.

Point (b) should also include request for further medical documentation when such documentation exists but has not been received.

Proposal:

Delete "competent" and insert "licensing".

Point (b) should be amended: "request further documentation, examinations and tests, as necessary; and"

comment *946* comment by: *Royal Swedish Aeroclub*

Unnecessary bureaucracy for PPL and lower licences. A statement made by AeMC, AME or GMP should be sufficient. It is only in special cases that a second review and evaluation by the Competent Authority should be necessary. This will reduce the administrative costs. There is no evidence that doing it in this way would cause any safety hazard for these (lower) licence categories.

comment *1171* comment by: *Irish Aviation Authority*

It should be the licensing authority that assesses the applicant's fitness. The licensing authority holds the aeromedical records that are needed to undertake a fitness assessment on applicants that are deferred. **Change 'competent authority' to '**licensing authority'.

AR 27/05/09

comment *1177* comment by: *BMVBS (MoT Germany)*

As a matter of principle the authority should not get involved in medical decisions at all, but rather concentrate on oversight activities. This way, the extent of transfer of medical reports/data could be significantly reduced. For contentious or borderline cases there is the secondary review process as required by AR.MED.325.

comment *1179* comment by: *BMVBS (MoT Germany)*

As a matter of principle the authority should not get involved in medical decisions at all, but rather concentrate on oversight activities. This way, the extent of transfer of medical reports/data could be significantly reduced. For contentious or borderline cases there is the secondary review process as required by AR.MED.325.

Recommended amendment of the text:

~~When an AeMC or AME or GMP has referred the decision on the fitness of an applicant, the~~
~~competent authority shall:~~
~~(a) evaluate the relevant medical documentation;~~
~~(b) request further examinations and tests, as necessary; and~~
~~(c) determine the applicant's fitness for the issue of a medical certificate with one or more~~
~~limitation(s) if required.~~

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 1 - AR.MED.030 Medical certificate format p. 20

comment *753* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

It might be appropriate to have the format of the certificate in the IRs, but any change will then need to be approved by the Commission. For the layout a better option would be to move the template to an AMC to facilitate adoption to existing computer and printer systems and possible future improvements.

Proposal:

The template/format of the medical certificate should be moved to an AMC.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 1 - AR.MED.120 Record-keeping p. 20

comment *21* comment by: *Oliver Brock MD PhD AME*

National data protection acts (like in germany) would not allow storing of medical details without reason outside the AME´s duties/rooms. This has been

confirmed by the highest courts in Germany!
Even the CA in Germany would not be allowed to keep details of aeromedical examinations and also ther´s no valid reason in terms of elevated safety outcome in aviation.

comment *39* comment by: *George Knight*

..(c) (3) & (4)
Medical records are personal confidential data and should not be passed to competent authorities of other member states, or to the Agency, without the applicants prior written permission on each occasion. This is basic human rights.

comment *58* comment by: *Prutech Innovation Services Ltd.*

AR.MED.120(b): Keeping aeromedical records for 10 years minimum after licence expiry seems grossly excessive. The Agency should be wary of excessive requirements which add cost and administrative burden as well, in this case, of being a continuing privacy hazard.

comment *79* comment by: *AECA(SPAIN)*

Paragraph (c), subparagraphs (3) and (4)

(3) **a medical authority** of a competent authority of another member state ...
(4) the Agency for standardisation purposes **in acc ordance with dat a protection rules**.

The medical records are sensitive information submited to Data Protection Rules. Probably this two items in propossed wording, are against this rules.

comment *159* comment by: *DGAC FRANCE*

AR.MED.120

The requirement for record-keeping is appreciated and supported.

comment *160* comment by: *DGAC FRANCE*

AR.MED.120 (c)

comment :

For aeromedical research and development, there is an explicit need to have access to aeromedical records, provided that individual data are protected and the research staff are bound to regulations for medical confidentiality. The State Safety Programme to be included in ICAO Annex 1 also requires scientific evaluation of the aeromedical data stored by the authority.

Modification :

Add to AR.MED.120 (c) a pagraph (5) :

(5) researchers for the purpose of scientific, including epidemiological,

research

comment *161* comment by: *DGAC FRANCE*

AR.MED.120 (a)

comment :

The record-keeping is also the task of the licensing authority responsible for the applicant.

(a) It is the **licensing authority** that should hold the responsibility for the applicant's records.

comment *281* comment by: *UK CAA*

Commentor:
UK CAA (Medical)

Page No:
20

Paragraph No: AR.MED.120 (a)

Comment: Should be licensing authority rather than competent authority. It is the licensing authority that should hold the responsibility for the applicant's records. The record-keeping referred to here is not a task for the competent authority responsible for the AeMC, AME or GMP, but for the licensing authority responsible for the applicant.

comment *283* comment by: *UK CAA*

Page No:
20

Paragraph No: AR.MED.120 (b)

Comment: The aeromedical record keeping requirements need to be linked to the expiry date of the medical certificate.

Justification: A pilot may have had a licence issued by another Authority and the licence expiry date will not be known.

Proposed Text : Delete 'licence' and change to 'expiry of their **medical certificate'.**

comment *284* comment by: *UK CAA*

Page No:
20

Paragraph No: AR.MED.120 (c)

Comment: There are other circumstances when records shall be released.

Justification: A court may issue an order for the release of documents e.g. to an accident investigation team. Specialist medical advisers may also need to review aeromedical records as part of the assessment process.

Proposed Text : Delete 'only'.

comment *285* comment by: *UK CAA*

Page No:
20

Paragraph No: AR.MED.120 (c) (4)

Comment: Aeromedical records could only be made available to a Medical Officer of the Agency.

Justification: Data protection and medical confidentiality reasons.

Proposed Text : Amend to **'a Medical Officer of** the Agency for standardisation purposes'.

comment *341* comment by: *Susana Nogueira*

(c) Need to include a reference to 'data protection'
as follows:
Aeromedical records shall only be made available, **according to dat a protection regulation**, to:...

comment *424* comment by: *Civil Aviation Authority of Norway*

Comment to section (a):
The licensing authority has the responsibility for the applicants records as a part of the competent authority. The record keeping is not a task for the competent authority but for the licensing authority responsible for the applicant. We therefore propose to replace "competent authority" with "licensing authority".

Comment to section (b):
The expiry date of the medical certificate is relevant for retention of the medical records, not the licence. An AME or AMC will only have the oversight of the medical certificate, not the licence. We therefore propose to replace "licence" with "medical certificate".

comment *447* comment by: *European CMO Forum*

AR.MED.120

Whole section

Comment:

The requirement for record-keeping is appreciated and supported.

Justification:

Proposed Text:

comment *448* comment by: *European CMO Forum*

AR.MED.120
(a)

Comment:
(a) It is the **licensing authority** that should hold the responsibility for the applicant's records.

Justification:
The record-keeping is not a task for the competent authority responsible for the AeMC, AME or GMP, but for the **licensing authority** responsible for the applicant.

Proposed Comment:
Delete 'competent authority' and insert 'licensing authority'

comment *449* comment by: *European CMO Forum*

AR.MED.120 (b)

Comment:
It is the expiry date of the medical certificate that is relevant for retention of the medical records, not the licence.

Justification:
An AME or AeMC will only have details about the medical certificate, not the licence and won't know the licence expiry date.

Proposed Text:
Delete 'licence' and change to 'expiry of their **medical certificate'.**

comment *450* comment by: *European CMO Forum*

AR.MED.120 (c)

Comment:
1)For aeromedical research and development there is an explicit need to have access to aeromedical records, provided that individual data are protected and the research staff are bound to regulations for medical confidentiality. The State Safety Programme to be included in ICAO Annex 1 also requires scientific evaluation of the aeromedical data stored by the authority.

2) This does not cover all circumstances.

Justification:
1)Regulators, industry and individuals are increasingly requesting evidence including data and statistics that support medical requirements. This can be achieved by using aeromedical data. AR.MED.120 should include reference to the use of medical data for scientific and epidemiological research.

2)Medical records may need to be discussed or released to accident investigators, consultants eg Conseil d'Etat, and Appeal Boards.

Proposed Text:
Add to AR.MED.120 (c) …..to:
(1) (5) researchers for the purpose of scientific, including epidemiological research
(2) Delete **'**only'.

comment *591* comment by: *European Society of Aerospace Medicine*

AR.MED.120 c (4) :

"aeromedical records shall only be made available to….(4) the Agency for standardisation purposes"

comment : standardisation purposes check the functioning of the processes ; the names of the applicants should be protected for privacy reasons (not needed for the aim of the standardisation)

proposal : add "after making them anonymous"

comment *684* comment by: *Irish Aviation Authority*

Under (c) (3) & (4), this availability may be prevented or restricted by local MS data protection rules. Therefore a phrase such as: 'according to MS data protection rules' should be added.

DCr 220509

(Whole section) The requirement for record-keeping is agreed with.

(a) (a) It is the **licensing aut hority** who has the responsibility for the applicant's records.
Record-keeping is not the task of the competent authority responsible for the AeMC, AME or GMP, but for the **licensing auth ority** responsible for the applicant. **Put** 'licensing authority'. **Instead of** competent authority

(b)
It is the expiry date of the medical certificate that is relevant for retention of the medical records, not the licence.
An AME or AeMC has only details about the medical certificate, not the licence and will not know the licence expiry date. Delete 'licence' and change to 'expiry of the **medical certificate'.**

(c) 1)For aeromedical research and development there is the need to have access to aeromedical records, provided that individual data are protected and the research staff is bound by regulations for medical
confidentiality. The State Safety Programme in ICAO Annex 1 also requires scientific evaluation of the aeromedical data stored by the authority.

2) This does not cover all the circumstances.

1)Regulators, industry and individuals are requesting evidence, including data and statistics that support the medical requirements. This could be achieved by

using medical data. AR.MED.120 needs to include reference to the use of medical data for
scientific and epidemiological research.

2) Medical records will need to be discussed or released to accident investigators, consultants eg Conseil d'Etat, and Appeal Boards.

Add to AR.MED.120 (c) …..to:
(5) researchers for the purpose of scientific, including epidemiological research **'**only' shall e deleted.
AR 27/05/09

comment

754 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The requirement for record-keeping is appreciated. The time-frame proposed is acceptable and similar to the requirements in Swedish national law to keep medical files for at least 10 years after the last note made.

-
- According to Part-MED, the competent authority for the AeMC, AME or GMP is only responsible for record-keeping related to the oversight of AeMC, AME and GMP. The licensing authority responsible for the applicant is responsible for record-keeping for the licensing and medical purposes.
-
- For aeromedical research and development there is an explicit need to have access to aeromedical records, provided that individual data are protected and the research staff is bound to regulations for medical confidentiality. The State Safety Programme to be included in ICAO Annex 1 also requires scientific evaluation of the aeromedical data stored by the authority.

As commented on NPA 2008-17, "pilot" should generally be changed to "applicant/licence holder" to facilitate adoption of the future extension of the Basic Regulation with air traffic controllers.

Proposal:

Delete "competent" and insert "licensing".

In point (2) "pilot" should be changed to "applicant/licence holder".

Amend AR.MED.120 to include scientific research.

comment

865 comment by: *CAA Belgium*

(b)

Proposal: Delete "after the expiry of their licence".

Reason: One can have more than one expiry date of a licence (different licences,...)

comment

983 comment by: *DCAA*

Add:
(c)

(5) Competent Authority

comment *1289* comment by: *Civil Aviation Authority Finland*

Comment:
There is no requirement for all the reports to be sent to an Authority in the National language(s) acceptable to that Authority or in English (as per the JIP-FCL) in the EASA requirements.

Grounding:
It is essential for Authorities to be able to read and understand medical reports.

Proposal:
Add to AR.MED.120 a new paragraph (d):
All reports should be submitted to the licensing authority in a language acceptable to the authority. The authority shall state the language(s) in which reports will be accepted.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 2 - AR.MED.200 Procedure for the issue of an AME certificate p. 21

comment *22* comment by: *Oliver Brock MD PhD AME*

It is not defined how an inspection would look like (paper declaration? Physical inspection?) Also it cant be seen as justified, that LAPL pilots only fill out a questionnaire, but a prospective AME has to has a physical and costly inspection of his premises.

comment *40* comment by: *George Knight*

(a)
(a) "…shall conduct an inspection of the AME office before issuing a certificate."

This is an unnecessary inspection that will add significant cost to the process with no benefit. Since there is no standard set for the facilities in, or the environment of, the AME's office it will not be possible to reject an application as a result of the inspection. In any case AR.MED.240 does not require GMP's offices to be inspected.

Suggest removal of requirement for competent authorities to inspect AME offices.

comment *157* comment by: *DGAC FRANCE*

AR.MED.200 (c)

Comment :

It is necessary to know the competent authority having issued the AME

certificate.

Modification, add a paragraph (7) :

AR.MED.200 (c)

(7) Competent authority.

comment *158* comment by: *DGAC FRANCE*

AR.MED.200 (c) (2)

comment :

The AME's post-graduate qualification is only relevant when applying to be an AME. It hasn't to be on the certificate.

Modification, delete the paragraph (2) :
AR.MED.200
(c)
(~~2) postgraduate qualification~~

comment *286* comment by: *UK CAA*

Page No:
21

Paragraph No: AR.MED.200 (a)

Comment: A physical inspection of an AME's office is not necessary prior to issue of an AME certificate.

Justification: 1) The AME is free to practise at any suitable location.
2) The suitability of the location is subject to National Medical Regulation and therefore this would be duplication of legislation.

Proposed Text : Delete: 'except that upon receiving an application for the issue of an AME certificate the competent authority shall conduct an inspection of the AME office before issuing a certificate'.

comment *287* comment by: *UK CAA*

Page No:
21

Paragraph No: AR.MED.200 (c) (2)

Comment: Statement of qualification is unnecessary**.**

Justification: The AME's competence has been assessed by the authority. A statement of post graduate qualification(s) is irrelevant in this context**.**

Proposed Text (if applicable): Delete (c) (2)

comment *288* comment by: *UK CAA*

Page No:
21

Paragraph No: AR.MED.200 (c) (2)

Comment: There is no 'State of certificate issue' on the certificate.

Justification: The authorising State should be specified.

Proposed Text : Add '**(7): State of authorisation'.**

comment *425* comment by: *Civil Aviation Authority of Norway*

Comment to section (c):
The competent authority that has issued the certificate should be stated on the certificate, as it is necessary to know the issuing/competent authority for the AME. We therefore propose to add " Competent Authority" as a new subsection (7).

comment *451* comment by: *European CMO Forum*

AR.MED.200 (c) (2)

Comment:
It is unnecessary for the AME's post-graduate qualification to be on the AME certificate**.**

Justification:
The AME's post-graduate qualification is only relevant when applying to be an AME. It does not have to be on the certificate.

Proposed Text:
Delete (c) (2)

comment *452* comment by: *European CMO Forum*

AR.MED.200 (c) New (7)

Comment:
The competent Authority that has issued the certificate should be stated on the certificate.

Justification:
It is necessary to know the issuing/competent authority for the AME.

Proposed Text:
Add '(7) Competent Authority'

comment *755* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The word ”office” is inappropriate for a medical activity and should be changed to ”practice”.

The provision in point (a) to conduct an inspection of the AME office is appreciated. If an AME has activities in more than one practice, an inspection should be conducted of each practice and the address of each certified practice should be included.

Point (b) does not specify any possible options of the privileges or scope of activities to be included in the AME certificate. This should be included in an AMC to AR.MED.200. As proposed in comments on NPA 2008-17c, there should be a possibility to differentiate the privileges depending on the training and experience of the AME and the facilities of his/her practice, as well as any limitations imposed due to findings during oversight.

For an AeMC, the EASA standard organisation approval certificate to be used is included in the IRs of Part AR. Also for an AME, there should be an EASA standard AME approval certificate in an AMC to Part AR to avoid national deviations, especially when an AME has practices in more than one member state.

Point (c)(2) should be a compulsory part of the inspection, but is inappropriate for the AME certificate.

Proposal:

Delete ”office” and insert ”practice”.

Delete point (2).

The possible options of the privileges or scope of activities should be included in an AMC to AR.MED.200

The AME certificate form should be included in an AMC to AR.MED.200.

Amend point (5): ”address(es) of the AME practice(s);

comment *902* comment by: *FAA*

The United States conducts comprehensive audits and keeps extensive records on its AME program but does not have the resources to conduct individual inspections of all AME offices across the country and around the world.

In the United States, items (c) (2), (4), and (5) are not listed on the certificate but are recorded electronically.

comment *1173* comment by: *Irish Aviation Authority*

(c)(2) The AME’s post-graduate qualification should not be on the AME certificate. The AME’s post-graduate qualification is only relevant when applying as AME. It should not be on the certificate. **Delete (c) (2)**

(c) New (7) The competent Authority that has issued the certificate should be stated on the certificate.
It is necessary to know the issuing/competent authority for the AME.**Add** ‘(7) Competent Authority’

AR 27/05/09

response *Noted*

See comments 157 and 451.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 2 - AR.MED.240 General Medical Practitioners (GMP) acting as AMEs p. 21

comment *23* comment by: *Oliver Brock MD PhD AME*

Unlucky wording and principle in general. Why should a CA have a list of "GMP´s" ready for other member states, as this has no apparent reason. Eg the initial LAPL must be done in the country of residence, but the subsequent could then be done in another country where there no more information about the applicant would be available. This would lead to an increased pilots-tourism into countries where GMP´s are very "easy" or "cheaper". This again would increase safety concerns and follow up possibilities.

comment *41* comment by: *George Knight*

The whole point of allowing GMPs to issue medicals for recreational licences is that the applicant is a registered / regular patient of the GMP and that they can issue a medical certificate based on their existing knowledge of the patient combined with a check of their medical records. This is typically what is done already for the issue of medical certificates for motoring purposes. By creating a process whereby a GMP has to apply to act as an AME, at, no doubt, a non-trivial cost, most GMPs will decide it is not worth the bother and not undertake the issue of medicals for leisure pilots. The result is that applicants will then either have to visit an AME, who has no knowledge of their history, or a GMP other than their own who will not only not have their history but (unlike an AME) will also be unqualified in aviation medicine. The end result will be lower standards.

The aim should be that an applicant for a leisure pilot medical should be able to have it issued by his own GMP as long as he has been a patient of that GMP, or his practice, for at least six months.

If the principle that any GMP can issue a certificate for an existing patient the need for lists, and for those lists to be circulated becomes irrelevant because short-term visitors would not be able to use a GMP – they would need to go to an AME.

comment *59* comment by: *Prutech Innovation Services Ltd.*

AR.MED.240: <u>As a general pr inciple</u>, it should be open equally to pilots from **ALL** Member States to attend a GMP for its aeromedical, regardless of whether the competent authority of the MS makes provision for this; this is a matter of freedom of choice for all EU citizens and this freedom should be indivisible across the Community. Therefore, if the competent authority is permitted to not approve GMPs to provide aeromedical services on its territory it should - as a consequence - be open to every candidate pilot of that MS to attend at any GMP approved for aeromedical practice elsewhere within the Community. The Agency should be able to provide (directly or indirectly) lists of such extra-national approved GMPs for this purpose.

However, we believe that the option for the competent authority of any MS to avoid the appointment of a significantly large list of approved GMPs within its

national territory should simply not exist in the first place. This seems fundamental to a single Community and it seems surprising that the Commission might even contemplate otherwise.

comment *289* comment by: *UK CAA*

Page No:
21

Paragraph No: AR.MED.240 (c)

Comment: The meaning of this paragraph is not clear. Our interpretation of this paragraph is that State A that does not permit GMPs to act as AMEs has to accept a LPL medical certificate issued by a GMP authorised by State B for the purpose of licence issue by State A.

Justification: Clarity

Proposed Text (if applicable): EASA to clarify.

comment *588* comment by: *European Society of Aerospace Medicine*

(b)
comment :
This paragraph makes it clear that AME's and also GMP's cannot work without being accepted and monitored by their authority, which is indeed a necessary safety measure !
it also means that AME's and also GMP's can be discarded from the list , which means that they must have a direct supervision link to the civil aviation authority of their country for issuing medical certificates and not only to the national health systems or health ministries !
To make this system work safely, it is clear that this supervision must start from the moment that an AME or GMP makes a first assessment , thus the AME and GMP must make the declaration before starting issuing medical certificates and be accepted by the authority, including the acceptance of a specific aviation medicine monitoring
programme.
This should be clearly stated in the text, otherwise states may differ in their interpretation of the text which would make the whole declaration and monitoring system unsafe and not harmonised.
proposal :
AR MED 240 b to add : "The declaration of a GMP to act as AME must be done in writing before starting issuing certificates, including the acceptance to be part of an oversight monitoring programme, and must be accepted in writing by the Authority"

comment *661* comment by: *Light Aircraft Association UK*

The LAA strongly supports the concept of GMPs being able to issue medical certificates for the LPL, but would caution against making the system too onerous on the GMP. Paragraph b) could become so, depending on the registration process adopted by the MS.

comment *756* comment by: *Swedish Transport Agency, Civil Aviation Department*

(Transportstyrelsen, Luftfartsavdelningen)

Comment:

Point (c) is ambiguous and difficult to interpret. If national law of a Member state does not permit GMPs to perform examinations and/or issue medical certificates for LPL, the licensing authority of this state should have no obligation to accept an examination of an LPL holder of the same state performed by a GMP in another state. Such a possibility would immediately result in ”medical shopping” to states with lower standards. This would create oversight problems and will also be against the principle of equity.

The reference to Section 3 is difficult to interpret, because Section 3 is referring to ”competent authority” and not ”licensing authority”. Moreover in Section 3, AR.MED.315(a) does not cover GMP, only AR.MED.315(b), which is commented on that paragraph.

Proposal:

With reference to article 7.2, 4th paragraph, of Regulation (EC) No 216/2008, point (c) should be amended to clearly describe that examinations by GMPs can be accepted only by the licensing authorities in Member States which have permitted such aeromedical examinations on their territory.

comment *948* comment by: *Royal Swedish Aeroclub*

Any GMP should be allowed to issue medical statements for PPL and lower licences. There is no need for authorisation or establishment of a list of GMPs. Sweden is a geographically large country and AMEs and specially authorised GMPs will often be far away, and visiting any of them may require a day or longer. We see no safety issue in using a simpler system for light aircraft below 2000 kg.

comment *1180* comment by: *BMVBS (MoT Germany)*

Paragraph (c) should be deleted, as it is obviously based on the assumption that a State which has not permitted aeromedical examinations by GMPs on their territory would have to accept that their citizens might turn to a GMP in a foreign State for an aeromedical examination, where this is possible, and the licensing authority would have to accept this. It ought to be remembered that the exception in the basic regulation was accepted only under the strict condition that the full medical history of the person is accessible to the GMP, which is regularly not the case in most European States. As long as this essential prerequisite is not complied with no obligation for licensing authorities of Member States which have not permitted the GMP system must be established.

Recommended amendment of the text:

~~(c) Section 3 of this subpart also applies for aeromedical examination carried out by GMP to licensing authorities of Member States which have not permitted such aeromedical examinations on their territory.~~

comment *1448* comment by: *CAA Belgium*

Don't agree.

Can lead to discrimination.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 2 - AR.MED.245 Monitoring of AME and GMP p. 21

comment *24* comment by: *Oliver Brock MD PhD AME*

Contradictory to the principle of self responsible work of AeMC´s and AME´s. If responsibility is taken solely by the AME, then a feseral monitor system cant punish him...or it takes responsibility itself.

comment *60* comment by: *Prutech Innovation Services Ltd.*

AR.MED.245(a): The oversight programme should be described as "reasonable and proportionate" as the competent authorities should not be "making a meal" of this admittedly important administrative task.

comment *453* comment by: *European CMO Forum*

AR.MED.245(a)

Comment:
This text seems not to be fully consistent with the detailed provisions in AR.GEN.300 and AR.GEN.305.

Oversight programmes of GMPs will not be possible.

Justification:
None of the States have the authority to undertake oversight activities in respect of GMPs.

Proposed Text:
Delete 'and GMP' (in both sentences).

comment *454* comment by: *European CMO Forum*

AR.MED.245(a)

Comment:
The oversight programme should be the same irrespective of the number of AMEs.

Justification:
All AMEs should be subject to the same oversight programme for fairness. To comply with safety management principles the programme should be varied according to risk.

Proposed Text:
Delete 'The programme should be developed taking into account the number of AME and GMP exercising their privileges within the territory where the competent authority exercises oversight.' and change to 'The programme shall be developed in a proportionate manner according to risk**.'**

comment 589 comment by: *European Society of Aerospace Medicine*

The content of the paragraph (a) also confirms the statement of the comment to AR.MED.240 b

comment 757 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

- The text seems not to be fully consistent with the detailed provisions in AR.GEN.305, and it also differs considerably from the procedures for AeMC.
-
- According to Swedish national medical legislation it is not permitted for the competent authority to carry out any oversight of GMPs, only of AMEs with a certificate issued by the authority. Oversight of other GMPs may only be carried out by the National Board of Health and usually only after complaints from patients.

The number of AMEs and GMPs should not influence the quality or the level of oversight, but the competent authority must take the number into account when allotting resources for the oversight programme needed. An oversight programme for GMPs is as important as for AMEs, but because of the considerably higher number of GMPs the administrative burden will increase.

Proposal:

Amend AR.MED.245:
… ”The programme shall be developed to ensure a uniform quality and level of oversight. The resources for the programme shall take into account the number of AME and GMP exercising their privileges within the territory where the competent authority exercises oversight. ”

comment 949 comment by: *Royal Swedish Aeroclub*

See AR.MED.240

comment 1174 comment by: *Irish Aviation Authority*

(a)
The text seems not fully consistent with the provisions in AR.GEN.300 and AR.GEN.305.

Oversight programmes of GMPs will not be possible. No States have the authority to undertake oversight activities in respect of GMPs. **Delete ‘ and GMP’ (in both sentences).**

The oversight programme should be the same regardless of the number of AMEs. All AMEs must be subject to the same oversight programme for equality reasons. To comply with safety management principles the programme must be varied according to risk. **Delete ‘T he p rogramme must be de veloped taking int o account the number of AM Es and G MPs exerc ising their privileges within the territory where the competent authority exercises**

oversight.' and change the text to 'The programme shall be developed in a proportionate manner according to the risk**.'**
AR 27/05/09

comment *1232* comment by: *CAA CZ*

AR.MED.245 (a), page 21
The intention of the requirement should be clarified if approved AME/GMP shall issue Medical Certificate (MC) only at the address stated in his AME approval/authorization or if AME is allowed to issue an MC also at another address, i.e. at the office of another approved AME.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 2 - AR.MED.250 Limitation, suspension and revocation of an aeromedical examiner's certificate p. 22

comment *25* comment by: *Oliver Brock MD PhD AME*

too unspecific in the following action. Leaves too much space for non-factoral decisions of CA´s.

comment *290* comment by: *UK CAA*

Page No:
22

Paragraph No: AR.MED.250

Comment: The word **'office'** is open to misinterpretation.

Justification: It is all aspects of an AME's practice that should be subject to audit, not just their office.

Proposed Text : Delete 'office'.

comment *426* comment by: *Civil Aviation Authority of Norway*

Comment to section (a), subsection (6):
The word "office" is inappropriate, as it is not only the AMEs office that is being audited, but the AMEs total activity and decisionmaking. The wording "office" should therefore be deleted.

comment *455* comment by: *European CMO Forum*

AR.MED.250 (a) (6)

Comment:
The word 'office' is inappropriate.

Justification:
IT is not just the AME's office that is being audited, it is the AME's total area of practice including decision making and judgements.

Proposed Text:
Delete 'office'.

comment *590* comment by: *European Society of Aerospace Medicine*

AR MED 250 (p 22) should provide also means to suspend or revoke the acceptance by the authority of GMP's who fail to conduct certification in an appropriate manner or fail during the monitoring programme as foreseen in AR.MED.315 b (p 23)

comment: seen the lack of knowledge of the GMPs about aviation medicine, theoretically and administratively, it is even more important that the authority checks the work of the GMPs ; it is also needed to be able to perform the monitoring programme (see also AR.MED.120 a about record-keeping by the authority)
proposal : to add "GMPs"

comment *758* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

- It must be noted that none of these enforcements is possible for GMPs**.**

There is a need to define possible limitations of an AME certificate, e.g. renewal examinations only, only examinations but no issuing of medical certificates, etc. There is also a need to define for how long time a limitation, suspension and revocation shall apply, and the conditions for a possible reassessment. This should be further developed and entered in an AMC.

Proposal:

An AMC to AR.MED.250 should be developed to define time limits for limitation, suspension and revocation of an AME certificate, and the conditions for a reassessment.

comment *1175* comment by: *Irish Aviation Authority*

(a)(6) The word 'office' is incorrect. IT is not only the AME's office that will be audited, it is the AME's practice including the decision making and judgements.
Delete the word 'office'.
AR 27/05/09

comment *1181* comment by: *BMVBS (MoT Germany)*

There should be an age limit (preferably 68 years of age) as of which an aeromedical examiner's certificate would automatically expire. It is scientifically established that the performance of a human being declines with increasing age. It would obviously be a safety benefit, if the system could systematically ensure that aeromedical examiners do not practice until their degrading performance shows an effect by false decisions. According to the principle prevention is better than cure, an age limit would improve safety. This would also avoid time-consuming, expensive legal action, if – and that will

probably be the standard case – a decision by the authority on the grounds of AR.MED.250 (a) (7) is challenged in court.

comment *1233* comment by: *CAA CZ*

AR.MED.250, page 22
It should be clarified that this provision applies also to the GMP, because nowhere in the text is clearly mentioned that the GMP will have aeromedical examiner's certificate.
AR.MED.240 (b) (page 21) states:
"…of all **declared** GMP" but not "authorized".
If GMP is supposed to have only some kind of declaration, it is appropriate to mention it together with aeromedical examiner's certificate in that provision.
(see GM to AR.GEN.340)

comment *1353* comment by: *European Society of Aerospace Medicine*

sequential to comment 590
proposed text:

AR.MED.250 Limitation, suspension and revocation of an aeromedical examiner's, certificate and of the right of general medical practitioner to issue LPL medical certificates.

(a) The competent authority shall limit, suspend or revoke an aeromedical examiner's
Certificate and the right of general medical practitioner to issue LPL medical certificates whenever a safety issue has been identified, including, but not limited to, the following:
(1) the AME, GMP no longer complies with applicable requirements;
(2) failure to meet the criteria for certification or continuing certification;
(3) deficiency of aeromedical recordkeeping or submission of incorrect data or information;
(4) falsification of medical records, certificates or documentation;
(5) concealment of facts appertaining to an application for, or holder of, a medical certificate or false or fraudulent statements or representations to the competent authority;
(6) failure to correct findings from audit of the AME, GMP office;
(7) unprofessional behaviour or ill health incompatible with practice as an aeromedical examiner; as general medical practitioner and
(8) at the request of the certified aeromedical examiner, general medical practitioner.
(b) The certificate of an AME, the right of GMP to issue medical certificates shall be automatically revoked in either of the following circumstances:
(1) revocation of medical licence to practice; or
(2) removal from the Medical Register.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 2 - AR.MED.255 Enforcement measures and penalties p. 22

comment *15* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Nach dem Wortlaut der Vorschrift scheint es so zu sein, dass bei jedem festgestellten Verstoß, also jeder "non-compliance" des AME mit den

"requirements" sämtliche Medical certificates zwingend zu widerrufen sind, die während des Zeitraums der "non-compliance" ausgestellt wurden.

Dies ist zu wenig differenziert und unflexibel und trägt dem Grundsatz der Verhältnismäßigkeit nicht Rechnung.
Es gibt auch minderschwere Verstöße (z. B.: der AME teilt nicht rechtzeitig mit, dass er seine Praxisräume verlegt hat; geringe Verstöße gegen Aufzeichnungspflichten oder Mitteilungspflichten).

Hier sollte es der Behörde überlassen bleiben, ob sie den Verstoß als derart schwerwiegend erachtet, dass sämtliche Medicals zu widerrufen sind, die betroffen sind oder ob es ausreichend ist, dass der AME den Mangel für die Zukunft abstellt.

Die Regelung des AR.MED.315 (b) ist hier ausreichend.

comment *26* comment by: *Oliver Brock MD PhD AME*

The term "non-compliance" has to be determined or detailed more.

comment *69* comment by: *Luftamt Nordbayern*

Hier sollte der Behörde ein Ermessen eingeräumt werden. Andernfalls käme es je nach Lage des Einzelfalles zu unverhältnismäßigen Folgen.

Vorschlag:

Medical certificates issued by AeMC, AME or GMP may be rendered invalid if noncompliance
of AeMC, AME or GMP is found.

comment *291* comment by: *UK CAA*

Page No:
22

Paragraph No: AR.MED.255

Comment: Response to non-compliance will vary according to the nature of the non-compliance. This response could be extremely disadvantageous to pilots and industry.

Justification: It will not always be appropriate to render a medical certificate invalid if an AME has been non-compliant. Each case should be determined on an individual basis.

Proposed Text : Add '….shall be **reviewed and may be** rendered invalid if…'

comment *383* comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Nach dem Wortlaut der Vorschrift scheint es so zu sein, dass bei jedem festgestellten Verstoß, also jeder "non-compliance" des AME mit den "requirements" sämtliche Medical certificates zwingend zu widerrufen sind, die

während des Zeitraums der "non-compliance" ausgestellt wurden.

Dies ist zu wenig differenziert und unflexibel und trägt dem Grundsatz der Verhältnismäßigkeit nicht Rechnung.
Es gibt auch minderschwere Verstöße (z.B.: Der AME teilt nicht rechtzeitig mit, dass er seine Praxisräume verlegt hat; geringe Verstöße gegen Aufzeichnungspflichten oder Mitteilungspflichten).

Hier sollte der Behörde ein Ermessen eingeräumt werden. Andernfalls käme es je nach Lage des Einzelfalles zu
unverhältnismäßigen Folgen.

Formulierungsvorschlag:
Medical certificates issued by AeMC, AME or GMP may be rendered invalid if noncompliance of AeMC, AME or GMP is found.

comment

759 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

Details are needed to describe the procedures to make those medical certificates invalid and the provisions to return a valid medical certificate to the applicant. The requirement should also describe for which time-span backwards those medical certificates should be suspended because the non-compliance may have been present for months or years before being discovered.

To render a medical certificate invalid might not always be the most appropriate level of action. An LPL medical certificate might have been correctly issued by a GMP or an AME up to 20 years before the GMP or AME began to be non-compliant, but according to this paragraph the medical certificate is still required to be rendered invalid.

Proposal:

Amend AR.MED.255 as follows:

(a) When non-compliance of AeMC, AME or GMP is found, the competent authority shall:

(1) review all valid medical certificates issued by the AeMC, AME or GMP

(2) evaluate if any medical certificates might have been incorrectly isued

(3) evaluate the safety risk due to the possibly incorrectly issued medical certificates

(4) decide which medical certificates need a re-examination and reassessment

(5) decide which medical certificates shall be suspended pending a re-

examination and reassessment

(6) decide which medical certificates may still be valid pending a re-examination and reassessment

(b) A pending re-examination and reassessment which has not been performed within 30 days shall result in suspension of the medical certificate.

comment *1415* comment by: *Civil Aviation Authority Finland*

Comment:
An AMC to AR.MED.255 is needed to describe the procedures to suspend, recall or rewoke Medical Certificates and the provisions to return a revalidated Medical Certificate to the applicant in these circumstances. The AMC should also describe for which retrospective period these Medical Certificates should be suspended, because the non-compliance may have been present for months or years before being discovered.

Grounding:
To render a Medical Certificate invalid might not always be the most appropriate level of action. A LPL Medical Certificate might have been correctly issued by a GMP or an AME up to 20 years before the non-compliance, but according to this paragraph the Medical Certificate is still required to be rendered invalid. This is unfair for the certificate holders concerned.

Proposal:
Add new AMC to AR.MED.255
When non-compliance of AeMC, AME or GMP is found, the competent authority should:
(1) review all valid Medical Certificates issued by the AeMC, AME or GMP
(2) evaluate if any Medical Certificates might have been incorrectly isued
(3) evaluate the safety risk due to the possibly incorrectly issued Medical Certificates
(4) determine, which Medical Certificate holders need reexamination and reassessment
(5) determine, which Medical Certificates shall be suspended pending reexamination and reassessment
(6) determine, which Medical Certificates may remain valid pending reexamination and reassessment; in this case the reexamination should take place within 30 days and, if no reexamination has been undertaken within this period, the Certificate should be suspended.

comment *1455* comment by: *AOPA-Sweden*

This statement is misdirected. If the competent authority fails in its continued oversight program, the pilot shall not be subject of enforcement measures and penalties; AOPA-Sweden does not think such information about the medical examiners will be available to the public to be able to avoid a consultation!

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 3 - AR.MED.315 Review of examination reports p. 23

comment *27* comment by: *Oliver Brock MD PhD AME*

There would be no way in establishing a system with enough medical personnel to guarantee such a examination review.
Also the AME/AemC work on their own responsibility, so enforcement actions in case of (accidental?) wrong entry ina medical certificate would result in a administrational effort not worth and not affecting actually safety.
Furthermore there are no details provided about the enforcement actions.

comment *143* comment by: *ECA- European Cockpit Association*

Comment: change text as follows:
(a) The competent authority shall
(1) ~~**review**~~ **have oversight of** the examination and assessment reports received from the AMEs and AeMCs and inform them of any **identified** inconsistencies, mistakes or errors made in the assessment process;

Justification:
The competent authority has oversight of examination and assessment reports. This oversight is exercised through a number of methods such as sampling, audit and electronic validation of reports. It is not practical to individually review each report, as larger authorities may be receiving >50,000 reports per annum.

comment *292* comment by: *UK CAA*

Page: 23

Paragraph No: AR.MED.315

Comment: Should be licensing authority rather than competent authority.

Justification: It is the licensing authority that holds the aeromedical records and will be responsible for reviewing examination reports and assisting AMEs with fitness/unfitness decisions.

Proposed text: Change to **'Licensing Authority'**.

comment *293* comment by: *UK CAA*

Page No:
23

Paragraph No: AR.MED.315 (a) (1)

Comment: Individual review of every medical assessment is logistically impossible, inefficient and totally disproportionate to flight safety benefit.

Justification: The competent authority has oversight of examination and assessment reports. This oversight is exercised through a number of methods such as sampling, audit and electronic validation of reports. It is not practical to individually review each report. Larger authorities may be receiving >50,000 reports per annum.

Proposed Text : Replace 'review' with '**have ov ersight of '** and insert

'identified' as follows:

'**have oversight of t he examin ation and asses sment repor ts receiv ed from the AMEs and AeM Cs and in form th em of an y identified inconsistencies, mistakes or errors made in the assessment process;'**

comment *345* comment by: *Susana Nogueira*

(a)(1) Not all assesments reports received shall be reviewd by the Authority

Probably this is a blockage of the activity for the authority

comment *495* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

(a) (1)
Not all reports have to be reviewed.

comment *686* comment by: *Irish Aviation Authority*

Under (a)(1), this wording means that every report shall be reviewed, unlike most other reviews where an appropriate sample is sufficient. Is this the intention? If it is, then this task will require extra resources in some cases. If it is not, then a phrase such as 'a representative number of' should be added.

DCr 220509

comment *760* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

This section seems to be inconsistent with AR.MED.240 (c) and Part-MED. The licensing authority, which has the complete file of the licence holder, has the responsibility for the compliance of the licence holder; hence review of the medical reports have to be carried out by the licensing authority.

At the same time oversight of the AeMC, AME and GMP shall be carried out by their competent authority which might be different from the licensing authority. This creates a complicated situation where two states may have to duplicate the same review but for different purposes. This situation needs further analysis to find a smooth solution to avoid additional administrative burdens to the authorities.

AR.MED.315 (a) is inconsistent with (b). Point (a) only covers review of reports received from AeMC and AME, while the actions to be taken as a result of the review of the reports according to point (b) also include GMP.

Point (b) only includes revocation of the medical certificate as a possible measure, which might not always need to be appropriate. In some instances it might be sufficient to enter a limitation or to correct an incorrect validity date. The next step, how to give the applicant a new and correct decision, is not described.

Point (b) is ambiguous, because it is the licensing authority, not the competent authority of the AeMC, AME or GMP, that has the responsibility for the holder of

the medical certificate.

Proposal:

Point (a)(1) should also include GMP.

Point (b) should be amended:

”When the competent authority, as a result of the review of examination reports, reaches the conclusion that a medical certificate has been issued incorrectly, it shall in cooperation with the licensing authority, correct, limit, suspend or revoke the medical certificate and take appropriate enforcement measures towards the AME, AeMC or GMP that issued it.”

comment *797* comment by: *CAA Belgium*

(a)(1)

Proposal: Add the words "at random" between the words "review" and "the examination and assessment reports".

Reason: We don't have check neither all skill test reports, prof check reports, etc... A random check is sufficient.

comment *986* comment by: *DCAA*

AR.MED.315 Review of examination reports

(a) (1):

review the examination and assessment reports **referred** from the AMEs and AeMCs and inform them of any inconsistencies, mistakes or errors made in the assessment process;
(a) The competent authority shall

(1) assist AMEs and AeMCs on their request regarding their decision on aeromedical
fitness in contentious cases;

There is no reason to check the assessments of the AeMC and AME only in extraordinary cases and for oversight purposes.

comment *1234* comment by: *CAA CZ*

AR.MED.315 (a), page 23
It is not clear if this requirement is applied for GMP. GMP is mentioned only in paragraph (b).

comment *1357* comment by: *European Society of Aerospace Medicine*

the same comment as to AR MED 250 (p 22).
Proposal: to add "GMPs"

AR.MED.315 Review of examination reports
(a) The competent authority shall

(1) review the examination and assessment reports received from the AMEs, AeMCs and GMP(s) and inform them of any inconsistencies, mistakes or errors made in the assessment process;
(2) assist AMEs, GMP(s) and AeMCs on their request regarding their decision on aeromedical fitness in contentious cases;
(b) When the competent authority, as a result of the review of examination reports, reaches the conclusion that a medical certificate has been issued incorrectly, it shall revoke it and take appropriate enforcement measures towards the AME, AeMC or GMP that issued it.

comment *1457* comment by: *AOPA-Sweden*

AOPA-Sweden considers that the pilot shall NOT be punished in such a situation.

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 3 - AR.MED.320 Issuance and removal of limitation(s) to medical certificates p. 23

comment *294* comment by: *UK CAA*

Page: 294

Paragraph No: AR.MED.320

Comment: Should be licensing authority rather than competent authority in respect of amending limitations.

Justification: This is a Licensing Authority responsibility.

Proposed Text (if applicable): Change to **'Licensing Authority'.**

comment *761* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

- This section is inconsistent with Part-MED, which requires the licensing authority of the licence holder to take these measures, not the competent authority of the AeMC, AME or GMP.
-

The requirement in point (c) should also apply when an AeMC or AME imposes more than one limitation on a medical certificate. It is therefore more appropriate to move point (c) to MED.A.045 to make it generally applicable.

Proposal:

Delete ”competent” and insert ”licensing”.

Move AR.MED.320 (c) to Part-MED to become a subparagraph MED.A.045 (a)(3).

B. Draft Rules - I. Draft Opinion Part-AR - Subpart MED - Section 3 - p. 23

AR.MED.325 Secondary review policy

comment *16* comment by: *Regierung von Oberbayern-Luftamt Südbayern*

Wer sollen diese "independent medical specialists" sein ?
Offensichtlich handelt es sich nicht um den "Medical Assessor" der Behörde, sondern um einen weiteren Flugmediziner außerhalb der Behördenstruktur. Fraglich ist, ob dies ein anerkannter AME sein kann, der nicht an der Erstuntersuchung beteiligt war, ob es sich um ein AeMC handeln muss oder um eine ganz andere Stelle.

Fraglich ist auch, welchen Sinn diese Vorschrift hat. Wird nach der Untersuchung durch den AME bzw. das AeMC noch der Medical Assessor der Behörde eingeschaltet, ist es nach unserer Auffassung unnötig, noch eine weitere Instanz - nämlich den "independent medical specialist" - einzuschalten. Dadurch würde ein völlig überdimensioniertes Verwaltungsverfahren kreiert, das weder den Belangen des Piloten (Zeitdauer und Kosten) noch den Belangen der Behörde Rechnung trägt.
Nicht vergessen werden darf dabei, dass sich in derart verfahrenen Fällen ohnehin häufig ein (wiederum kosten- und zeitaufwändiges) Verwaltungsgerichtsverfahren anschließt, in dem regelmäßig ein weiterer medizinischer Sachverständiger herangezogen werden muss.

Es wird daher vorgeschlagen, diese Vorschrift zu streichen bzw. es dem Ermessen der Behörde zu überlassen, ob sie weitere Sachverständige einschalten will.

comment *28* comment by: *Oliver Brock MD PhD AME*

Who should be "specialists experienced in aviation medicine"§, if not AeMC or AME´s? There´s no detail supplied about the nomination and qualification of those specialists.

comment *70* comment by: *Luftamt Nordbayern*

Hier wird auf die Kommentierung zu AR.MED.020 "Medical assessor" verwiesen.

comment *144* comment by: *ECA- European Cockpit Association*

Comment: add at the end of the paragraph the following text:
The competent authority shall establish a procedure for the review of borderline and contentious cases with independent medical specialists experienced in the practice of aviation medicine to consider and advise on an applicant's fitness for medical certification, **giving due re gard to any deficiency in relation to the operating environment and the ability skill and experience of the applicant.**

Justification:
Similar text was part of the JAR-FCL 3.125

comment *295* comment by: *UK CAA*

Page No:

23

Paragraph No: AR.MED.325

Comment: Should be licensing authority rather than competent authority in respect of establishing the secondary review procedure.

Justification: This is a Licensing Authority responsibility.

Proposed Text (if applicable): Change to **'Licensing Authority'.**

comment

384 comment by: *Bayerisches Staatsministerium für Wirtschaft, Infrastruktur, Verkehr und Technologie*

Unklar ist, wer die "independent medical specialists" sein sollen.
Möglicherweise handelt es sich nicht um den "Medical Assessor" der Behörde, sondern um einen weiteren Flugmediziner außerhalb der Behördenstruktur. Fraglich ist, ob dies ein anerkannter AME sein kann, der nicht an der Erstuntersuchung beteiligt war, ob es sich um ein AeMC handeln muss oder um eine ganz andere Stelle.

Fraglich ist auch, welchen Sinn diese Vorschrift hat. Wird nach der Untersuchung durch den AME bzw. das AeMC noch der Medical Assessor der Behörde eingeschaltet, ist es nach hiesiger Auffassung unnötig, noch eine weitere Instanz - nämlich den "independent medical specialist" - einzuschalten. Dadurch würde ein völlig überdimensioniertes Verwaltungsverfahren geschaffen das weder den Belangen des Piloten (Zeitdauer und Kosten) noch den Belangen der Behörde Rechnung trägt.
Nicht vergessen werden darf dabei auch, dass sich in derart verfahrenen Fällen ohnehin häufig ein (wiederum kosten- und zeitaufwändiges) Verwaltungsgerichtsverfahren anschließt, in dem regelmäßig ein weiterer medizinischer Sachverständiger herangezogen werden muss.

Es wird daher vorgeschlagen, diese Vorschrift zu streichen bzw. es dem Ermessen der Behörde zu überlassen, ob sie weitere Sachverständige einschalten will.

comment

762 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

This section is inconsistent with Part-MED, which requires the licensing authority of the licence holder to take these measures, not the competent authority of the AeMC, AME or GMP.

Proposal:

Delete ”competent” and insert ”licensing”.

comment

768 comment by: *CAA Belgium*

"...independant medical specialists..."

Independant of who/what ?

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I p. 24

comment *728* comment by: *Luftfahrt-Bundesamt*

Appendix I to Annex 1 Part AR does contain a template for a "Standard Organisation Approval Certificate". The usage of one standard approval certificate for all kind of potential organisational approvals does create significantly increased workload for the corresponding authorities as some kind of "central approval office" will have to be installed, coordinating all activities being linked to this organisation. Compared to the present practice of all Member States of issuing different approvals for different activities the amount of extra work for the "Standard Organisation Approval Certificate" is not justified by any advantage in terms of safety.

Appendix I to Annex 1 Part AR does contain a template for an Air Operator Certificate (AOC). This AOC-template has several mistakes and/or insufficiencies:
- The AOC states that "… is authorised to perform commercial air operations …". This is simply wrong! The authorisation for commercial air transport is contained in the operating license that has to be issued in accordance with regulation (EC) no. 1008/2008. The AOC just certifies the operational capabilities of an operator and thus forms a prerequisite for an operating license but it is not the authorisation to conduct commercial air transport. The corresponding wording of the AOC-template of this NPA has to be revised.
- The "Operational Point of Contact" contained in the AOC-template is not necessary. As this information is not subject to any approval or oversight activity of the corresponding competent authority it can be kept somewhere else on board the aircraft, avoiding unnecessary revisions of the AOC.
- The AOC-template does not provide ability to insert aircraft registrations. The possibility to approve a procedure of the operator to amend the corresponding aircraft listing on his own will not be applicable to all air carriers and might in some cases not be in line with article 6 (2) and 8 (5) of regulation (EC) no. 1008/2008. An ability to insert aircraft registrations into the AOC is thus considered to be absolutely necessary.
- The AOC-template is much too small to contain all details that have to be included in an AOC in the case of a large Air Carrier that is operating several different fleets.
- The "Types of Operation"-section of the AOC-template should also include "Mail".
- Footmark no. 8 should also include the possibility to define areas of operation by the use of ICAO-Area-Codes (e.g. EUR, AFI, NAT etc.).
- The "Low Visibility Operations"-Box should clarify that insertion of a RVR-value is only necessary if LVTO-Approval is given.
- The AOC-template does not provide ability to insert information concerning cabin crew training and corresponding approvals (as presently required by subpart O of EU-OPS 1).
The AOC-template should be revised accordingly.

Air Operator Certificate: Management staff (ACM, postholder, quality manager) should be added, because the link to a document is not sufficient.
Operations Specifications: The following points should be added: ICAO areas of operation, registration marks, approval for dangerous goods, number of passenger seats, ETOPS: diversion distance, threshold distance. The special limitations "Night vision" and "Helicopter Hoist" are used very rarely. Therefore it is not necessary to reserve these areas in every AOC. There is no difference between "Navigation specifications for PBN operations" and "Minimum

navigation performance spec.". One point can be removed. Footnote 19 (others) is missing.

comment *763* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

We miss the organisation number (a fiscal number, also used for national company registration purposes).

Proposal:

Add "reference number" or similar for identification purposes.

comment *869* comment by: *CAA Belgium*

Question: Should there not be an approval schedule for aeromedical examiners ?

comment *873* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS

This appendix gives the template for a new Part OR certificate.
It seems not be stated anywhere such a certificate is required.
Where is such a certificate defined in the IRs ? in part-OR? in part-AR? in part-OPS ? in part FCL ?
Moreover, it is not clear :
If an organization needs an OR certificate **and** an operational certificate (eg: ATO, AOC, FSTD…)?

If any operational certificate (eg: ATO, AOC, FSTD…) is considered as a an annex or supplement to this OR certificate?

If the delivery of any operational certificate (eg: ATO, AOC, FSTD…) implies that the organization is compliant with OR requirements, and thus if such an operational certificates *de facto* includes the OR compliance ? (in this case, a specific OR certificate would be useless)

PROPOSAL

Re-write, precise and homogenize requirements between different parts according to their activity .
Clarify it in the IRs :
If there is really a need for a new OR certificate ?
If any operational certificate is to be considered as an appendix to such a possible OR certificate ?
if any operational certificate is to be considered as an independent document ?
or
if there is no need for such a supplementary OR-certificate which would be complexifying the regulation in a contrary manner to Basic Regulation aims (reference)

JUSTIFICATION

Obvious

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *894* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
A new OR-certificate appears not to be an international worldwide requirement. To our knowledge, there are no ICAO references or mutual agreement between states, nor any international recognition for such a certificate.
According to current regulations, it seems obvious that holding an operational certificate (eg: AOC, ATO…) implies being compliant with any organizational relevant regulation.

PROPOSAL
Reconsider the real need for an OR-certificate and carry out a cost/benefits analysis
A working group, const of NAAs and Professionals representatives may assist EASA in conducting this work.

JUSTIFICATION
An additional OR certificate would be an European specificity, not internationally recognized. It will be a competitiveness issue, as far non-European airlines will not be subject to such a certificate (Please note at the time this comment is written, part-TCO is not published yet – see general comment to part-AR)

"It is very difficult to assess the proposals of the various NPAs since the IR-OPS regulation big picture has to be considered as a whole, in particular regarding the global level of safety.
Nevertheless, you ask third parties to comment on pieces of regulations, with major lacks in cross-references, completeness, and consistency; we highlight all the comments hereafter are to be limited to that concern'

Safety impact of such an additional "administrative" requirements seems not to be demonstrated, though it is clearly an additional element to complexity. There is no need to demonstrate that complexity and safety are contrary.
To that extend, no need for additional paper without any safety concern.

****

Disclaimer :
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The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *895* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
There are no references in the IR to the templates given in Annex I.

PROPOSAL
If those templates are promoted by EASA, each of them shall be clearly referenced in the IR.

JUSTIFICATION
Legal issue

***
COMMENTS
Templates proposed are in English, may not apply in France.

PROPOSAL
Specify a local language translation may be granted, for the purpose of some Member states.

JUSTIFICATION
Legal issue : French law requires that any official document granted by any French authority shall be written in French (not withstanding a possible translation for information).

****
Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle

meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *896* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
Regarding the AOC, contact details are not specified within the new form.

PROPOSAL
Add contact details within the new AOC form.

JUSTIFICATION
International minimum requirements for an AOC.

***

COMMENTS
AOCs are reputed to be with a "continued validity" (see OR.GEN.035).

PROPOSAL
"Expiry date" must not be stated in the AOC form.

JUSTIFICATION
Consistency

***
QUESTION
Regarding Operations specifications, the listing of aircraft registrations (fleet list) seems not being compulsory anymore.
Does it mean operators will not have to notify anymore their Competent authority about their fleet list?

****

Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following

comment.

comment *1235* comment by: *CAA CZ*

Appendix I…IV to Annex 1 Part AR, page 24-37
Is there Annex **Annex 1** in Part AR? Title of each appendix is: Appendix **to Annex 1** Part AR.

comment *1236* comment by: *CAA CZ*

Appendix I…IV to Annex 1 Part AR, page 24-37
Numbering system (Reference :) for ATOs/FSTDs certificates should be mentioned, as in AGM.S5.P2, Chapter 15-2. See also Part 147.B.110(d) and ED Decision 2006/10/R from 24/11/2006.

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - EASA Standard Organisation Approval Certificate p. 24

comment *593* comment by: *UK CAA*

Page No:
24 of 77

Paragraph No: N/A

Comment:
The Appendix is referred to only in AR.GEN.310 (b) as the text that "establishes" the nature and format of the Approval Certificate. However, the Appendix is simply a sample certificate with no explanation other than notes referring to the detail of the various entries. This creates doubt about the intended use of the certificate and the final form of actual certificates. A preface to the Appendix would be useful, particularly if it included:

- Whether pages not relevant to the approved organisation are to be omitted or marked "Not applicable";
- Acceptable page sizes;
- Acceptable pagination indications;
- Whether single-sided or two-sided pages are recommended;
- Recommended types of paper, anti-forgery measures, etc.;

Justification:
The lack of guidance on the intended overall shape and content of the Approval document could lead to wide variations in appearance of the document across Member States, and diminish the value of the standard format apparently intended by the Appendix.

comment *834* comment by: *AEA*

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval

certificate.
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

comment *1021* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval certificate.
Proposal:
Reconsoder the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145, etc)

comment *1051* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - EASA Standard Organisation Approval Certificate

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval certificate.
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

comment *1095* comment by: *KLM*

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval certificate.
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

comment *1121* comment by: *Deutsche Lufthansa AG*

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The

AEA does not see any added value of such an additional cover approval certificate.
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

comment *1215* comment by: *CAA Finland*

Amend. On page 2 the "organisation" is unclear.

~~Organisation~~

Accountable manager
Head of training
Chief flight instructor
Chief ground instructor

comment *1221* comment by: *CAA Finland*

Amend. Description of manual is unclear.

This training/course(s) approval is valid when working in accordance with Part OR approved training
organisation manual: [identification by name and revision number or date]

comment *1238* comment by: *CAA CZ*

Appendix I to Annex 1 Part AR, page 24
The numbering of the EASA certificate, that is used e.g. in Appendix II for FSTD Qualification Certificate, should be required (see page 30):
„EASA Form XXX shall be used…"

comment *1296* comment by: *AIR FRANCE*

Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. Does such an additional cover approval certificate improve safety?
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

comment *1323* comment by: *International Air Transport Association (IATA)*

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval certificate.
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

comment *1397* comment by: *IACA International Air Carrier Association*

1.
Replace "the scope of approval section of the approved organisation manual" under 1. by "the scope of activities as listed in the attached approval schedule" for consistency.

comment *1398* comment by: *IACA International Air Carrier Association*

2.
Delete "approved" before "organisation manual" under 2. as there is no requirement for the approval of the organisation manual in OR.GEN.200(a)(6).

comment *1400* comment by: *IACA International Air Carrier Association*

4.
Delete the word "previously" as this makes no sense.

comment *1582* comment by: *Icelandair*

Relevant Text:
EASA Standard Organization Approval Certificate.
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval certificate.
Proposal:

comment *1660* comment by: *CB*

Having reviewed the enclosed in detail, bmibaby (AOC GB.2244) concurs with the comments of the AEA.
Relevant Text:
EASA Standard Organization Approval Certificate
Comment:
ICAO does not require a cover organization approval in addition to the AOC and other approvals. The conditions which will lead to its delivery are not clear. The AEA does not see any added value of such an additional cover approval certificate.
Proposal:
Reconsider the need for a cover approval if the organization holds different approvals for specific tasks (AOC, 145 etc)

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course(s) - Approval Schedule for ATOs p. 25

comment *296* comment by: *UK CAA*

Page No:
25 of 77

Paragraph No: Appendix 1 to Annex 1 Organisation Approval certificate

Comment:
There is no place in this format (Certificate or Schedule) to record whether an ATO is approved for operating FSTDs generally and which specific FSTDs. It was anticipated that the privilege to operate FSTD and the specific FSTDs concerned would be specified in the ATO schedule of approval.

Justification:
OR.ATO.300, which are requirements for the ATO, state in paragraph (c) that the FSTD specifications shall be detailed in the terms of the approval. This does not appear to be reflected in the current Part AR and in specific the approval certificate or terms of approval

Proposed Text (if applicable):

Amend format of Appendix 1 to add ATO privilege to operate FSTD and the FSTD specifications.

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course(s) - Approval Schedule for AEMCs p. 26

comment *764* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

Because the Approval Schedule for AeroMedical Centers is part of the IRs, additional text is needed to provide details.

Proposal:

Develop additional text to describe which items shall/may be or not be included in the schedule to Appendix I to Annex 1 Part AR.

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course(s) - Air Operator Certificate p. 27

comment *115* comment by: *Aero-Club of Switzerland*

We propose to use an identical layout of the AOC of all member states.

Justification: In doing so the Agency simplifies the daily work of the controllers.

comment *412* comment by: *Civil Aviation Authority of Norway*

It is not clear if the reference to "Part OR approved organisation" mean Part OR-GEN or the specific OR applicable to each specific type of organisation.

comment *413* comment by: *Civil Aviation Authority of Norway*

As the AOC is only an attachment to the Approval Certificate, we can not see the reason for a specific AOC reference number and expiry date.

comment *414* comment by: *Civil Aviation Authority of Norway*

The format of the "Operations Specifications" constitutes a separate form for each aircraft type, and to avoid that the format of the "Operations Specifications" should be simplified.

comment *415* comment by: *Civil Aviation Authority of Norway*

Comment to (19);
Column 19 on the Operations Specifications is designated "Others". What other approvals are to be specified here? Leaving it up to the individual member state to decide what approvals shall be listed on the operations specifications will result in different standards within the member states.

comment *594* comment by: *UK CAA*

Page No:
27 of 77

Paragraph No: N/A

Comment:
There is no indication of the desired size, shape and layout of the AOC document. The rule should specify whether the document must be reproduced exactly, of whether it is sufficient for the content of the various boxes to have the same relative positions as in the sample.

Justification:
The lack of guidance on the intended overall shape and content of the Approval document could lead to wide variations in appearance of the document across Member States, and diminish the value of the standard format apparently intended by the Appendix.

comment *595* comment by: *UK CAA*

Page No:
27 of 77

Paragraph No: N/A

Comment:
The certificate has the potential to confuse. It refers generally to "commercial air operations" but the Operations Specification on Page 28 of 77 allows the certification of "commercial air transportation (CAT)", "commercial operations other than CAT" and "non-commercial operations".

Justification:
The proposal in the consultation document is that a single document be used to certify three very different activities. This has the potential to confuse. ICAO Annex 6 Part 1 defines an Air Operator Certificate as only authorizing an operator to carry out specified commercial air transport operations. The status of the AOC should therefore be reserved only for CAT operations with a separate certificate (with a different name) developed for commercial operations other than CAT. This would align with ICAO and align with the

implementing rules themselves where CAT and COM operations are recognised as separate activities needing separate sub-sets of rules. There is also a potential for misunderstanding or confusion if a non-Community State checks the certificate and assumes it to be a standard ICAO AOC without understanding the Community system. In particular, an AOC authorizing only "commercial operations other than CAT" may be misunderstood as actually authorizing CAT because that is the only function of the AOC in ICAO contracting States. Also, having different documents with clear, separate, titles would be in line with the principle applied to the airworthiness certificate which comes in three different forms – CofA, restricted CofA and permit to fly rather than just a single document which allows different privileges.

Proposed Text (if applicable):
Suggest the proposed document be amended to be two separate documents (for CAT and commercial operations other than CAT) each with its own separate name and privileges.

comment *835* comment by: *AEA*

Relevant Text:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.

Comment:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration. There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.

Proposal:
Delete the expiry date

comment *1022* comment by: *Swiss International Airlines / Bruno Pfister*

In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.
Comment:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.
There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.
Proposal:
Delete the expiry date

comment *1052* comment by: *TAP Portugal*

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course(s) - Air Operator Certificate
Relevant Text:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.

Comment:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration. There

should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.

Proposal:
Delete the expiry date

comment *1096* comment by: *KLM*

Relevant Text:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.

Comment:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration. There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.

Proposal:
Delete the expiry date

comment *1106* comment by: *Virgin Atlantic Airways*

Relevant Text:
Point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that an organization approval is of unlimited duration.
Comment:
There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time.
Proposal:
Delete point 5

comment *1122* comment by: *Deutsche Lufthansa AG*

Comment:
In item note 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration. There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.

Proposal:
Delete the expiry date

comment *1166* comment by: *BMVBS (MoT Germany)*

Appendix I to Annex 1 Part AR does contain a template for an Air Operator Certificate (AOC). This AOC-template has several mistakes and/or insufficiencies:
- The AOC states that "… is authorised to perform commercial air operations …". This is simply wrong! The authorisation for commercial air transport is contained in the operating license that has to be issued in accordance with regulation (EC) no. 1008/2008. The AOC just certifies the operational capabilities of an operator and thus forms a prerequisite for an operating license but it is not the authorisation to conduct commercial air transport. The

corresponding wording of the AOC-template of this NPA has to be revised in the following way:
"This certificate certifies that …….. ~~is authorised~~ fulfills the requirements of the operational capabilities to perform commercial air operations, as defined in the attached operations specifications, in accordance with the Operations Manual, Annex IV of the Basic Regulation and Part OPS."

- The "Operational Point of Contact" contained in the AOC-template is not necessary. As this information is not subject to any approval or oversight activity of the corresponding competent authority it can be kept somewhere else on board the aircraft, avoiding unnecessary revisions of the AOC.
- The AOC-template does not provide ability to insert aircraft registrations. The possibility to approve a procedure of the operator to amend the corresponding aircraft listing on his own will not be applicable to all air carriers and might in some cases not be in line with article 6 (2) and 8 (5) of regulation (EC) no. 1008/2008. An ability to insert aircraft registrations into the AOC is thus considered to be absolutely necessary.
- The AOC-template is much too small to contain all details that have to be included in an AOC in the case of a large Air Carrier that is operating several different fleets.
- The "Types of Operation"-section of the AOC-template should also include "Mail".
- Footmark no. 8 should also include the possibility to define areas of operation by the use of ICAO-Area-Codes (e.g. EUR, AFI, NAT etc.).
- The "Low Visibility Operations"-Box should clarify that insertion of a RVR-value is only necessary if LVTO-Approval is given.
- The AOC-template does not provide ability to insert information concerning cabin crew training and corresponding approvals (as presently required by subpart O of EU-OPS 1).
The AOC-template should be revised accordingly.

Air Operator Certificate: Management staff (ACM, postholder, quality manager) should be added, because the link to a document is not sufficient.

comment *1297* comment by: *AIR FRANCE*

Comment:
There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.

Proposal:
Delete the expiry date.

comment *1324* comment by: *International Air Transport Association (IATA)*

Relevant Text:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.

Comment:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration. There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.

Proposal:
Delete the expiry date

comment *1401* comment by: *IACA International Air Carrier Association*

Footnote 5:
There is no legal basis for an expiry date, default shall be "unlimited". Better would be to spell out "expiry date: none".

comment *1482* comment by: *DGAC FRANCE*

Appendix 1 Air Operator certificate

On the air operator certificate, it is mentioned an expiry date. **This idea is supported** although it is not consistent with the principle set out in Part OR that all certificates have an unlimited duration.

comment *1583* comment by: *Icelandair*

In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.
Comment:
In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration.
There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required.
Proposal:

comment *1661* comment by: *CB*

Having reviewed the enclosed in detail, bmibaby (AOC GB.2244) concurs with the comments of the AEA.

Relevant Text:

In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration

Comment:

In point 5 an expiry date is included which is in contradiction with OR.GEN.035 which specifies that the organization approval is of unlimited duration. There should not be any expiry date for an AOC since it is subject to limitation, suspension or revocation at any time where required

Proposal:

Delete the expiry date

B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course(s) - Air Operator Certificate - Operations Specifications p. 28-29

comment *596* comment by: *UK CAA*

Page No:
28 of 77

Paragraph No: N/A

Comment:
The rationale for the use of Yes/No columns is not clear. It only makes sense to use such columns/tick boxes if all Operations Specifications are identical in format and contain all possible options. The alternative would be simply to exclude references to non-approved activities. The argument against this is presumably that it will not be immediately obvious to an inspector what an operator is not permitted to do. However, it makes little sense for aeroplane AOCs/Operations Specifications to list approvals that are only applicable to helicopters. The intention should be clarified.

Justification:
There is a potential for differences in interpretation of the intended format to result in widely differing documents across Member States, undermining the advantages of a standard format.

comment *892* comment by: *DGAC FRANCE*

Appendix I to annex I Part AR
Operations specifications

The operations specifications document doesn't provide space for the registration of concerned aircraft ; for example : all aircraft have a certain type in an airline may not be ETOPS authorised.

It may also pose problems following changes in the fleet list.

comment *1167* comment by: *BMVBS (MoT Germany)*

Operations Specifications: The following points should be added: ICAO areas of operation, registration marks, approval for dangerous goods, number of passenger seats, ETOPS: diversion distance, threshold distance. The special limitations "Night vision" and "Helicopter Hoist" are used very rarely. Therefore it is not necessary to reserve these areas in every AOC. There is no difference between "Navigation specifications for PBN operations" and "Minimum navigation performance spec.". One point can be removed. Footnote 19 (others) is missing.

comment *1606* comment by: *Irish Aviation Authority*

The Special Authorisations section lists several specific kinds of operations for which authorisation is required. While there is a "catch all" section entitled "Others" at the end of the form, it is considered that the special category "Off-shore Operations" is of such importance that it should be specifically mentioned on the form.

comment *1631* comment by: *Civil Aviation Authority Finland*

Question:
The format of the Operations Specifications constitutes a separate form for each type /model of aircraft. This means a pile of OPS Specs as attachment of an AOC, when the operator uses differnt aircraft types or models.

Could this be simplified?
In the JAA format of AOC/OPS Spec we listed the different aircraft types/models in the same form specifying the special authorisations per type/model.

B. Draft Rules - I. Draft Opinion Part-AR - Appendix II - FSTD Qualification Certificate p. 30-32

comment *297* comment by: *UK CAA*

Page No:
31 of 77

Paragraph No: Appendix II to Annexe 1, Part Authority Requirements (Qualification Certificate)

Comment:

1. EASA should clarify/confirm that a qualification certificate applicable to a given aircraft type (for example A320) can have more than one engine or equipment fit (e.g. FMS) on the qualification certificate (and does not require two separate configurations and associated certificates).

2. EASA should clarify/confirm that each aircraft configuration (e.g. A330 and A340) of a single FSTD requires a separate qualification certificate.

3. The primary reference document (be it JAR STD , CAP 453 or even FAA AC 120-40) should be added as to the Qualification Certificate.

Justification:
1and 2.. Clarification required on use of certificate.

3. A simulator may be qualified in accordance with CS FSTD, but the true definition is the primary reference document for simulators accepted under the grandfathering rules.

Proposed Text (if applicable):

3. Add "(Primary Reference Document: if applicable)" between item B and C on page 2 of the qualification certificate.

comment *988* comment by: *DCAA*

Standard form for *User Approval Certificate* to be developed

comment *1456* comment by: *FCAA*

Page 32 (of 77) presents the specification of FSTD qualification certificate. It presents the basic information of the device.

The FSTD evaluation report format is presented from page 52 onward. Section 4 ("Training, testing and checking considerations") presents the most important approval issues for different conditions, systems and abilities of the FSTD.

The evaluation report section 4 presents more detailed and larger amount of information on the approval status than the specification. Now it must be remembered that it is the certificate and its specification that the operator must keep on the wall so that every customer can see them. The evaluation report is **not** required to be presented to the public in such manner. It is therefore weird, that such vital information is presented only in the evaluation report and not in the certificate that is hanging on the wall.

We therefore suggest, that **the information of the section 4 of the evaluation report should be attached to the specification of the FSTD certificate**. The rows of section 4 could be just copied to the specification. We believe, that this would give the FSTD users more information on the approval basis and status of the device. Yes, it is true that *most* customer companies wish to obtain a copy of the evaluation report, but still there are lots of individual customers who do not even know of such a report. And still, in a legal point of view, the certificate should contain all the approval information and restriction. At the moment lots of it is presented only in the evaluation report.

comment *1595* comment by: *CAE*

In other parts of this NPA, it is suggested that the competent authority would provide the qualification certificate, however this example suggests a specific certificate based on an EASA form. In view of standardization, we agree that EASA should provide all competent authorities with such a standardized form.

comment *1637* comment by: *Swiss FOCA*

I suggest adding an additional point to the FSTD SPECIFICATIONS to reveal the "All Weather Operation:" value granted (CAT I, II, IIIa, IIIb, IIIc, LVTO RVR etc.).

B. Draft Rules - I. Draft Opinion Part-AR - Appendix III - Standard EASA Licence Format p. 33-36

comment *42* comment by: *George Knight*

IX VALIDITY
There is no good reason for leisure pilot's licences and PPL's to need renewal, at a non-trivial cost, every five years. They should be valid for life as long as a valid medical is held.

comment *43* comment by: *George Knight*

IX
"A document containing a photo shall be carried for the purposes of identification of the licence holder."

The above statement has nothing to do with validity.

The requirement for a pilot to carry separate photo identification is totally inappropriate for gliding, micro lighting and other forms of recreational flying.

In the UK there is not a requirement for an individual to have an identity document, and it is far from certain that one will be required in the foreseeable future.

If EASA feels that photo identification is a requirement them that photo should be affixed to the licence. A non-professional pilot should not be required to carry photo ID.

comment *113* comment by: *DCA Malta*

Appendix III to Annex I Part Authority Requirements (a) (1)(iii)

Replace 'postal code' by 'UN-Code'

comment *116* comment by: *Aero-Club of Switzerland*

We propose the use of an identical layout for the EASA Licence format by all member states.

Justification: In doing so the Agency simplifies the daily work of the controllers.

comment *223* comment by: *DGAC FRANCE*

Appendix III to annex 1 Part AR
Standard EASA licence format

Item III : replace **"postal code"** by **"UN country Code"** as in the licence.

Item VIII : What covers the endorsement in this item of the licence format ? Where is the legal basis ?

Format :
This licence format is not adapted to the aim of EASA to have all kind of aircrafts and different level of licences on one document. It will be very confusing for all stakeholders (competent authority wich issue the licence, departement in charge of ramp inspections, pilots ...)

XII Radiotelephony privileges : In the licence print, **delete** the words **"in English (other languages specified)"**

XIII Remarks : What is the oportunity to give such example since in the future the EU licence will permit to fly in all aeroplanes registered in the EU community ?

language proficienc y : add the end of validit y of the lan guage proficiency.

comment *347* comment by: *Susana Nogueira*

(a)(1)(III) Change as follows: Serial number commencing with the **UN** code of the...
This is the actual system. Not change.

comment *349* comment by: *Susana Nogueira*

Page 3, item XII. Delete : i**n english (other languages specified)**
Proficiency language matter

comment *490* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

The licence format according to Appendix III to Annex 1 Part Authority Requirements does not allow for the various entries that might be required in case of only one licence per person (various type ratings in various categories of aircraft, type specific IR ratings, FI rating, Mountain rating, CRI, TRI instructor on various types in various aircraft categories, etc.) Especially the space left for language proficiency endorsements apparently does not allow for the entries according to the ICAO recommendations (check ICAO web-site), and obviously does not allow for the entries when it comes to endorsing proficiency levels in more than one language.

If the Agency sticks to the idea of authorities not being able to authorise examiners at their own discretion, the licence format most probably will cause a cumbersome workload in the licensing departments of the national authorities because the column reserved for the examiner's identification (examiner certificate number) does not allow to identify the examiner correctly unless all Member States apply a coordinated registration system. Again, this leads to the assumption that if the examiner's privileges are to be drawn directly from the community, it should the task of a central institution (EASA?) to authorise and oversee them. A specific time frame for re-validation endorsements which also allows to identify the examiner is needed. A centralized data base of all licence holders would help to ease the workload of all NAAs.

Anyway, the licence format according to Appendix III to Annex 1 Part 1 AR does not suit the implementing rules that the Agency intends to establish and therefore needs to be revised.

comment *655* comment by: *ENAC TLP*

Licence format: XIII remarks : it not clear the remarks taken as an example. What does it means "valid only on aeroplanes registered in the State of licence issue"? That it is possibile to maintain national licences, issued upon national training, even using the EASA form?
Furthermore, we think (as previously commented on NPA 17) that all kinds of LPL should be deleted entirely, since we think it would be a better solution avoiding as much as possible any difference with ICAO Annex 1.

comment *657* comment by: *ENAC TLP*

it is not clear why the rating has to be removed not later than 5 years from the last revalidation: it means thet after 5 years the rating cannot be renewed? or it means that every single Authority has to keep a hidden data base with all the ratings expired and removed from the licence? Or it means that after 5 years the renewal programme as that for the first issue?

comment *687* comment by: *Irish Aviation Authority*

Under (a)(1)(III), it is not clear what postal code is meant here. Different countries have different meanings for the phrase. If it is the UPI code then it should be stated. There does not appear to be a UPI code that includes Northern Ireland.

The current JAR format requires the U.N. code. By changing it to a postal code means that thousands of licence numbers will have to be changed, and a system of dual numbering will have to be provided during the change-over period.

I would suggest that the UN code be kept.

DCr 220509

comment *729* comment by: *Luftfahrt-Bundesamt*

The licence format according to Appendix III to Annex 1 Part Authority Requirements does not allow for the various entries that might be required in case of only one licence per person (various type ratings in various categories of aircraft, type specific IR ratings, FI rating, Mountain rating, CRI, TRI instructor on various types in various aircraft categories, etc.) Especially the space left for language proficiency endorsements apparently does not allow for the entries according to the ICAO recommendations (check ICAO web-site), and obviously does not allow for the entries when it comes to endorsing proficiency levels in more than one language.

Since not only German law allows for the re-evaluation of language proficiency by appropriately trained and accredited examiners who may write an endorsement directly into the licence, a space for re-validation endorsements which also allows to identify the examiner is needed.
If the Agency sticks to the idea of authorities not being able to authorise examiners at their own discretion, the licence format most probably will cause a cumbersome workload in the licensing departments of the national authorities because the column reserved for the examiner's identification (examiner certificate number) does not allow to identify the examiner correctly unless all Member States apply a coordinated registration system. Again, this leads to the assumption that if the examiner's privileges are to be drawn directly from the community, it should the task of a central institution (EASA?) to authorise and oversee them.

Anyway, the licence format according to Appendix III to Annex 1 Part 1 AR does not suit the implementing rules that the Agency intends to establish and therefore needs to be revisited.

comment *769* comment by: *CAA Belgium*

p.34 Cover page

"English and national language"

Quid in case of several languages ?

comment *989* comment by: *DCAA*

(a) (1) (III)

Serial number of the licence shall commence with the UN code the issuing State followed by an indication of the type of licence and and followed by a code of numbers and/or letters in Arabic numerals
and in Roman scrip. Such as: DK/ATPL(A)/00432 or UK(CP/000432

comment *990* comment by: *DCAA*

(a) (2) (XII):

According to the ITU regulations a specific radio operator certificate shall be issued.

(a) (2) (XIII):

Language Proficiency can be a reference to the radio operator certificate which shall include the language, level and expiry date (if any).

comment *1228* comment by: *CAA Finland*

Clarify. On page 1 the wording is "postal code", on page 2 U.N code and postal code in licence number.

comment *1239* comment by: *CAA CZ*

Appendix III to Annex 1 Part AR, page 33
The numbering of the EASA certificate, that is used e.g. in Appendix II for FSTD Qualification Certificate, should be required (see page 30):
„EASA Form XXX shall be used…"

comment *1240* comment by: *CAA CZ*

Page 2 of the EASA licence format, page 34:
State of licence issue should not be abbreviated according to U.N. country code, but – "in a manner specified by the Agency"-
see ED Decision 2006/10/R of 24/11/2006.

comment *1241* comment by: *CAA Finland*

Amend. The lowest multiply for one year type ratings, 2 years class ratings and 3 years instructor / examiner certificates is 6 years. New wording gives flexibility and does not force any NAA to update their IT-solution.

Re-issue takes place every 5 **or 6** years **(depending on NAA's intern al procedures)** from the date of initial issue shown in item II.

comment *1242* comment by: *CAA CZ*

Page 3 of the EASA licence format, page 35:
In order to issue a one common license for all categories of aircraft (for example, combining ATPL (A), CPL (H), BPL, PPL (As) and SPL in one license), the way of recording and renewal of individual ratings directly in the licence should be adapted (e.g. IR, NIGHT, etc. and also see a limited number of lines

for registration type and instructor ratings ...).
Due to absent of time for preparing a new recording system, we recommend using separate license for each category of aircraft, i.e. leave the license title in the singular:
II Title~~s~~ of licence~~s~~

comment *1243* comment by: *CAA CZ*

Page 3 of the EASA licence format, page 35
XIII Language Proficiency: (language(s))
We recommend to add „**Level**" and „**Date of expiry**".

comment *1244* comment by: *CAA CZ*

Page 4 of the EASA licence format, page 35
The "*Requirements"* states that initial issue and **renewal** of ratings is entered **only** by the *competent authority*, which is in conflict with Part FCL.1030 (b) (2).
(b) After completion of the skill test or proficiency check, the examiner shall:
(2) in the case of proficiency checks for revalidation or **renewal**, endorse the pilot's licence or certificate with the new expiry date of the rating or certificate;

comment *1245* comment by: *CAA CZ*

Pages 5, 6 and 7 of the EASA licence format, page 36
We recommend adding one more column titled "Date of test of IR" (under IFR), because without this cell it is not possible to enter the instrument rating renewal into a license according to Appendix 8 of Part FCL.

comment *1261* comment by: *CAA Finland*

New text, column IX.

New licence replaces the older licence.

comment *1264* comment by: *CAA Finland*

Amend. R/T English language is not compulsory for example in PPL. Additionally R/T on IFR has additional language skill requirements and is normally conducted in more demanding ATC environment.

The holder of this licence has demonstrated competence to operate R/T equipment on board aircraft in **(VFR or IFR)** ~~English (other languages specified).~~

comment *1265* comment by: *CAA Finland*

Amend. Language endorsement shall give information how often the revalidation shall be done.

Language Proficiency: (language(s) and level(s))

comment *1267* comment by: *CAA Finland*

Amend. Language proficiency shall be as a revalidated rating.

Pages 5, 6 nd 7: XII Rating**, language proficiency**

Examiner's **/ assessor's** certification number

Examiner's **/ assessor's** signature

comment *1269* comment by: *CAA Finland*

Amend. Harmnization within Europe:

Initial issues and renewal of ratings, instructor and examiner certificate privileges will always be entered by the competent authority, ~~where applicable~~.

comment *1287* comment by: *CAA Finland*

New text. There have been hundreds of pilots flying with expired licence but with current rating, because pilots do not realize all the dates (medical class 1 / 2, dates for audiogram, EKG, type / class / instructor ratings and the licence date).

Pages 5,6 and 7:
The authority or examiner shall limit rating to validity period of licence (column IX). The authority extends the ratings up to basic date when re-issuing the licence.

comment *1394* comment by: *CAA Finland*

Attachment #6

New text, page 4. See attachment.

comment *1534* comment by: *CAA Norway*

Appendix III to Annex 1 Part AR

To (a)(1)(III): We strongly suggest to use the ICAO/UN country codes for this purpose. They are based on ISO 3166-1 aplha 2 and 3. As our licenses are ICAO compliant we should use the ICAO identifiers. This is also important for ramp checks outside EASA member states. Also, on the next page of the NPA (page 34), we find the following statement: *"License number will always commence with the U.N. country code of the State of license issue"*. We suggest to stick to this.

To (a)(2)(XIII): In the language endorsement, we would like to include the level of proficiency and any expiry date. Without this, the endorsement is more or less without any value, in particular for ramp checks/SAFA-inspections.

In general to license format: The format specified has strict constraints to the amount of data that can be entered. As EASA proposes to use only one license for all privileges held regardless of category of aircraft, one will easily run out

of space. Many pilots hold multiple licenses today, on several categories of aircraft. When adding to this all the ratings that might be held, the license format clearly does not fit the intention of having everything in just one document.

comment *1589* comment by: *Irish Aviation Authority*

AS it is intended under the EASA system to hold only one pilot licence for all categories of aircraft (e.g. aeroplanes, helicopters, gliders, balloons, airships) , there will have to be inserted under Section "XII Ratings, certificates and privileges" a column for "national Ratings" for "Annex II" aircraft such as microlights and foot-launched powered aircraft (FLPA) and gyroplanes, which EASA does not propose to regulate. This would be similar to the "National Ratings" section which currently appears in JAR-FCL Licences for non-JAR ratings (e.g. the UK IMC Rating). Also, there will also have to be some sort of assimilation of the non-aircraft ratings which some countries use, e.g. aerobatic ratings, towing ratings, parachute-dropping ratings.

comment *1590* comment by: *Irish Aviation Authority*

In addition to the aircraft / instrument / instructor / examiner rating revalidation page, there needs to be a separate page for revalidation / renewal of the English Language Proficiency endorsement. This will enable the appropriate period of validity (3 years for ELP Level 4, 6 years for ELP Level 5) to be shown. It will also allow this ELP endorsement to be revalidated "out in the field" by the NAA's appointed ELP Examiners. (Note: Ireland has an example of the Form which we use in our own licences. However, this Form cannot be reproduced here and will be sent separately by Email to the EASA Comments response Dept.)

B. Draft Rules - I. Draft Opinion Part-AR - Appendix IV - Standard EASA Medical Certificate Format p. 37-39

comment *29* comment by: *Oliver Brock MD PhD AME*

Field 10 (expiration of previous certificate doesnt make any sense in terms of raising safety.
Fields 11+12 should be supplied by expiration dates of ECG and audiogram

A not alterable photo id should be included, the medical should be in credit-card format and material

comment *61* comment by: *FAA*

The medical certificate issued by the United States
does not specify the bolded items:

(1) **State where the medical certificate has been issued (I),**
(2) Class of medical certificate (II),
(3) Certificate number commencing with the country code of the issuing State and followed by a code of numbers and/or letters (III),
(4) Name of holder (IV),
(5) **Nationality of holder** (VI),
(6) Date and **place** of birth of holder: (dd/mm/yyyy) (XIV),

(7) Signature of holder (VII)
(8) Limitation(s) (XIII)
(9) **Expiry date of the medical certificate** (IX),
(10) Expiry date of previous medical certificate
(11) Date of medical examination
(12) **Date of last electrocardiogram**
(13) **Date of last audiogram**
(14) Date of issue and signature of the AME, GMP or medical assessor that issued
the certificate (X),
(15) Seal or stamp (XI)

comment *117* comment by: *Aero-Club of Switzerland*

We propose the use of an identical layout of the "medicals" by all member states.

Justification: In doing so the Agency simplifies the daily work of the controllers.

comment *145* comment by: *ECA- European Cockpit Association*

The suggested medical certificate does not include the expiry of Class 1 in a multi crew environment, which is required in addition to Class 1 single crew, Class 2 and LPL.

At the bottom are spaces for the Most recent ECG, Audiogram and Ophthalmology examinations plus spaces for the Next examination date. Although these are labelled as Advisory, placing Next dates can lead to confusion as to the continuing validity of the certificate if that date is prior to the expiry of the certificate itself. The convention is that the certificate remains valid in spite of an additional recurrent examination being out of date. Only the most recent examination dates should be placed there and that it should be for the AME giving the next certificate to determine whether a further ECG, Audio etc. is required.

comment *298* comment by: *UK CAA*

Page No:
37-39

Paragraph No: Appendix IV to Annex Part 1 Part Authority Requirements: Standard EASA Medical Certificate Format

Comment: The proposed medical certificate is not compatible with the regulatory proposals.

Justification: The list of contents and sample certificate should be suitable for use in all States and take into account recent JAR FCL 3 changes.

Proposed Text : As per European Aviation Authorities' CMOs' Forum proposal. The UK supports the text and Template as proposed by the CMOs' Forum.

An alternative is to list the essential, core contents in the IRs (Licensing Authority, Class of certificate, name, date of birth, date of examination,

medical examiner's number and signature) and put the rest of the contents in AMC so they can be amended if requirements are changed. For example, periodicity has been subject to frequent change in the past few years and ICAO has proposed further changes in the near future, which EASA may wish to adopt in due course.

comment *299* comment by: *UK CAA*

Page No:
37

Paragraph No: Appendix IV to Annex Part 1 Part Authority Requirements: Standard EASA Medical Certificate Format

Comment: The list of contents of the medical certificate does not conform to the items shown on the medical certificate example in (d) on page 39.

Justification: The list of contents and sample certificate should be compatible.

Proposed Text : Once the list of contents is amended, the certificate template requires redrawing.

comment *300* comment by: *UK CAA*

Page No:
37

Paragraph No: Appendix IV to Annex Part 1 Part Authority Requirements: Standard EASA Medical Certificate Format

Comment: Place of birth is unnecessary.

Justification: Although in some States the place of birth is written on many legal documents this is not true in all States**.**

Proposed Text (if applicable): Delete 'place of birth'.

comment *301* comment by: *UK CAA*

Page No:
37

Paragraph No: Appendix IV to Annex Part 1 Part Authority Requirements: Standard EASA Medical Certificate Format

Comment: The single pilot expiry date should be included as should the expiry dates for Class 2 or LPL privileges.

Justification: This is necessary to be compatible with ICAO and for the expiry date to be clear for the pilot, ramp inspector, operator etc. NB This was an editorial change that was missed by the JAA and the certificate format was not updated in line with Amendment 5 (December 2006) of JAR FCL 3. It is essential that all the possible expiry dates are clearly stated to avoid confusion and in the interests of safety.

Proposed Text :
(9) Expiry date of this medical certificate
Class 1: (dd/mm/yyyy) for single pil ot air tr ansport operati ons carrying passengers)
Class 1: (dd/mm/yyyy) for other commercial operations
Class 2: (dd/mm/yyyy)
LPL: (dd/mm/yyyy)

comment *304* comment by: *UK CAA*

Page No:
39

Paragraph No: Medical Certificate Template

Comment: The 'next due dates' for certain investigations have remained on the template despite having been removed from the Content list in (a) on page 37. This was an editorial error in JAR FCL 3.

Justification: Including the 'next due dates' for the associated investigations confuses licence holders, AMEs and Operations inspectors as to the true expiry date of the certificate. Due dates of periodic investigations are easily calculated.

Proposed Text (if applicable): Remove the column entitled 'Next'.

comment *305* comment by: *UK CAA*

Page: 39

Paragraph No: Medical Certificate Template

Comment: A sample template is shown for ease of reference, which demonstrates the comments made.

Justification: Template changes are essential to conform with information required on certificate.

Proposed Text (if applicable): See template below.

IX. Nat. lang./ Expiry date of this certificate	Class 1: (dd/mm/yyyy) (for single pilot air transport operations carrying passengers)
	Class 1: (dd/mm/yyyy) (for other commercial operations)

	Class 2: (dd/mm/yyyy)
	LPL: (dd/mm/yyyy)
Nat. lang./Examination date: (dd/mm/yyyy)	
Nat.lang./Advisory Information	Date of last: (dd/mm/yyyy)
Nat.lang./ECG	
Nat.lang./Audiogram	
Nat.lang./Ophthalmology (when required)	
Nat. lang./Expiry date of previous medical certificate: (dd/mm/yyyy)	

comment *429* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

(a) 6) request only date of birth and not place of birth. There are countries as Switzerland that do not use place of birth in official documents, as passports and more, Instead of place of birth they use place of origin. To avoid confusion, we recommend to use neither place of birth nor place of origin, but ONLY date of birth.

Proposal:

6) Date of birth of holder (dd/mm/yyyy)

comment *462* comment by: *European CMO Forum*

Attachment #7

Appendix IV to Annex Part 1 Part Authority Requirements: Standard EASA Medical Certificate Format

Comment:
The list of contents of the medical certificate does not conform to the items shown on the medical certificate example in (d) on page 39. This is extremely important. The template was not changed when the list of contents was changed for Amendment 5 of JAR FCL 3 in 2006.

Justification:

The list of contents and sample certificate must be compatible.

Proposed Text:

The template must be in AMC (and not in IR).

The medical certificate contents should form part of the IRs. But the Template for the medical certificate must be in AMC to enable the use of the various existing different computer systems in Member States which may present different formats for printing.

PLEASE NOTE 3 PAGE ATTACH MENT: MEDICAL CERTIFICATE TEMPLATE AND NOTES

comment *464* comment by: *European CMO Forum*

Appendix IV to An nex 1 Part Authority Requirements: Standard E ASA Medical Certificate Format

Comment:
Item 1 on the list of contents does not give sufficient information.
Amendment of the contents list is required.

Justification:
It is important to know the competent authority which is the state of medical certificate issue AND the State of Licence issue (which is where the medical record is based and where the medical examination report will be sent). See suggested changes to Appendix IV to Annex Part 1

Proposed Text:
Both the State of Medical Certificate Issue AND the State of Pilot Licence Issue should be stated on the medical certificate.
See other suggested changes to Appendix IV to Annex 1 as submitted in 3 page attachment 'Medical Certificate'

PLEASE NOTE 3 PAGE ATTACH MENT: MEDICAL CERTIFICATE TEMPLATE AND NOTES

comment *465* comment by: *European CMO Forum*

Appendix IV to An nex 1 Part Authority Requirements: Standard E ASA Medical Certificate Format (a) (6)

Comment:
Place of birth should be removed.

Justification:
Place of birth is confusing as some States use 'place of origin' of the family rather than place of birth on legal documents. Place of birth is not on the medical certificates being used by the JAA states at the moment.

Proposed Text:
Delete 'place of birth'.

PLEASE NOTE 3 PAGE ATTACH MENT: MEDICAL CERTIFICATE

TEMPLATE AND NOTES

comment *466* comment by: *European CMO Forum*

Appendix IV to An nex 1 Part Authority Requirements: Standard E ASA Medical Certificate Format

Comment:
The single pilot expiry date should be included as should the expiry dates for Class 2 or LPL privileges.

Justification:
This is necessary to be compatible with ICAO and for the expiry date to be clear for the pilot, ramp inspector, operator etc. NB This was an editorial change that was missed by the JAA and the certificate format was not updated in line with Amendment 5 (December 2006) of JAR FCL 3. It is essential that all the possible expiry dates are clearly stated to avoid confusion and in the interests of safety.

Proposed Text:
(9) Expiry date of this medical certificate
Class 1: (dd/mm/yyyy) for single pilot air transport operations carrying passengers)
Class 1: (dd/mm/yyyy) for other commercial operations
Class 2: (dd/mm/yyyy)
LPL: (dd/mm/yyyy)

PLEASE NOTE 3 PAGE ATTACH MENT: MEDICAL CERTIFICATE TEMPLATE AND NOTES

comment *467* comment by: *European CMO Forum*

Medical Certificate Template

Comment:
Details of the template may have to vary according to the national IT systems and may change with new IT systems. The rules have to be futureproof.

Justification:
Including the 'next due dates' for the associated investigations may confuse licence holders, AMEs and Operations inspectors as to the true expiry date of the certificate. However it is easy for States with IT systems to produce medical certificates with next due dates.

Proposed Text:
Next due dates should be optional and if included should be marked as '**advisory only'**.

PLEASE NOTE 3 PAGE ATTACH MENT: MEDICAL CERTIFICATE TEMPLATE AND NOTES

comment *468* comment by: *European CMO Forum*

AMC to AR.MED.020

Comment:

The responsibilities of the medical assessor should be specified

Justification:
Clarity of role.

Proposed Text:
Add **AMC to AR.MED.020 new paragraph 2:**
The medical assessor should
(i) Be responsible for all medical aspects of the Authority's tasks
(ii) Take final medical decisions and delegate tasks to AeMCs and AMEs
(iii) Be allowed to revoke medicals if not issued correctly by AMEs and AeMCs
(iv) Desi gnate an d supervise AMEs and Ae MC and with draw designation if indicated

comment *469* comment by: *European CMO Forum*

AMC to AR.MED.255

Comment:
An AMC is needed to describe the procedures to make medical certificates invalid and the provisions to return a valid medical certificate to the applicant in these circumstances. The AMC should also describe for which retrospective period these medical certificates should be suspended because the non-compliance may have been present for months or years before being discovered.

Justification:
To render a medical certificate invalid might not always be the most appropriate level of action. A LPL medical certificate might have been correctly issued by a GMP or an AME up to 20 years before the non-compliance, but according to this paragraph the medical certificate is still required to be rendered invalid. This is unfair for the certificate holders concerned.

Proposed Text:
Add new AMC:
AMC to AR.MED.255
When non-compliance of AeMC, AME or GMP is found, the competent authority should:
(1) review all valid medical certificates issued by the AeMC, AME or GMP
(2) evaluate if any medical certificates might have been incorrectly isued
(3) evaluate the safety risk due to the possibly incorrectly issued medical certificates
(4) determine which medical certificate holders need reexamination and reassessment
(5) determine which medical certificates shall be suspended pending reexamination and reassessment
(6) determine which medical certificates may remain valid pending reexamination and reassessment; in this case the reexamination should take place within 30 days and if no reexamination has been undertaken within this period the certificate should be suspended.

comment *658* comment by: *ENAC TLP*

we propose to delete the medical certificate for LPL as well as LPL itself.

comment

765 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The text on page 37 and the template on pages 38-39 do not correspond.Both seem to be based on outdated versions of the corresponding JAA standard format. In contrast to the JAR-FCL, the layout of the medical certificate format is proposed to be part of the IRs which will be difficult to change. The layout must therefore be absolutely correct.

If the template is incorporated in the IRs, the layout will be compulsory to follow in detail. For many Member States this will require changes of the formats contained in their computer systems, creating costs.

In the list of contents:

Points (1) and (3) incorrectly refer to the state of issue of the medical certificate (I) and the certificate number (III). The roman numbers are regulated by ICAO and when used they refer to the licence, not to the medical certificate.

Point (2) refers to (II), which does not appear in the template.

Points (5) and (VI) and place of birth in (6) and (XIV) are only required on the licence, not on the medical certificate. The AeMC, AME or GMP have no possibility to verify these entries which also have been deleted from the JAA medical certificates.

Points (14) and (X) mention signature of the medical assessor that issued the certificate, indicating that the medical certificate can be issued only by the authority. However, according to Part MED the vast majority of medical certificates will be issued by AeMC, AME or GMP and not by the authority.

Point (b) is ambiguous and difficult to interpret. ”Will” should be changed to ”shall” in accordance with the general use of ”shall” in an IR.

In the template:

In item III it is possible to enter more than one licence number, while the regulation does not permit a pilot to hold more than one licence.

In item XIII there is a need for considerably greater space to give the description of limitations, especially when a single medical certificate may contain several limitations, also different for different privileges.

In item IX the recently introduced dual validity period for class 1 is missing.

Proposal:

APPENDIX IV TO ANNEX 1 PART AUTHORITY REQUIREMENTS, STANDARD EASA MEDICAL CERTIFICATE FORMAT needs a total revision.

The required items might be kept in Appendix 1, but the template should be moved to an AMC to Appendix IV to Annex 1 to Part AR.

comment

991 comment by: *DCAA*

(a) (1):

Text should read:

State of licence issue.

It is important for the AME and the authority to know which State is responsible for the holder of the Medical Certificate. It makes it clear for the AME where to send the copy of the Medical Certificate.

comment *992* comment by: *DCAA*

The advisory information for the dates of the next ECG and AUD shall be deleted. The dates have no influence on the validity of Medical Certificate. The Medical Certificate is valid even if the dates have been passed. To have these dates on the Medical Certificate causes confusion by the pilots and the inspectors.

comment *1246* comment by: *CAA CZ*

Appendix IV to Annex 1 Part AR, page 37
The numbering of the EASA certificate, that is used e.g. in Appendix II for FSTD Qualification Certificate, should be required (see page 30):
„EASA Form XXX shall be used…"

comment *1329* comment by: *Civil Aviation Authority Finland*

Comment:
The list of contents of the medical certificate does not conform to the items shown on the medical certificate example in (d) on page 39. The template was not changed, when the list of contents was changed for Amendment 5 of JAR FCL 3 in 2006.

Grounding:
The list of contents and sample certificate shall be compatible.

Proposal:

The template should be in AMC (and not in IR).

The medical certificate contents should form part of the IRs. But the Template for the medical certificate should be in AMC to enable the use of the various existing different computer systems in Member States, which may present different formats for printing.

comment *1355* comment by: *Civil Aviation Authority Finland*

Comment:
Item 1 on the list of contents does not give sufficient information.
Amendment of the contents list is required.

Grounding:
It is important to know the competent Authority, which is the State of Medical Certificate issue and the State of Pilot Licence issue (which is where the medical record is based and where the medical examination report will be sent). See suggested changes to Appendix IV to Annex Part 1

Proposal:
Both the State of Medical Certificate Issue and the State of Pilot Licence Issue should be stated on the Medical Certificate.

See other suggested changes to Appendix IV to Annex 1 as submitted in 3 page attachment 'Medical Certificate'.

APPENDIX IV TO ANNEX 1 PART AUTHORITY REQUIREMENTS
STANDARD EASA MEDICAL CERTIFICATE FORMAT

The Medical Certificate issued by an AeMC or AME approved in an EASA Member State in accordance with Part-MED shall conform to the following specifications:

(a) Content.
(1) Competent authority (State where the medical certificate has been issued).
(2) Class of Medical Certificate.
(3) State of licence issue (Licensing Authority).
(4) Licence number commencing with the country code of the issuing State and followed by a code of numbers and/or letters. The NAA Licence/Reference number shall be stated if applicable eg for non-licence holders and should commence with the country code of the state of Medical Certificate issue.
(5) Last and first name of holder.
(6) Nationality of holder.
(7) Date of birth of holder: (dd/mm/yyyy).
(8) Signature of holder.
(9) Limitation(s).
(10) Expiry dates of the medical certificate (for Class 1 single pilot passenger carrying commercial operations, Class 1 other commercial air transport operations, Class 2, LPL as appropriate).
(11) Date of medical examination.
(12) Date of last electrocardiogram.
(13) Date of last audiogram.
(14) Date of issue of the medical certificate.
(15) Signature of the AME, GMP or medical assessor issuing the certificate.
(16) Seal or stamp of the AME or medical assessor.

(b) Advisory information may also be included stating the periodic medical requirements, information about limitations, and next due dates of ECG, audiogram and ophthalmology.
(c) Material: The paper or other material used will prevent or readily show any alterations or erasures. Any entries or deletions to the form will be clearly authorised by the Authority.
(d) Language: Licences shall be written in the national language and in English and such other languages as the Authority deems appropriate.
(e) A standard EASA Medical Certificate format is shown in this Appendix.

AMC to APPENDIX IV TO ANNEX 1 PART AUTHORITY REQUIREMENTS
STANDARD EASA MEDICAL CERTIFICATE FORMAT

The ICAO roman numbering system should be used on Medical Certificates to facilitate understanding of the items.

comment *1356* comment by: *Civil Aviation Authority Finland*

Comment:
Place of birth should be removed.

Grounding:
Place of birth is confusing as some States use 'place of origin' of the family rather, than place of birth on legal documents. Place of birth is not on the Medical Certificates being used by the JAA States at the moment.

Proposal:
Delete 'place of birth'.

comment *1358* comment by: *Civil Aviation Authority Finland*

Comment:
The Medical Certificate single pilot expiry date should be included as should the expiry dates for Class 2 or LPL privileges.

Grounding:
This is necessary to be compatible with ICAO Standards and for the expiry date to be clear for the pilot, RAMP inspector, Air Operator etc.
NB This was an editorial change, that was missed by the JAA and the certificate format was not updated in line with Amendment 5 of JAR FCL 3. It is essential that all the possible expiry dates are clearly stated to avoid confusion and in the interests of safety.

Proposal:
(9) Expiry date of this Medical Certificate
Class 1: (dd/mm/yyyy) for single pilot air transport operations carrying passengers)
Class 1: (dd/mm/yyyy) for other commercial operations
Class 2: (dd/mm/yyyy)
LPL: (dd/mm/yyyy)

comment *1359* comment by: *Civil Aviation Authority Finland*

Comment:
Details of the template may have to vary according to the national IT systems and may change with new IT systems. The rules have to be "futureproof".

Grounding:
Including the 'next due dates' for the associated examinations may confuse licence holders, AMEs and Operations inspectors as to the true expiry date of the Medical Certificate. However it is easy for States with IT systems to produce Medical Certificates with next due dates.

Proposal:
Next due dates should be optional and, if included, they should be marked as '**advisory only'**.

comment *1471* comment by: *European Society of Aerospace Medicine*

Comment: It is well known that the cause of most air accidents is human factor. The health status of pilot between medical examinations lies on his own responsibility. To improve the familiarity and self-consciousness of pilots we consider that medical certificate shall contain information concerning the

decrease of his medical fitness. These could be shortly given as a reminder on the first page.

Proposal: as an example we propose the short summary from ICAO Annex one and JAR-FCL 3

Holders of medical certificates shall not exercise the privileges of their licences:

- when they are aware of any decrease in their medical fitness,
- while under the influence of any psychoactive substance,
- when take any prescription or non-prescription medication or drug, or undergo any other
treatment

which might render them unable to safely and properly exercise these privileges

B. Draft Rules - II. Draft Decision Part-AR p. 40

comment *872* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

GENERAL COMMENTS
There are no cross-references between the appendices, AMCs and GMs, clearly established in each IR article (such as in EU-OPS).

GENERAL PROPOSAL
Introduce such cross-references

- stating for each article of the IR whether there are AMCs or GMs attached
- referencing and naming them (such as in EU-OPS).

JUSTIFICATION
Clarity and understanding.
We also note that in part AR, some Annexes, AMCs and/or GMS are not attached to any article. (see comments Appendix I to Annex 1)
We also note that in part OR, some articles refer to non existing Annexes, AMCs and/or GMs (see comments OR.GEN.040)

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet -established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the

first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 1 p. 40

comment *204* comment by: *DGAC FRANCE*

AMC to AR.GEN.023

This paragraph should include all safety related activities required by this part to ensure coherence of the safety programme

Add the following paragraph :
AMC to AR.GEN.023 : Safety programme

The Agency and the competent authority safety programme shall include:
1. Safety policy and objectives
1.1. Safety standards legislative framework
1.2 Safety responsibilities and accountabilities
1.3 Accident and incident investigation
1.4 Enforcement policy
2. Safety risk management
2.1 Safety requirements
2.2 Agreement on acceptable levels of safety performance
3. Safety assurance
3.1 Safety oversight
3.2 Safety data collection, analysis and exchange
3.3 Safety data driven targeting of oversight on a reason of greater concern or need
4. Safety promotion
4.1 Internal training, communication and dissemination of safety information
4.2 External training, communication and dissemination of safety information

comment *881* comment by: *ECA- European Cockpit Association*

Attachment #8

See comment 880, with the related new proposed AR:
Comment: add paragraph as follows:
AMC to AR.GEN.010 States Safety Program Framework
[see text in attachment]

Justification:

It is absolutely necessary to introduce:
a) 1) An SSP framework in order to standardize different Authorities approaches for defining what is an SSP
2) Definitions of different elements of SSP in order to guarantee an adequate communality between EU Members that are also part of ICAO

comment *891* comment by: *ECA- European Cockpit Association*

Attachment #9

See comment 880, with the related new proposed AR:
Comment: add paragraph as follows:
GM to AR.GEN.010 Guidance on Acceptable Level of Safety
[see text in attachment]

Justification:

The notion of Acceptable Level of Safety (ALoS) is an essential ingredient for the effective operation of an SSP. Unless the notion of ALoS is understood and properly developed and implemented; it will be difficult to progress to a performance-based regulatory environment, and to monitor the actual performance of an SSP. The operation of an SSP may then be reduced to simply "ticking the appropriate boxes" under the false pretence of managing safety.

In any system, it is necessary to define a set of measurable performance outcomes in order to determine
whether the system is truly operating in accordance with design expectations, as opposed to simply meeting regulatory
requirements. The definition of a set of measurable performance outcomes also allows identifying where action may be required to bring operational performance of the system to the level of design expectations. Thus, measurable
performance outcomes permit the actual performance of activities critical to safety to be assessed against existing
organizational controls, so that safety risks can be maintained

ALARP and necessary corrective action taken.

The introduction of the notion of ALoS also responds to the need to complement the historical approach to the management of safety based upon regulatory compliance, with a performance-based approach. A performance based
approach will assess the actual performance of activities critical to safety against existing organizational controls.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 1 - GM to AR.GEN.020(b) AMC p. 40

comment *189* comment by: *DGAC FRANCE*

GM to AR.GEN.020 (b)

Comment :

Use of the wording " level of safety » doesn't allow to use « qualitatives » safety studies which are necessary for some requirements which are not possible to be quantified (eg for the airport domain). this proposition allows to introduce other studies

In addition, it is recalled that the demonstration has to be made vis à vis the

IR and not the AMC that is NOT binding !

EASA could develop different mathodologies to help the NAA that the AMC they approve meets the obective of the IR.
Anyway, EASA should also demonstrate that the AMC it publishes meet the safety requirements set in the IR.

Modification :

GM to AR.GEN.020(b) Acceptable means of compliance

~~One way to~~ **The** demonstrat**ion**~~e~~ that the safety objective set out in the implementing rules is met **by an alternative AMC** ~~is to demonstrate~~ **can be carried out either by a quantitative or by a qualitative reasoning** ~~that an equivalent level of to that established by the AMC adopted by the Agency is met not deteriorated.~~

comment *822* comment by: *AEA*

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020.
Proposal:
Delete GM to AR.GEN.020(b)

comment *1023* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020.
Proposal:
Delete GM to AR.GEN.020(b)

comment *1053* comment by: *TAP Portugal*

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 1 - GM to AR.GEN.020(b) AMC

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in

AR.GEN.020.
Proposal:
Delete GM to AR.GEN.020(b)

comment *1098* comment by: *KLM*

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020.

Proposal:
Delete GM to AR.GEN.020(b)

comment *1108* comment by: *Virgin Atlantic Airways*

Relevant Text:

One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.

Comment:

The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction of AR.GEN.020.

Proposal:

Delete GM to AR.GEN.020(b)

comment *1123* comment by: *Deutsche Lufthansa AG*

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction to AR.GEN.020(b), and the IR is anyway exhaustive.
Proposal:
Delete GM to AR.GEN.020(b)

comment *1298* comment by: *AIR FRANCE*

Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020.

Proposal:
Delete GM to AR.GEN.020(b)

comment *1325* comment by: *International Air Transport Association (IATA)*

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020.
Proposal:
Delete GM to AR.GEN.020(b)

comment *1396* comment by: *Walter Gessky*

GM to AR.GEN.020(b)
Can be deleted because is adequately covered in the rule

comment *1492* comment by: *MOT Austria*

GM to AR.GEN.020(b)
Can be deleted because is adequately covered in the rule

comment *1584* comment by: *Icelandair*

Relevant Text:
One way to demonstrate that the safety objective set out in the implementing rules is met is to demonstrate that an equivalent level of safety to that established by the AMC, adopted by the Agency is met.
Comment:
The aim of an AMC is to show compliance with the Implementing Rules but not with another AMC. This Guidance Material is in contradiction fact as outlined in AR.GEN.020.
Proposal:

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 1 - GM to AR.GEN.030 Mutual exchange of information p. 40

comment *307* comment by: *UK CAA*

Page No:
40

Paragraph No: GM to AR.GEN.030 Mutual Exchange of information

Comment: The GM refers to Article 14 of the basic regulation, whereas A.R.GEN.030 does not clearly appear to do so. See UK CAA comments on AR.GEN.030. The GM also appears to be relevant to AR.GEN.035 Mandatory safety information and A.R.GEN.045
Notification of Exemptions.

Justification: Clarity.

comment *308* comment by: *UK CAA*

Page No:
40

Paragraph No: GM to AR.GEN.030 Mutual Exchange of information

Comment: Third bullet, the obligation to notify other Member States of the acceptance of an equivalent safety case is the responsibility of the Commission in accordance with Article 14.7 of the basic regulation, and as such, the measures proposed cannot be implemented by the Member State until agreed by the Commission. See also UK CAA comment on AR.GEN.030. The proposed text can be deleted.

Justification: Accuracy of supporting GM material.

comment *579* comment by: *CAA-NL*

Comment
No need for this GM; Article 14 of the Basic Regulation suffices.

Text proposal
Delete GM to AR.GEN.030

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC to AR.GEN.200(a) Management system p. 41

comment *118* comment by: *Aero-Club of Switzerland*

We warmly welcome the contents of paragraph 2. We have, however, the question how the Agency will assure the undisturbed fulfilment of the tasks of a management system in the case of smaller NAA.

We propose that the Agency prescribes a minimum structure of a NAA and stipulates rules for possible combinations of functions in order to create the necessary redundancy.

comment *352* comment by: *Susana Nogueira*

Refer to AR-GEN 200(a)

comment *416* comment by: *Civil Aviation Authority of Norway*

Comment to (a);
In small organisations each task is dependent on individuals; therefore a continued and undisturbed fulfilment of obligations and tasks can never be guaranteed.

comment *712* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:
Since a competent authority must establish an oversight programme for all activities on its territory, the size and organisation must also depend on the level of the activities approved by other competent authorities on its territory, and conversely if resources in other competent authorities may be used to fulfil the surveillance objectives.

Proposal:

Expand the description so that it is clear that the territorial competent authority must pay due regard in its planning and organising to all activities on its territory.

comment *1070* comment by: *Ryanair*

GM to AR.GEN.200 (4) – Management System

Comment

The reference to 'national' procedures is redundant in the context of a Common European Standard for Aviation. Any national regulations will require Agency approval and will therefore become a European Standard.

comment *1403* comment by: *Walter Gessky*

Add the following to AR.GEN.200(a)(2):
The setup of the organisational structure should ensure that the various tasks and obligations of the competent authority are **usually** not relying on individuals. That means that a continuing and undisturbed fulfillment of these tasks and obligations of the competent authority should also be guaranteed in case of illness, accident or leave of individual employees.
Justification:
Usually NAA are not relying on individuals, but for small country NAA`s for a limited period for various tasks only a single person is available for a limited period. This should be clarified with the addition of usually.

comment *1407* comment by: *Walter Gessky*

AMC to AR.GEN.200(a)(1)
Item 1 requires tha t the proper guidlines are included in the EU Safety Programme which shall be the umbrella for the State Safety Programme.

comment *1417* comment by: *CAA Belgium*

§2

Proposal: Delete the whole text.

Reason: Like this paragraph is written one can ask why:
1) EASA is working on a "Pool of Experts"
2) AMC to AR. GEN 200 (a)(1) §3 last line forsees to have procedures for " the assistance from other competent authorities or the Agency".

comment *1555* comment by: *ERA*

Item 4 Need to clarify as to what does this mean under the EASA-system ?

comment *1647* comment by: *FlightSafety International*

In this text, "additional national regulatory responsibilities" are mentioned. This might influence the level playing field.
Eliminate "Whilst satisfying also additional national regulatory responsibilities,"

To avoid differences between Member States and maintain a level playing field.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - GM to AR.GEN.200(a) Management system p. 41-42

comment *310* comment by: *UK CAA*

Page No:
41

Paragraph No: GM to AR.GEN.200 (a) Para 4

Comment: The text as currently drafted is not easily understood.

Justification: Clarity.

Proposed Text (if applicable): The general policy, whilst also satisfying additional national regulatory requirements should take into account: …

comment *351* comment by: *Susana Nogueira*

Refer to AR-GEN 200

comment *418* comment by: *Civil Aviation Authority of Norway*

The sentence *"all functions related to the implementation of the applicable requirements are adequately described and shown (Standardisation)"* needs to be elaborated.

comment *701* comment by: *Boeing*

GM to AR.GEN.200(a)
Para 4.
Page 41

CONCERN: In the text, *"additional national regulatory responsibilities"* are mentioned, but not specifried. This might influence the level playing field.

CHANGE: Eliminate the phrase, "*Whilst satisfying also additional national regulatory responsibilities …"*

JUSTIFICATION: Change is necessary to avoid differences between Member

States and to maintain a level playing field.

comment

808 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for (a) (5):

ICAO is currently introducing a standard for safety levels and continuous improvement within the context of the State Safety Programme, using terms like Safety Performance Indicators and ditto Targets. The changed wording above may be confusing.

Proposal for (a) (5):

Use Safety Performance Indicators and Safety Performance Targets, to adapt to ICAO standard wording.

Clarify that Safety Performance Indicators (SPI) are quantities to be established and measured methodically over time by the organisation. The SPI:s should be designed so that they give to management insight into how its own organisation is functioning with regard to aviation safety, and if it is developing in the right direction. SPI:s may be e.g. the number of findings raised per surveillance visit, or even better, the number of findings not closed in the agreed timeframe.

Safety Performance Targets are numerical values for SPI:s. They are used to set short or long term goals for the organisation.

comment

1294 comment by: *CAA Finland*

Amend. There shall be clearer quidance of minimum staff especially for NAAs that are running with very limited number of staff. That is normally due to individual State's financial department; NAA would like to do good work.

(b) ... relevant task(s). **As a guidance the number of licensing inspectors should be at least 1 per 1000 licence holders and of training organization inspectors 1 per 3 training organizations.**

comment

1406 comment by: *IACA International Air Carrier Association*

4.
What do "additional national regulatory responsibilities" mean under the EASA-system ?

comment

1408 comment by: *Walter Gessky*

Change (a)1 second bullet and (a) 4. Second bullet:
(a) 1. The functions and processes described in the applicable requirements of the Basic Regulation and its implementing rules ~~and AMC, CS and GM may be~~ **are** properly implemented
(a) 4. The provisions of the applicable implementing rules ~~and its AMC, CS and GM~~;
Justification:
Should be deleted here because it gives the impression that only when also AMC, CS and GM are used the rules are properly implemented.

Add a new (a) 6.
6. ~~Acceptable Means of Compliance and Guidance Material developed may be used by the competent authority to establish compliance with the applicable requirements of the Basic Regulation.~~ When the ACM and GM developed by the Agency are complied with, the related requirements shall be considered as met.
Justification:
In Section B existing wording clarifies the status. AMC are not binding and are one mean of compliance. When AMCs adopted by the Agency are used, the related requirements are considered to be met.

comment *1469* comment by: *CAE*

GM to AR.GEN.200 (a) (4) Page 41

The statement "Whilst satisfying also additional national regulatory responsibilities" will influence the level playing field. Eliminate "Whilst satisfying also additional national regulatory responsibilities," The sentence would then read: "The general policy should in particular take into account:"

This will avoid unnecessary differences between member states.

comment *1497* comment by: *MOT Austria*

Change (a)1 second bullet and (a) 4. Second bullet:
(a) 1. The functions and processes described in the applicable requirements of the Basic Regulation and its implementing rules ~~and AMC, CS and GM may be~~ **are** properly implemented
(a) 4. The provisions of the applicable implementing rules ~~and its AMC, CS and GM~~;
Justification:
Should be deleted here because it gives the impression that only when also AMC, CS and GM are used the rules are properly implemented.
Add a new (a) 6.
6. ~~Acceptable Means of Compliance and Guidance Material developed may be used by the competent authority to establish compliance with the applicable requirements of the Basic Regulation.~~ When the ACM and GM developed by the Agency are complied with, the related requirements shall be considered as met.
Justification:
In Section B existing wording clarifies the status. AMC are not binding and are one mean of compliance. When AMCs adopted by the Agency are used, the related requirements are considered to be met.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC to AR.GEN.200(a)(1) Management system – Documented procedures p. 42

comment *876* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

COMMENTS
The wording "smaller competent authorities" shall be defined precisely so competent authorities know to what they belong.

PROPOSAL
Agency shall specify criteria within the AMC or with a GM to AMC AR.GEN.200 (a)(1).

JUSTIFICATION
Obvious

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Disclaimer :
These comments are limited to the part of the proposed article they refer to. Since some articles refer to not yet-published (or even not yet-established) pieces of regulation or are not self-consistent, these comments are also limited to their understanding not considering the regulation as a whole. We reserve our final point of view to the issuance of a consistent and fulfilled framework of regulation. Some additional comments shall arise.
The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *1496* comment by: *MOT Austria*

AMC to AR.GEN.200(a)(1)
Item 1 requires that the proper guidlines are included in the EU Safety Programme which shall be the umbrella for the State Safety Programme.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC 1 to AR.GEN.200(a)(2) Management System - Qualification and training p. 42

comment *269* comment by: *ECA- European Cockpit Association*

Comment on paragraph (a)(2)1.h.:

"h. suitable technical training appropriate to the role and tasks of the inspector, in particular for those areas requiring approvals."

The description of qualification of flight inspectors is inadequate. They must hold at least an ATPL and one or more Type Ratings for a/c that are used by the operator they supervise.

comment *311* comment by: *UK CAA*

Page No:
42

Paragraph No: AMC 1 to AR.GEN.200(a)(2) para 1 d

Comment: Quality Management Systems omitted from the qualification and training of inspectors.

Justification: Understanding of Quality Management Systems as a part of a Management System is an important competency for competent authority inspectors

Proposed Text (i f applicable): d. management systems including safety management systems and quality management systems, accident prevention…..

comment *313* comment by: *UK CAA*

Page No:
42

Paragraph No: AMC to AR.GEN.200 (a)(2) paras 1 & 2

Comment: These refer to initial and recurrent training programmes. The aim should be to ensure continuing competence.

Proposed Text (if applicable): The AMC should be expanded to state that the aim of initial and recurrent training programmes is to ensure continuing competence.

comment *580* comment by: *CAA-NL*

Comment
Initial training may be based on current knowledge and experience of the individual as well.

Text proposal
"1. Initial training programme. The initial training programme for inspectors should establish, as appropriate to their role, at least understanding of the following:"

comment *1247* comment by: *CAA CZ*

AMC ⇟ to AR.GEN.200(a)(2), page 42
Either AMC **2** is missing here or number 1 should be omitted, i.e. AMC AR.GEN.200 to (a) (2).

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - GM to AR.GEN.200(a)(2) Management system - Qualification and training p. 43

comment *270* comment by: *ECA- European Cockpit Association*

Comment on point 2.: change text as follows:
2. It is understood that the basic competence of the competent authority's staff is a matter of recruitment and normal management functions in selection of staff for particular duties. Moreover, it is understood that the competent authority provides training in the basic skills as required for those duties.

However, to avoid differences in understanding and interpretation, it is considered important that all personnel should be provided with further training specifically related to the Basic Regulation**, ~~and~~** its implementing rules **and AMC in order to achieve a standardized interpretation of all regulations**.

Justification:
Training of Authority personnel should not be limited to Basic Regulation and IRs. It needs to be expanded to include AMC and standardized interpretation of all regulations

comment *277* comment by: *ECA- European Cockpit Association*

Comment: correct numbering of paragraphs:
~~4.~~ 3. The competent authority of the Member State may provide training through its own training organisation with qualified trainers or through another qualified training source (e.g., training provided by other competent authorities, the Agency or qualified entities).

comment *314* comment by: *UK CAA*

Page No:
43

Paragraph No: GM to AR.GEN.200(a)(2)

Comment: Paragraph numbering is incorrect (paragraph 3 missing).

Justification: Clarity.

Proposed Text (if applicable): N/A.

comment *316* comment by: *UK CAA*

Page No:
43

Paragraph No: GM to AR.GEN.200 (a)(2) para 4

Comment: An allowance should be made for courses run internally by subject matter experts who are not qualified trainers.

Proposed Text (if applicable): "... may provide training through its own training organisation with qualified trainers **or other competent persons,** or through**..."**

comment *874* comment by: *CAA Belgium*

Point 4 should become point 3.

comment *1411* comment by: *Walter Gessky*

GM to AR.GEN.200(a)(2)
Change the following in item 4.

The competent authority of the Member State may provide training through its own training organisation with qualified trainers or through another qualified training source (e.g., training provided by other competent authorities, the Agency or qualified entities).
When no trainings organization is available, adequately experienced persons may act as trainers. For each person an evaluation of personal skills has to been done and individual trainings plan has to be established.
For the training of basic skills and for the special related training a trainings syllabus with trainings hours and an examination plan has to be established.

Justification:
Add independent before training. In this case, the NAA has to establish an independent trainings organisation as part of the management system.
For small NAA`s providing in house training without an officially established independent trainings organisation. Adequately experienced persons may act as trainers, because in small organisations, the experts even not officially qualified as trainers, provide the in house training. Evaluation of skills and a trainings syllabus, examination plan has to be established.
In addition on the job training would not be possible when no trainings organisation and qualified trainers are available.
Add to 4 additional standards when no independent trainings organisation is available..

comment *1498* comment by: *MOT Austria*

GM to AR.GEN.200(a)(2)
Change the following in item 4.
The competent authority of the Member State may provide training through its own training organisation with qualified trainers or through another qualified training source (e.g., training provided by other competent authorities, the Agency or qualified entities).
When no trainings organization is available, adequately experienced persons may act as trainers. For each person an evaluation of personal skills has to been done and individual trainings plan has to be established.
For the training of basic skills and for the special related training a trainings syllabus with trainings hours and an examination plan has to be established.

Justification:
Add independent before training. In this case, the NAA has to establish an independent trainings organisation as part of the management system.
For small NAA`s providing in house training without an officially established independent trainings organisation. Adequately experienced persons may act as trainers, because in small organisations, the experts even not officially qualified as trainers, provide the in house training. Evaluation of skills and a trainings syllabus, examination plan has to be established.
In addition on the job training would not be possible when no trainings organisation and qualified trainers are available.
Add to 4 additional standards when no independent trainings organisation is available..

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC to p. 43

AR.GEN.205 Changes in the management system

comment *101* comment by: *DCA Malta*

AMC to AR.GEN.205(1)
-number and qualification of personnel
Define qualification,
Does EASA want to be informed every time a person undergoes a course?

comment *318* comment by: *UK CAA*

Page No:
43

Paragraph No: AMC to AR.GEN.205 (1)

Comment: What constitutes a significant change in number and qualification of personnel? See also UK CAA comment on AR.GEN.205

Proposed Text (if applicable): Suggest that this is more clearly defined.

comment *319* comment by: *UK CAA*

Page No:
43 of 77

Paragraph No: AMC to AR.GEN.205 (1) and (2)

Comment:
This paragraph is not clear in its intent and is overly burdensome on the competent authority. See also UK CAA comment on AR.GEN.205

Justification:
What is meant by 'decision making levels'? Does every change to the structure need to be notified?

A change to the number and qualification of personnel is not significant unless it means that the competent authority is unable to fulfil its obligations. UK CAA Safety Regulation Group consists of over 500 people and the numbers and qualifications of people vary constantly as staff leave and are replaced. The ICAO audit process reviews the qualifications required for the role (via the job description) and the training provided to an individual. This can be reviewed during a standardisation audit rather than constantly transmitted. There may also be data protection laws that prevent a person's personal details, such as qualifications, being transmitted to the Agency.

comment *353* comment by: *Susana Nogueira*

Delete this AMC.

According with proposal for delition of paragraph AR-GEN 205

comment *581* comment by: *CAA-NL*

Comment
The Basic Regulation (Article 24) does not provide a legal basis for the supervision of competent authorities by the Agency.

Text proposal
Delete AMC to AR.GEN.205

comment *731* comment by: *Luftfahrt-Bundesamt*

The flight examiner is only one category of examiner certificates, but the requirement shall be applicable to all pilot-examiner categories. As a result this will also affect the required qualification of inspectors employed by the authority. It will not be a sufficient qualification for an inspector to hold a CPL with MEP rating including IR (and possibly a CRI certificate) to understand and observe training and testing/checking in every case (for instance on HPA/VLJ aeroplane types or multi-pilot types in highly automated and EFIS equipped cockpits/simulators).
In order to provide for a level playing field EASA shall establish minimum qualification requirements and standards for inspector duties with regard to examiners and examiner categories and examiner privileges and examiner performance assessment.

comment *809* comment by: *CAA Belgium*

Proposal: Delete this AMC.

Reason: We propose to delete AR.GE.205.

comment *1169* comment by: *BMVBS (MoT Germany)*

Since the text of AR.GEN.205 goes beyond the authorization of the Basic Regulation, the shall AMC to AR.GEN.205 shall be deleted as well.

Recommended amendment of the text:

~~1. Changes related to the following should be considered significant changes:~~
~~the organisation's structure,~~
~~decision making levels,~~
~~number and qualification of personnel.~~
~~2. The competent authority should provide any further explanation/information requested by the Agency. This might also apply when a change in the regulations takes place and the Agency decides that a specific assessment/monitoring of the competent authorities related to that change is necessary.~~

comment *1413* comment by: *Walter Gessky*

AMC to AR.GEN.205
Delete (1)
Justification:
According to Article 54 of the basic regulation the Agency shall assists the COM in the monitoring of the rule. In case of rule changes, the COM has to advice the Agency to carry out in addition to the scheduled audits additional audits.
The COM and not the Agency is the oversight authority of the MS. This has to

be regulated in (EC) 736/2006.

comment *1500* comment by: *MOT Austria*

AMC to AR.GEN.205
Delete (1)
Justification:
According to Article 54 of the basic regulation the Agency shall assists the COM in the monitoring of the rule. In case of rule changes, the COM has to advice the Agency to carry out in addition to the scheduled audits additional audits.
The COM and not the Agency is the oversight authority of the MS. This has to be regulated in (EC) 736/2006.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC 1 to AR.GEN.220(a) Record-keeping p. 43

comment *146* comment by: *ECA- European Cockpit Association*

Comment (see also comment 147):
Point 2 on sensitive data protection should be transferred into IR.

Justification:
In the same way as for the flight data analysis, data confidentiality is an essential keystone of an efficient management system. In particular, voluntary finding report will work properly only if the reporter is confident in the system. This implies a very high level of regulatory enforcement for this protection.

comment *323* comment by: *UK CAA*

Page No:
43

Paragraph No: AMC2 to AR.GEN.220 (a) Record-keeping

Comment: Not all of the records specified are applicable to all approved organisations.
e.g. Aerodromes and ATM

Proposed Text (if applicable): "Records related to an approved organisation should include, **as appropriate**:"

comment *727* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The technical requirements in item 3 for record-keeping by authorities are different to the corresponding technical requirements for record-keeping by organisations. Some technical or security items are not mentioned in Part-AR, others are not mentioned in Part-OR. This should be harmonised as far as possible.

Proposal:

The technical requirements for record-keeping in Part-AR and Part-OR should

be harmonised.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC 2 to AR.GEN.220(a) Record-keeping p. 43-44

comment *1071* comment by: *Ryanair*

AMC 2 to AR.GEN.220 (a)(3) – Record Keeping
Comment
(3) could be interpreted as the *operators* audit programme.
Proposal
(3) A copy of the competent authority's audit programme listing the dates…..

comment *1073* comment by: *Ryanair*

AMC 2 to AR.GEN.220 (a)(8) – Record Keeping
Comment
Any reference to an 'organisation manual' which insinuates that a standalone document is required must be removed. The information required may be available in a number of documents. Any requirement which introduces duplication must be avoided.
Proposal
(8) Details of the organisation structure of the approved organisation

comment *1490* comment by: *Irish Aviation Authority*

What is meant in (8) by "the organisation manual"? SW 280509

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC 3 to AR.GEN.220(a) Record-keeping p. 44

comment *619* comment by: *CAA-NL*

Comment
It is suggested to add another AMC to address the recordkeeping related to other entities (AMC 2 till AMC 4 may be rearranged).

Text proposal
"AMC 4 to AR.GEN.220(a) Recordkeeping
Records not related to an approved organisation or licences, ratings and certificates should include, as a minimum:
1. oversight records including all inspection records;
2. copies of all relevant correspondence;
3. details of any enforcement actions;
4. any report from other competent authorities."

comment *1409* comment by: *CAA Finland*

Amend. Wording "including all supporting documentation" is not clear

including all supporting documentation **(including als o skill tests , profociency checks and training certificates)**

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 2 - AMC to AR.GEN.220(c) Record-keeping p. 44

comment *877* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

QUESTION
Does "Other competent authorities" mean Competent authorities of any other member states and agency ?

(See comment AR.GEN.030)

Comment
An organization shall be fully aware of the Competent authorities it depends and of the pieces of information about itself exchanged between these Competent authorities
Proposal
To that extend, the frame and conditions of information exchange shall be more explicit. At least shall be clearly defined by the regulation :
- The Competent authority and its areas of privileges, in terms of geographic areas, areas of competencies, etc.
- The concerned Competent authorities
Justification
Transparency

****

Disclaimer :
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The fact this article is commented SHALL NOT BE considered as an acceptance or an acknowledgement of the proposed associated regulation, as a whole or of any part of it.
FNAM has requested a delay for commenting and proposed to EASA to settle meanwhile a common and constructive approach between the Agency, the NAAs and the industry in order to identify and discuss the issues of the proposed regulation. This comment SHALL BE considered as (and only as) the first step of key issues identification.
This disclaimer has to be considered as an integrative part of the following comment.

comment *1416* comment by: *Walter Gessky*

AMC to AR.GEN.220(c)
Delete this here.
Justification:
Art 15 is regulating the information ntework. When guidance is needed on this subject than this has to be GM to Art 15 of the Basic Regulation.

comment *1501* comment by: *MOT Austria*

AMC to AR.GEN.220(c)
Delete this here.
Justification:
Art 15 is regulating the information ntework. When guidance is needed on this subject than this has to be GM to Art 15 of the Basic Regulation.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 p. 45

comment *44* comment by: *George Knight*

This whole section on Certification, Oversight and Enforcement may well be appropriate to commercial ATOs training students for professional licences. However, the proposals are excessive and inappropriate for small flying clubs and gliding clubs in many respects.

It is assumed by the proposals that ATOs are relatively large organisations employing significant numbers of staff with well-defined roles, and have a support staff in addition to those members of staff actually conducting training. In small clubs this is not the reality. The majority of gliding clubs do not have any paid staff – volunteers from within the membership carry out all the work from cutting the grass to flight instruction. The instructors are usually amateurs performing the activity without receiving any form of payment. The same is true to a great extent of microlight, SLMG, TMG and SEP training organisations.

The unpaid roles within a club are usually positions to which appropriately qualified members are elected and carry out for periods of one year at a time before they come up for re-election. This model has worked well for many years and has resulted in well-trained, safe pilots.

The proposals in this section need a complete review to separate out the requirements for commercial ATOs training pilots for professional licences and those training pilots for what is essentially recreational and leisure flying. There is a significant risk that the onerous proposals in this NPA will kill-off a very large number of gliding, microlight and power flying clubs because it will be neither economic to continue nor possible to find volunteers willing to spend the amount of time necessary to meet EASA's inappropriate standards.

More specific suggestions are made under each AMC in this section.

comment *193* comment by: *DGAC FRANCE*

AMC to AR.GEN.300(a), AR.GEN.305, AR.GEN.310(a), AR. GEN.330

The specific AMCs should be included in the specific parts of the text
For example, AMC to AR.GEN.300(a), AR.GEN.305, the paragraph 3 of AMC to AR.GEN.330 dealing with ATO shoud be deleted from PART GEN and be integrated in PART ATO

AMC TO AR.GEN.310 (a) dealing with OPS should be inserted in PART OPS

comment *324* comment by: *UK CAA*

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45 of 77

Paragraph No: Section 3 Certification, Oversight and Enforcement: AMCs

Comment:
Throughout this section the terms inspection and audit are used interchangeably and do not always match with the term used in the rule (see also UK CAA comment to AR.GEN.300.)

Justification: Clarity and consistency of terms required.

Proposed Text (if applicable):
Determine the meaning and difference between audit and inspection (if any). Review all instances of 'audit' and 'inspection' throughout Part-AR and its AMC, and change the text accordingly.

comment *354* comment by: *Susana Nogueira*

Only general itens should be mentioned in this section. The elements refered to ATO or OPS should be moved to the appropriate sections

comment *689* comment by: *Irish Aviation Authority*

The paragraphs in this section which refer only to ATO should be transferred to SUBPART ATO, and re-named for example AMC to AR.ATO.105. This refers to:
AMC to AR.GEN.300(a) Continuing oversight - ATO,
AMC 1 to AR.GEN.305 Monitoring of activities - ATO,
AMC 2 to AR.GEN.305 Monitoring of activities - ATO,
and GM to AR.GEN.330 Changes - ATO .

If these sections are not specific only to ATO's then the ATO note should be removed.

DCr 220509

comment *843* comment by: *CAA Belgium*

Only AMC.GEN.330 & 340 are general, all other paragraphs are related to ATO or OPS.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC to AR.GEN.300(a) Continuing oversight - ATO p. 45

comment *45* comment by: *George Knight*

(3)
For small organisations teaching for non-professional licences only the inspection should be limited to evidence that:
The organisation ensures that all instructors have valid licenses, ratings and medicals.
The aircraft used are maintained to the relevant standard and insured in accordance with statutory requirements
The facilities, including premises and airfields, are appropriate for the training

undertaken.
That training is conducted to a recognised published syllabus.

It is not appropriate to focus on the following:

- Evidence of funding. Many of these clubs are charities and have no funding other than the members subscriptions and flying charges. Many, especially gliding clubs, make no charges for training.
- Detailed management structure. Typically a club will have a committee formed from the elected members as laid out in the club's constitution. Apart from Chairman, Treasurer and Secretary there will typically be a Chief Flying Instructor and Chief Tug Pilot. The other members of the committee will take responsibility for different tasks as agreed at committee meetings. Only the CFI (as a flying Instructor) and CTP (as a PPL holder) will be guaranteed to hold a relevant qualification in flying.
- Staff – adequacy of numbers. If a club does not provide an appropriate level of service to its membership it will loose members and, ultimately close. It is not appropriate for a regulator to determine what staffing levels a club should have.
- Training aircraft are subject to change and may not be owned or operated by the club using them. Sometimes clubs will hire-in aircraft to meet short term requirements, or to give members a different experience. For example the British Gliding Association owns a high performance 'Duo Disus X' that is hired out to clubs for a week at a time to give a different experience. The maintenance records will normally be retained by the owners who will also manage any maintenance whilst the aircraft is out on hire.

comment *119* comment by: *Aero-Club of Switzerland*

We think that the competent authority has in no way to deal with the evidence of sufficient funding as the paragraph proposes in 3., 4th alinea. The market shall do this.

What will be the benchmarks to be considered? What specialists within a competent authority will judge whether a funding is sufficient or not? It is by far better to have good FI and clean aircraft than good book-keepers and immaculate Annual Reports.

Justification: We think, the bandwith between a one-person ATO and a fully professionalised ATO is extremely large, between the applicable national legislation as well.

comment *120* comment by: *Aero-Club of Switzerland*

Also to paragraph 3, alinea 7:
We propose to ask for minimum standard only with regards to the "facilities"

Justification: There are important structural and cultural differences between the 27 + 4 member states of the Agency.

comment *326* comment by: *UK CAA*

Page No:

45

Paragraph No: AMC to AR.GEN.300 etc.

Comment: It is confusing to have ATO specific AMCs within this "general" section of AMC. This comment applies to various AMC relating to OPS as well.

Justification: Clarity

Proposed Text (if applicable): Move any non-general AMC to appropriate sections.

comment *582* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for continuing oversight with respect to ATO to subpart ATO.

Text proposal
None

comment *733* comment by: *Luftfahrt-Bundesamt*

It is not very obvious, to which approval/person /organisation this AMC applies. Regulations which only apply to a certain type of person/organisation should only be included in the relevant Subpart but not in the Subpart "GEN" (please note our comment on AMC to AR.GEN.330).

comment *878* comment by: *Dassault Aviation*

We suggest to add the underlined part "*The inspection should focus on:*
- processes (Change management and standardization)

We also propose to include another dedicated line on staff and modify the previous one as:
- Staff : adequacy of ~~number and~~ qualification -flight instructors-validity of licences and ratings -logbooks;
- Staff : Evidence of adequacy of number of instructors and other personnel to assume instructional, quality management and management tasks

Explanation
Insufficient staffing can result in:

- Lack of instructors: approved syllabus not being respected or overload of instructors leading to a bad quality of training
- Lack of personnel for quality management: course not updated with new capabilities or documentation revisions, non standardization between instructors or Training Centers.

comment *1075* comment by: *Ryanair*

AMC to AR.GEN.300 (a) – Continuing Oversight – ATO

Comment

The statement of 'evidence of sufficient funding" could be interpreted as a requirement for inspectors to review Company accounts in the process of continuing oversight. This falls outside the technical qualifications of the inspector.

Proposal

Evidence that the ATO is sufficiently resourced to achieve ongoing regulatory compliance

comment *1248* comment by: *CAA CZ*

AMC to AR.GEN 300(a), page 45
3. - *Documentation* - „**organization** manual" should be added.

comment *1410* comment by: *CAA Finland*

Amend. On part FCL term "flight instructor" is for FI; general wording is "instructors", Amended wording to cover TRI, MCCI, STI etc.

qualifications – ~~flight~~ instructors

comment *1651* comment by: *FlightSafety International*

Adequate control of the authorities over personnel changes implies interference with company/commercial considerations.
Change wording to "approval of nominations"

To avoid interference by regulatory authorities in company assignments.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC 1 to AR.GEN.305 Monitoring of activities - ATO p. 45

comment *46* comment by: *George Knight*

Small clubs do not have internal compliance monitoring staff. Most gliding clubs do not employ any staff.

comment *327* comment by: *UK CAA*

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Paragraph No: AMC 1 to AR.GEN.305

Comment:
Credit is not 'claimed' by an inspector, it is given.

Justification:
The credit here refers to credit given by a competent authority inspector to the approved organisation for previously conducted audits.

Proposed Text (if applicable):
Credit may be *given* by the competent authority inspector(s)…

comment *505* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Proposal:

First paragraph: Delete "preceding 23 month" and replace by "surveillance"
Delete item 4 (this contradicts the intention as specified above).

comment *583* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for monitoring of activities with respect to ATO to subpart ATO.

Text proposal
None

comment *734* comment by: *Luftfahrt-Bundesamt*

It is not very obvious, to which approval/person /organisation this AMC applies. Regulations which only apply to a certain type of person/organisation should only be included in the relevant Subpart but not in the Subpart "GEN" (please note our comment on AMC to AR.GEN.330).

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC 2 to AR.GEN.305 Monitoring of activities - ATO p. 45-46

comment *328* comment by: *UK CAA*

Page No:
45

Paragraph No: AMC2 to AR.GEN.305

Comment: Reference is made to "recommendation" whereas AR.GEN. 345 refers to Levels 1 and 2. Recommendations may be required and can be useful to an organisation, and so should be defined and included in the requirements.

comment *506* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

Based on the comment to AR.GEN.305(b)(2)(ii) the following change is necessary:

Poposal:

*4. The accountable manager **or head of AeMC** should be seen at least once every 24 months to ensure he/she fully understands the significance of the approval.*

comment *584* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for monitoring of activities with respect to ATO to subpart ATO.

Text proposal
None

comment *735* comment by: *Luftfahrt-Bundesamt*

It is not very obvious, to which approval/person /organisation this AMC applies. Regulations which only apply to a certain type of person/organisation should only be included in the relevant Subpart but not in the Subpart "GEN" (please note our comment on AMC to AR.GEN.330).

comment *1103* comment by: *Ryanair*

SAFETY MANAGER – AMC 2 to AR.GEN.305 – monitoring of activities.
This regulation takes no account of ATOs which are intrinsic to an established airline, which already fully addresses training activities. There is potential for duplication here.

The definition of the safety structure and the role of the Safety Manager is overly prescriptive and could require a complete restructure of Safety Systems that are currently in place and have proven to be effective .

Proposal AMC 2 to AR.GEN.305
2. It is recommended that part of an audit concentrates on two ongoing aspects of the ATO approval, namely the organizations internal self compliance monitoring reports produced by the compliance monitoring personnel to determine if the organization is identifying and correcting its problems and secondly the number of concessions *granted in respect of these findings* .

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC to AR.GEN.310 Certification procedure – organisations p. 46

comment *121* comment by: *Aero-Club of Switzerland*

Para 2: Please indicate within how many days you want the competent authority to have communicated a non-compliance.

Justification: Time is money. A non-compliance shall be communicated in all cases within two weeks.

comment *191* comment by: *DGAC FRANCE*

AMC to AR.GEN.310

Comment :

The paragraph 1 requires what is written yet in AR.GEN.310(b). Thus, it is more restrictive ; it shall be deleted.
The paragraph 2 : The word « modifications » is more appropriate than

« improvements ». Thus, the modifications must be proposed by the organisation, which need to be clarified in paragraph 2.

Modification :

AMC to AR.GEN.310 Certification procedure – organisations

1. ~~The competent authority should only issue an organisation approval certificate when all applicable requirements have been met.~~
2. In case of non-compliance, the applicant should be informed in writing of the ~~improvements~~ **modifications** which are required **from him**.
3. In case an application for an organisation approval is refused, the applicant should be informed of the rights of appeal as exist under national regulations.

comment *329* comment by: *UK CAA*

Page No:
46

Paragraph No: AMC to AR.GEN.310 (1)

Comment: Part 21 allows the granting of an organisation approval with up to three level 2 findings open. This para states full compliance is necessary before granting an approval. If it is intended to ultimately use Part AR for all types of organisation approval this disparity should be resolved.

Justification: Avoid unnecessary additional amendment when other organisation approvals are incorporated into Part AR.

comment *1104* comment by: *Ryanair*

AMC to AR.GEN.310 – Certification procedure – organisations

Comment

The reference to 'national' regulations is redundant in the context of a Common European Standard for Aviation. Any national regulations will require Agency approval and will therefore become a European Standard.

Proposal

In case an application for an organisation approval is refused, the applicant should be informed of the rights of appeal to the Agency

comment *1656* comment by: *Aéro.Sport asbl. Luxembourg*

Our proposal:
The degree of difficulty concerning the theoretical examination varies from one country to another. We also know that the authority even has problems to establish questions for theoretical examination. Therefore, we suggest to add:
(g) The competent authority shall establish, update and publish a catalogue of possible questions.
Remark: to harmonize the examinations, it would even be more appropriate to replace "authority" by "agency".

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC to AR.GEN.310(a) Certification procedure-OPS p. 46

comment *355* comment by: *Susana Nogueira*

(2) change 'shall' by 'should'

This is an AMC not a rule

comment *417* comment by: *Civil Aviation Authority of Norway*

To review the Operations Manual and conduct an inspection at the operator's facilities seems to be inadequate for granting an air operator certificate.
An assessment of safety management system, operational control system and management organisation should also be a part of the approval process.

comment *585* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for certification procedure – organisations with respect to OPS to subpart OPS.

Text proposal
None

comment *736* comment by: *Luftfahrt-Bundesamt*

It is not very obvious, to which approval/person /organisation this AMC applies. Regulations which only apply to a certain type of person/organisation should only be included in the relevant Subpart but not in the Subpart "GEN" (please note our comment on AMC to AR.GEN.330).

Regarding AMC to AR.GEN.310(a) No. 2, it is requested to reword the second sentence. The word 'shall' does not seem appropriate for an AMC. Furthermore, a demonstration flight during the certification process for an AOC is not necessary and not used / not known in Germany. With regard to approximately 180 AOC holders in Germany demonstration flights do not seem feasible, and the safety aspects of demonstration flights appear to be doubtful.

comment *770* comment by: *Irish Aviation Authority*

In this AMC, the phrase ' shall conduct an inspection ' is used in 2. Either the word 'shall' should be changed to 'should' or this sentence should be moved to the rule.

DCr250509

comment *1105* comment by: *Ryanair*

AMC to AR.GEN.310 (a) – Certification Procedure – Ops

Comment

This AMC is excessively restrictive other than for the initial application for an Air Operator Certificate. The current wording could be interpreted as applying to AOC variations and renewals.

Proposal

Upon receipt of the *initial* application for an air operator certificate authority the Competent Authority should:

comment *1250* comment by: *CAA CZ*

AMC to AR.GEN 310(a), page 46
2. We would like to change „shall"into „should".

comment *1657* comment by: *Aéro.Sport asbl. Luxembourg*

Knowing that in the past the analysis of an application by the authority took several years, we suggest to add:
3. the authority shall advise in writing an applicant for an ATO within a delay of maximum six months, whether his application is subject to improvements, approval or refusal.

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC to AR.GEN.330 Changes - organisations p. 47

comment *50* comment by: *George Knight*

Realistically there should not be a need for a small training organisation to have an organisation manual. The organisation is the clubs elected officers and the club's committee and members. At most it need only be a list of roles within the club's committee and the responsibilities of each role. It should not be necessary to list the names of the people performing each role or seek prior approval to a change.

If prior approval is needed this would have the effect of closing clubs down for a period starting after at Annual General Meeting when officers and committee members are elected, through the first committee meeting when roles are allocated to members and then the delay whilst the regulatory authority in effect decides if the election of officers at the club's AGM is to be allowed to stand. This is an entirely inappropriate way for a regulatory authority to act and somewhat anti-democratic.

(1) 1. For small organisations, especially clubs, the club will have roles that are filled by volunteers. If not instructing for professional licences the regulatory authority does not need to know the names of actual individuals only the roles within the club's committee that has each responsibility. It should not need any changes to any manuals if the individual performing the named role changes.

comment *192* comment by: *DGAC FRANCE*

AMC to AR.GEN.330

Comment :

1) 1)« will » is not necessary.
2) 2)Paragraph 3 of AMC AR.GEN.330 : this paragraph deals with ATO. It must be removed of PART GEN and be in PART ATO wich is specific.
3) 3)The first part of this paragraph has not is place in AR because it deals with OR concerns ; it should be writtent as following : The organisation should submit each manual amendment to the competent authority whether it is an amendment for competent authority approval or not.

Write the paragraph 4 as proposed. The follow up of the procedure allows the authority to be informed.

Modification :

AMC to AR.GEN.330 Changes - organisations
1. Changes in nominated persons. The competent authority should have adequate control over any changes to personnel specified in Part OR. Such changes ~~will~~ require an amendment to the manual.
2. It is recommended that a simple manual status sheet should be maintained which contains information on when an amendment was received by the competent authority and when it was approved.
~~3. The competent authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.~~
4. ~~The organisation should submit each manual amendment to the competent authority whether it is an amendment for competent authority approval or an indirectly approved amendment.~~ Where ~~the~~ **a manual** amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. Where ~~the~~ **a manual** amendment has been submitted under the indirect approval procedure, the competent authority should **be statisfied that the procedure has been properly applied** ~~acknowledge receipt in writing~~.

comment *388* comment by: *Egon Schmaus*

AMC to AR.GEN.330 Changes - organisations

item 4. … Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing. .... except where competent authority and ATO use a shared database.

Reason:
The regulation does not consider the use of a shared database.
Both Organization and competent authority can agree on the use of a shared database. Changes recorded in the database are immediately available to all parties. Acknowledgements are not necessary in this case. This procedure has been implemented with great success between the umbrella ATOs in Germany and the competent authority.

comment *586* comment by: *CAA-NL*

Comment
In paragraph 3 “ATO” should be replaced by “organisation”

Text proposal
"3. The competent authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the organisation manual."

comment *702* comment by: *Boeing*

AMC to AR.GEN 330
Para 1.
Page 47

CONCERN: Adequate control of the authorities over personnel changes implies interference with company/commercial considerations.

REQUESTED CHANGE: Change the text to refer to *"approval of nominations."*

JUSTIFICATION: To avoid interference by regulatory authorities in company assignments.

comment *737* comment by: *Luftfahrt-Bundesamt*

It is not very obvious, to which approval/person /organisation this AMC applies. It is titled "changes organisation" and includes some general statements (Paragraph 1 and 2) but also some statements limited to ATOs. This system might cause difficulties. Regulations which only apply to a certain type of person/organisation should only be included in the relevant Subpart but not in the Subpart "GEN".

comment *771* comment by: *Irish Aviation Authority*

NPA 22(b) AMC to AR Gen .330 - What is the indirect approval process?

Also, This AMC is labelled 'organisations' but under 3. the ATO manual is singled out. Is this intentional or should this refer to the 'organisation manual'?

comment *831* comment by: *AEA*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *832* comment by: *AEA*

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment

Comment:
There should not be a requirement to submit non-mandatory information.
Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide. Proposal: The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.~~

comment *1024* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *1025* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment
Comment:
There should not be a requirement to submit non-mandatory information.
Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write "provide":
"The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing."~~

comment *1055* comment by: *TAP Portugal*

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC to AR.GEN.330 Changes - organisations

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *1057* comment by: *TAP Portugal*

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - AMC to AR.GEN.330 Changes - organisations

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment

Comment:
There should not be a requirement to submit non-mandatory information.

Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide. Proposal: The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.~~

comment *1099* comment by: *KLM*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *1101* comment by: *KLM*

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment
Comment:
There should not be a requirement to submit non-mandatory information.
Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide. Proposal: The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.~~

comment *1110* comment by: *Virgin Atlantic Airways*

Relevant Text:

(3) The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.

Comment:
Does this part of the AMC only relates to ATO's?

Proposal:

Clarification required

comment *1112* comment by: *Ryanair*

AMC to AR.GEN.330 – Changes – Organisation

Comment

Item 4 makes no reference to the time line that an operator can expect to receive an approval from the competent authority

Proposal

4. "…..Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing within 1 month"
"Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing within 7 days"

comment *1113* comment by: *Virgin Atlantic Airways*

Relevant Text:
(4) The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment.

Comment:

There should not be a requirement to submit non-mandatory information.

Proposal:

Instead of using the word "submit" which could be construed as implying that an approval being sought, it would be better instead to substitute this for the word "provide":

The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment.~~

Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the~~

~~competent authority should acknowledge receipt in writing.~~

comment *1124* comment by: *Deutsche Lufthansa AG*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relate to ATOs?
Proposal:
Clarification needed

comment *1125* comment by: *Deutsche Lufthansa AG*

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment
Comment:
There should not be a requirement to submit non-mandatory information.
Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write "provide": "The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing."~~

comment *1283* comment by: *Baden-Württembergischer Luftfahrtverband*

AMC toAR.GEN.330
Wording in the NPA
4. … Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.

Our proposal
Change:
4. … Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing except where competent authority and ATO use a shared database.

Issue with current wording
The regulation does not consider the use of a shared database. In this case the acknowledgement is not necessary and would create unnecessary additional work and may then also result in a fee which should be avoided.

Rationale
Organization and competent authority can agree on the use of a shared database. Changes recorded in the database are immediately available to all parties. Acknowledgements are not necessary in this case. This procedure has been implemented with great success between the umbrella ATOs in Germany and the competent authority.

comment *1299* comment by: *AIR FRANCE*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *1300* comment by: *AIR FRANCE*

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment
Comment:
There should not be a requirement to submit non-mandatory information.
Proposal:
The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.~~

comment *1326* comment by: *International Air Transport Association (IATA)*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment:
Does this part of the AMC only relates to ATOs?
Proposal:
Clarification needed

comment *1327* comment by: *International Air Transport Association (IATA)*

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment
Comment:
There should not be a requirement to submit non-mandatory information.
Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide. Proposal: The organisation should ~~submit~~ ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or ***not*** ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing.

~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.~~

comment *1412* comment by: *CAA Finland*

Amend. Based on my previous comment for standard form for organisation this text needs harmonization with that.

should indicate acceptance ~~in writing~~ **on attachment page of appr oval** to the ATO

comment *1503* comment by: *CAE*

AMC to AR.330 (1) Page 47

Adequate control of the authorities over personnel changes implies interference with company/commercial considerations. Change wording to "approval of nominations"

This will avoid interference by regulatory authorities in company assignments.

comment *1551* comment by: *ERA*

There should not be a requirement to submit non mandatory information.
Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide.

comment *1552* comment by: *TNT Airways*

4. The organisation should submit each manual amendment to the competent authority
whether it is an amendment for competent authority approval or an indirectly approved
amendment. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.

Comment:
Replace 'submit' by 'provide' that can be better understood that no approval is required in all cases.
A time frame should be defined to get answer from the competent authority.

comment *1585* comment by: *Icelandair*

Relevant Text:
3 The Competent Authority should define the class of amendments to the manual which may be incorporated through indirect approval. In this case a procedure should be stated in the amendment section of the ATO manual.
Comment
:
Does this part of the AMC only relates to ATOs?
Proposal
:

comment *1586* comment by: *Icelandair*

Relevant Text:
4. The organization should submit each manual
amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment
Comment
There should not be a requirement to submit nonmandatory information
Proposal:
Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide.
Proposal: The organisation should ***provide*** each manual amendment to the competent authority whether it is an amendment for competent authority approval or
not .
Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing.

comment *1622* comment by: *Deutscher Aero Club Landesverband Niedersachsen*

Wording in the NPA
4. … Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.

Our proposal
Change:
4. … Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing except where competent authority and ATO use a shared database.

Issue with current wording
The regulation does not consider the use of a shared database.

Rationale
Organization and competent authority can agree on the use of a shared database. Changes recorded in the database are immediately available to all parties. Acknowledgements are not necessary in this case. This procedure has been implemented with great success between the umbrella ATOs in Germany and the competent authority.

comment *1658* comment by: *CB*

Having reviewed the enclosed in detail, bmibaby (AOC GB.2244) concurs with the comments of the AEA.

Relevant Text:
4. The organization should submit each manual amendment to the competent Authority whether it is an amendment for competent Authority approval or an indirect approved amendment

Comment:
There should not be a requirement to submit non-mandatory information.

Proposal:

Instead of the word "submit" which may be understood as an approval sought, it would be better to write provide.
Proposal: The organisation should ~~submit~~ *provide* each manual amendment to the competent authority whether it is an amendment for competent authority approval or *not* ~~an indirectly approved amendment~~. Where the amendment requires competent authority approval, the competent authority when satisfied, should indicate its approval in writing. ~~Where the amendment has been submitted under the indirect approval procedure, the competent authority should acknowledge receipt in writing.~~

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - GM to AR.GEN.330 Changes - ATO p. 47

comment *51* comment by: *George Knight*

As commented under AMC to AR.GEN.330 most of what is proposed in this section is entirely inappropriate to small organisations training for recreational licences and non-professional licences. It makes assumptions about organisations that are false for small clubs.

comment *331* comment by: *UK CAA*

Page No:
47

Paragraph No: GM to AR.GEN.330 Changes –ATO Para 2

Comment: The test set by the GM to determine if the competent authority should investigate a name change requires evidence to be obtained before an investigation is conducted into a change of trading name.

Justification: A more reasonable test should be set, as *evidence* (proof) may not initially be available to decide if an investigation is required.

Proposed Text (if applicable): 2. …, unless there is reason to believe that other aspects of the organisation have changed.

comment *587* comment by: *CAA-NL*

Comment
It is suggested to transfer specific GM for changes – organisations with respect to ATO to subpart ATO.

Text proposal
None

comment *1609* comment by: *Oxford Aviation Academy*

Propose deletion of item 7 or rewording to make it clearer what a partial re-organisation is. How can a competent Authority decide what constitutes a partial re-organisation?

B. Draft Rules - II. Draft Decision Part-AR - Subpart GEN - Section 3 - GM to p. 47

AR.GEN.340 Declaration

comment *148* comment by: *ECA- European Cockpit Association*

Comment: change text as follows:
The verification made by the authority upon receipt of a declaration ~~**does not imply any inspection**~~ **implies no inspection in most cases**. The aim is to check whether what is declared complies with applicable regulations. **Inspections may be per formed if c onsidered necess ary by the competent authority.**

Justification:
It is not acceptable to curtail the authority's privileges of performing inspections, in any sector of its competence.

comment *1170* comment by: *BMVBS (MoT Germany)*

Above it was mentioned that the term verification does not conform to the standards of legal certainty (See comment to AR.GEN.340). Therefore, it was recommended to transfer the definition from the Guidance Material into the rule. Consequently, the GM to AR.GEN.340 shall be deleted in order to avoid repetitions.

Recommended amendment of the text:

~~The verification made by the authority upon receipt of a declaration does not imply any inspection. The aim is to check whether what is declared complies with applicable regulations.~~

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 p. 49

comment *1510* □ comment by: *Airbus*

General comment on Subpart ATO and related AMC/GM:
NPA 2009-01, on Operational Suitability Certificate, proposes a requirement for OEMs, under Part 21 Subpart C, to provide the "data" to support simulator qualification. If this requirement is adopted, the requirements for simulator qualification in Subpart ATO should refer, where appropriate, to the set of data issued under the operational suitability certificate.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 1 to AR.ATO.200(a)(1) Initial evaluation procedure p. 49-50

comment *333* comment by: *UK CAA*

Page No:
49 of 77

Paragraph No: AMC 1 to AR.ATO.200 (a)(1) Para 2a

Comment:
Text change proposed to paragraph 2a, line 1 as shown below.

Justification:
Editorial error

Proposed Text (if applicable):
Amend paragraph 2a of AMC 1 to AR.ATO.200 (a)(1) (amendment in *italic/underline*)

a. Once a FTSD is contracted to be built, the ATO *who is to operate the FSTD* has the…… (rest remains unchanged)

comment *334* comment by: *UK CAA*

Page No:
49 of 77

Paragraph No: AMC 1 to AR.ATO.200 (a)(1) Para 2b

Comment:
Paragraph 2b needs amending to show that the QTG must be submitted a minimum of 30 days before the date of the intended evaluation (not 21 as currently annotated).

Justification:
See AMC to OR.ATO.350 which defines part A and B of the application form (page 74 of 83) which clearly shows a 30 day period. 30 days is also the period expected in JAR FSTD upon which these requirements have been based and is understood and accepted by industry. Given the content and work required on a QTG in advance of an evaluation, a reduction to 21 days is impractical.

Proposed Text (if applicable):
Proposed text of paragraph 2b to AMC 1 to AR.ATO.200 (a)(1) (amendment shown in ***italic/underline*****)**

b. A written application for a FSTD evaluation should be submitted, in a format acceptable to the competent authority, at least 3 months before the date of intended operation except that the Qualification Test Guide may be submitted later, but not less than ***30*** days before the date of intended evaluation. The application form should be printed in language(s) of the competent authority's choosing.

comment *338* comment by: *UK CAA*

Page No:
49 of 77

Paragraph No: AMC 1 to AR.ATO.200 (a)(1) Para 2f

Comment:

Paragraph 2f refers to the issue of a temporary qualification. The rule itself makes no mention of such a qualification or how to issue it. Currently, temporary qualifications are issued at an evaluation to allow a FSTD to go into service while the formal qualification certificate is being prepared. This also

allows time for any major issue to be addressed before release of the final certificate (e.g. removing restrictions) and for the work of the TI and FI to be "standardised" by their management before final issue. In addition, there may be a need at a recurrent evaluation to immediately add a restriction. A temporary certificate will enable this to be done quickly. Propose adding AMC to Paragraph AR.ATO.210 Issue of a FSTD Qualification Certificate.

Justification:
It is important to retain the process of temporary certificates for pragmatic reasons and to allow entry into training while issues are being addressed (with any appropriate restrictions).

Proposed Text (if applicable):
Propose new AMC to AR.ATO.210

A temporary qualification certificate, valid for a period not exceeding 60 days may be issued to permit final review and production of the Evaluation report, where applicable, and the Qualification Certificate. A temporary certificate may be issued in a format defined by the competent authority.

comment *339* comment by: *UK CAA*

Page No:
49 of 77

Paragraph No: AMC 1 to AR.ATO.200 (a)(1) Para 2g

Comment:

Incorrect reference to "sub-paragraph b". This should be to "sub-paragraph c".

Justification:
Editorial correction

Proposed Text (if applicable):

Change reference to sub-paragraph c in last line of paragraph 2g.

comment *603* comment by: *ALSIM Simulateurs*

Proposed text:

(b) A written application for a FSTD evaluation should be submitted, in a format acceptable to the competent authority, at least 3 months before the date of intended operation except that the Qualification Test Guide may be submitted later, but not less than 21 days before the date of intended evaluation. The application form should be printed in language(s) of the competent authority's choosing.

The comptent Authority should inform the applicant of a date for the evaluation within 14 days after reception of the letter of application. In every case, the lead time between the application and the evaluation shall not exceed 5 months.
In the interim, in the case of a type of an FNPT or BITD which has already been subject to a previous approval by an EASA member state competent Authority,

a mutual acceptance procedure shall be asserted and a temporary certificate shall be released.

Comment:

Due to workload, some National Aviation Authorities may have a very important lead time between the application and the evaluation. Some of our European operators can wait one year or more before being offered an initial meeting for a qualification evaluation, for products which are in volume production, without being granted a temporary certificate. This situation places Operators in a very awkward financial position as it delays their ability to obtain a return on their investment.
In order to relax the qualification process for lower level of devices (FNPT & BITD), a mutual acceptance in European regulatory shall be implemented.

response

Noted

- See response to comment 334 above (text changed from 21 days to 30 days).
- The scheduling of evaluation dates has to be agreed between the applicant and the competent authority in a reasonable time scale.
- The mutual acceptance of FNPT qualifications does not replace the qualification of each single device..

comment *1495* comment by: *Irish Aviation Authority*

Para 2(a) - delete the word 'operator' from 1st line SW 280509

comment *1596* comment by: *CAE*

Paragraph 2b. - We recommend that the application is printed in English and languages of the competent authority's choosing.

comment *1652* comment by: *FlightSafety International*

Simulator evaluation is possibly done by qualified experts that have no experience in Crew Training, and therefore are not in a position to judge whether "serious defects" influence training delivery.
Change to allow an ATO with an approved Quality System to possibly continue training, testing and checking with inoperative equipment with an approved simulator component inoperative guide applicable to the malfunction (NOTAM to Instructors).

Use of "aircraft/simulator MELs" to determine level of restriction to training, testing and checking.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 2 to AR.ATO.200(a)(1) Initial evaluation procedure p. 50

comment *342* comment by: *UK CAA*

Page No:
50 of 77

Paragraph No: AMC 2 to AR.ATO.200(a) (1)

Comment:
The competent authority should sample the objective and subjective tests during the initial and recurrent FSTD evaluations but there is no guidance as to how many tests should be conducted.

Justification:
Without some guidance there is the possibility that some competent authorities will attempt to run all the tests. This is unnecessary (particularly at the recurrent evaluation), time consuming and an inefficient and ineffective use of resources for both the competent authority and the FSTD Operator.

Proposed Text (if applicable):

Amend AMC 2 to AR.ATO.200(a) (1) to read (deletions are ~~struck through~~ and amendments in *italics and underlined*.

During initial and recurrent FSTD evaluations it should be necessary for the competent authority to conduct *an appropriate sample* of the Objective and Subjective tests in Part OR Subpart ATO, and detailed in CS-FSTD(A) and CS-FSTD(H). There ~~should~~ *may* be occasions when all the tests cannot be completed – for example during recurrent evaluations on a convertible FSTD – but arrangements should be made for all the tests to be completed within a reasonable time.

comment *343* comment by: *UK CAA*

Page No:
50 of 77

Paragraph No: AMC 2 to AR.ATO.200 (a)(1) Para 3

Comment:

Paragraph 3 refers to the use of the evaluation report format in AMC 5 for a full flight simulator. The form is only applicable to FSTD simulating aeroplane configurations (rotorcraft have other elements). What form of evaluation report is to be used for FTD and FNPT (aeroplanes and Helicopters)?

Propose amend AMC 5 to be multi use, or provide additional AMC defining report templates for other classes and types of device.

Justification:
Clarification and completeness

Proposed Text (if applicable):
EASA to determine best means of providing appropriate templates.

comment *434* comment by: *Thales Training & Simulation*

AMC 2 to AR.ATO.200(a)(1) Initial evaluation procedure

The text in paragraph 1. "There **should** be occasions when all tests cannot be completed"

Should read "There **could** be occasions when all tests cannot be completed"

comment *604* comment by: *ALSIM Simulateurs*

Proposed text:

2.Following an evaluation, it is possible that a number of defects may be identified.
Generally, these defects should be rectified.
~~and the competent authority notified of such action.~~ The Operator should answer to his Authority evaluation report regarding most important defects within ~~30~~ 60 days.
Some identified defects may be due to an inappropriate use of the device and/or a wrong interpretation during the evaluation. In this case, the Operator is allowed to submitt a rational to clarify the misunderstanding.
Serious defects, which affect flight crew training, testing and checking, could result in an immediate downgrading of the Qualification Level, or if any defect remains unattended without clarification ~~good reason for period greater than 30 days~~, subsequent downgrading may occur or the FSTD Qualification could be revoked. However, if the identified serious defect is subject to be challenged, an appeal process should be possible with independent competent expert or third EASA member state Authority before dowgrading or revoking the qualification level.
In the interim, an FSTD temporary certificate shall be released unless a duly legitimate serious defect induces a clearly identified negative training.

Comment:

Most of the time, fixing defects lasts more time than 30 days. Any defect has to be identified, analysed and deeply studied before being implemented. A serious development scheme implies to have the time for regression testing. This cannot be conducted with efficiency within only 30 days.
An acceptable process would be to advise the Authority of a schedule and intentions within 60 days and to have sufficient time to develop and to implement the update if necessary. The time needed is determined by the Operator and/or the Manufacturer depending of the amount of development required. Requiring an arbitrary lead-time for corrective action, working in all cases, makes no sense.
Raising an issue can result of bad knowledge of the FSTD or inappropriate use. This can happen if the Authority's evaluation team is not familiarized with the operation of the device. A clarification/rational may be sufficient to clarify the misunderstanding and to avoid useless development.
The use of the phrase "*Unacceptable-Serious defect* ", which holds up qualification and prevents operators from using their operational equipment, must be regarded as a serious issue and therefore used in a restrained and extremely well-targeted manner.
Experience has shown that certain European Authorities have sent qualification reports to Operators which contain "Unacceptable-Serious defect" regarding small issues on documentation which is clearly abuse. Does it make sense to revoke a qualification for that reason?

comment *703* comment by: *Boeing*

AMC 2 to AR.ATO.200 (a)(1)
Para 2.

Page 50

CONCERN: In accordance with the text, simulator evaluation could possibly be done by qualified experts that have no experience in crew training and, therefore, are not in a position to judge whether "serious defects" influence training delivery.

REQUESTED CHANGE: Change the text to allow an ATO with an approved Quality System to continue training, testing, and checking with inoperative equipment, with an approved Simulator Component Inoperative Guide applicable to the malfunction (NOTAM to Instructors).

JUSTIFICATION: The use of "aircraft/simulator MELs" to determine the level of restriction to training, testing, and checking should be permitted.

comment *784* comment by: *Irish Aviation Authority*

The title of this is: 'Initial evaluation procedure', but in 1. it refers to 'recurrent' evaluations.

Suggest that this title is removed as the second title: 'GENERAL' is more appropriate.

DCr 250509

comment *1507* comment by: *CAE*

AMC 2 to AR.ATO200 (a)(1)(2) Page 50

Simulator evaluation is done by qualified experts that might have no experience in Crew Training and therefore are not in a position to judge whether "serious defects" influence training delivery.

Change to allow an ATO with an approved Quality System to continue training, testing and checking with inoperative equipment with an approved simulator component inoperative guide (aircraft/simulator MEL) applicable to the malfunction.

The MEL will determine the level of restriction to training, testing and checking.

comment *1597* comment by: *CAE*

Paragraph 1. - add "as applicable" immediately after CS-FSTD(H)

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 3 to AR.ATO.200(a)(1) Initial evaluation procedure p. 50

comment *435* comment by: *Thales Training & Simulation*

AMC 3 to AR.ATO.200(a)(1) Initial evaluation procedure
INITIAL EVALUATION
1. Objective Testing is centred around the Qualification Test Guide (QTG). Before testing can begin on an initial evaluation, the acceptability of the validation tests contained in the QTG should be agreed with the competent

authority well in advance of the evaluation date to ensure that the FSTD time, especially devoted to the running of some of the tests by the competent authority, is not wasted. The acceptability of all tests depends upon their content, accuracy, completeness and recency of the results.

This section should address the need for Automatic and Manual Testing when conducting Objective QTG tests.

Suggest that the sentence:

Before testing can begin on an initial evaluation, the acceptability of the validation tests contained in the QTG should be agreed with the competent authority well in advance of the evaluation date to ensure that the FSTD time, especially devoted to the running of some of the tests by the competent authority, is not wasted.

Should be replaced by:

Well in advance of the evaluation date the airframe manufacturer and the competent authority should agree the content and acceptability of the validation tests contained in the QTG data pack. This will ensure that the content of the QTG is acceptable to the competent authority and avoid time being wasted during the initial approval.

comment *436* comment by: *Thales Training & Simulation*

AMC 3 to AR.ATO.200(a)(1) Initial evaluation procedure
INITIAL EVALUATION

It is suggested that this section should be relocated to AR.ATO.200(a)(3) which deals with both Objective testing and Functions and Subjective testing. The document is its current form is inconsistent as it separates Objective and Functions and Subjective testing. It currently implies that Functions and Subjective testing is unnecessary for the initial Evaluation with the delivery of the QTG prior to the evaluation.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 4 to AR.ATO.200(a)(1) Initial evaluation procedure p. 50-51

comment *4* comment by: *MVA*

para 1.b.i and 1.b.ii: text in brackets shall read „..... (or for BITD and FNPT, class rated on the class of aeroplane) ....". Reason: A FNPT, similar as a BITD, is a generic and not a type specific device.

comment *53* comment by: *STK*

AMC 4 to AR.ATO.200 (a) 1 (page 51)

"1-b ii
A flight inspector of the competent authority who is qualified in flight crew training procedures assisted by a qualified **Type rating Instructor/Synthetic Fligt inst ructor/Class rating i nstructor**, holding a valid **type rating or class rating** on the aeroplane/helicopter being simulated.

The reason for this change is for simualtor that are type specific TRI/SFI for simualtor that are non type specific CRI

comment *265* comment by: *UK CAA*

Page:
13, **51**

Paragraph No: AR.ATO.200 (a) and associated AMC material.

Comment:

Paragraph AR.ATO.200 (a) does not include a requirement for the competent authority to satisfy itself, through subjective testing, that the simulator accurately represents the aircraft during all normal and abnormal operations and under adverse operating conditions, e.g. sudden engine failure during take-off. This is seen as a deficiency in the requirements which could lead to a reduction in safety by allowing simulators to be approved to a level of fidelity which is less than optimum.

Justification:

The UK CAA has considerable experience in conducting initial simulator evaluations and routinely uses authority test pilots and flight test engineers as part of the evaluation team. From this involvement, the UK CAA has found that many simulators, despite appearing to match QTG data, often do not behave like the aircraft during normal and abnormal operations and under adverse operating conditions. Furthermore, the flight test team often uncover errors in the implementation of aerodynamic and control law modelling. Examples include, but are not limited to, the following:

1. Sudden engine failure during take off (above and below V1)
2. Mis-trimmed take-offs
3. Aircraft behaviour in crosswind
4. General aircraft handling within and at the edges of the normal flight envelope
5. Stall handling characteristics
6. Effect of CG variation
7. Performance on wet and contaminated runways

The consequence of a simulator not representing the aircraft in any of the above examples is that crews could be trained to respond incorrectly under adverse operating conditions and, what would appear to be the correct control input in the simulator, could be entirely inappropriate in the aircraft and could result in a hazardous or catastrophic situation.

UK CAA has proved that inputs from an experienced flight test team, can greatly enhance the fidelity of a synthetic training device and can identify potential safety issues which may go undetected by an evaluation team such as that proposed in AMC 4 to AR.ATO.200 (a)(1) of this NPA. This is because the FSTD inspector or flight inspector are unlikely to have the relevant certification flight test background and will be unfamiliar with the types of test techniques involved. In CAA's experience, the flight test evaluation can normally be accommodated within the 3-day timescale suggested in AMC 3 to AR.ATO.200(a)(1).

With more and more reliance being placed on the use of simulators in today's training environment, and the potential for unrepresentative devices to result in 'negative training' issues as discussed above, UK CAA strongly recommends the involvement of flight test teams in the initial simulator evaluation process in order to maintain safety levels.

In order to minimise the regulatory burden, it is recommended that flight test team involvement is limited to FSTDs which represent new aircraft types for each different simulator manufacturer or which have new motion or visual system technology that has not been previously evaluated, or any other technology which has not been previously modelled or assessed.

Proposed Text :

1. Add new sub-paragraphs (4) and (5) to AR.ATO.200 (a) as follows:

The competent authority shall:

(4) for FSTDs representing a new aircraft type for a simulator manufacturer or which have new motion or visual system technology that has not been previously evaluated, or any other technology which has not been previously modelled or assessed, satisfy itself, by conducting testing using a flight test team, that the FSTD accurately represents the aircraft during normal and abnormal operations and under adverse operating conditions as identified in AMC 1 to AR.ATO.200(a)(4).

(5) where appropriate, for FSTDs falling outside the criteria specified in (4) above, call upon a flight test team to participate in the initial evaluation.

2. Add new AMC 1 to AR.ATO.200(a)(4) as follows:

AMC 1 to AR.ATO.200(a)(4) Initial evaluation procedure
FLIGHT TEST EVALUATION

The flight test evaluation should be conducted by a flight test team as defined in AMC 4 to AR.ATO.200(a)(1) paragraph 1 b. The evaluation should consist of a series of tests which will ensure that the simulator accurately represents the aircraft under normal, abnormal and adverse operating conditions. A typical series of tests for fixed wing and rotary wing aircraft are given below:

Fixed Wing Aircraft Tests

a. Recording of engine acceleration times, low altitude, landing configuration
b. Check of climb performance with one engine inoperative in take-off and en-route configurations, forward cg.
c. Windmill and assisted engine relights including check of engine rundown characteristics at maximum altitude.
d. Check of low cabin pressure indications and alerts
e. Aircraft handling at high Mach Number (Mmo+0.03)
f. Buffet boundary check
g. Dutch roll damping and Yaw Damper operation at maximum altitude
h. Check of cabin over-pressure indications and alerts
i. Check of instrument and equipment behaviour including reversionary modes.
j. Aircraft handling at Vmo+20kts
k. General assessment of audio levels and ambient noise.

l. Stall speed evaluation, forward cg
m. Stall handling assessment, aft cg
n. Emergency landing gear extension
o. Crosswind landing, aft cg
p. Emergency brake check
q. Sudden engine failure during take-off, below V1, light weight aft cg
r. Sudden engine failure during take-off, Vmcg, light weight aft cg
s. Sudden engine failure during take-off, above V1, heavy weight ,forward cg at performance-limiting airfield
t. Landing with one engine inoperative
u. Go-around with one engine inoperative
v. De-rated thrust take-off
w. Mis-trimmed take-offs, forward and aft cg
x. Check of flying control system failures
y. Check of accelerate-stop distances, wet and dry runways
z. Check of accelerate-stop distance and aircraft behaviour on contaminated runway

Rotary Wing Aircraft Tests

a. Qualitative assessment of take-off and landing
b. Aircraft handling in the hover, including side and tail wind cases and axial turns
c. Flight to maximum speed Vne for assessment of handling and vibration characteristics
d. Qualitative assessment of handling qualities within and at extremes of flight envelope
e. Entry to and recovery from autorotation
f. Check of autorotative rotor rpm.
g. Check of climb performance. For single-engined aircraft, this should be a climb at maximum continuous power. For multi-engined helicopters, the climb should be carried out with one engine inoperative.
h. Engine handling and performance. Engine acceleration characteristics should be checked. Engine power assurance and, in some cases, max N_g (topping) checks should also be performed.
i. Aircraft systems functioning. Tests, particularly of the AFCS, should be generally directed towards examination of reversionary modes and failure/discrepancy detection.

3. Retain existing text of Item 1, sub-section b. of AMC 4 to AR.ATO.200(a)(1), and re-designate as sub-section c.

4. Create new text for Item 1, sub-section b. of AMC 4 to AR.ATO.200(a)(1) as follows:

b. A flight test team comprising a test pilot and flight test engineer who have significant experience of the aircraft type ideally gained from participation in the aircraft certification flight test programme. In particular, the flight test team should have detailed knowledge of the aircraft's handling qualities and performance under normal and abnormal conditions. A good understanding of the aircraft's systems, powerplant and the effect of failures is also required.

Note that, on a case-by-case basis, it may be acceptable to use a flight test team provided by the aircraft manufacturer provided they have been involved in the aircraft certification flight test programme and are independent of the simulator manufacturer and the approved training organisation.

comment *344* comment by: *UK CAA*

Page No:
Page 51 of 77

Paragraph No: AMC 4 to AR.ATO.200 (a)(1): Paragraph 5

Comment:
This paragraph is not relevant to an initial evaluation, which is the title of the paragraph. Propose deleting this paragraph from this AMC (see UK CAA comment against AMC for AR.ATO.220 for its re-instatement in the appropriate place).

Justification:
This paragraph talks about team composition "not before the second recurrent evaluation" but the title and rest of the text relates solely to initial evaluations.

Proposed Text (if applicable):
None added or amended… delete paragraph 5 and sub paragraphs a-g. (re-instate in accordance with UK CAA comment against the AMC AR.ATO.220).

comment *787* comment by: *Irish Aviation Authority*

Again, this AMC has the heading: 'Initial evaluation procedure', but in 5.a. the ' second recurrent evaluation' is referred to.

DCr 250509

comment *1459* comment by: *FCAA*

Page 51 presents:

"For an FTD level 1 and FNPT Type I, one suitably qualified Inspector may combine the functions in paragraphs 1.a. and 1.b. above."

We feel that this presentation set too tight limits. We feel that recurrent evaluations of FNPT IIs should be able to be performed by one suitably qualified inspector. Therefore we are suggesting that this sentence is changed as follows:

"For an FTD level 1 and FNPT Type I one suitably qualified Inspector may combine the functions in paragraphs 1.a. and 1.b. above. Similarly, this is valid also for FNPT Type II recurrent evaluations."

comment *1460* comment by: *FCAA*

Page 54 presents section 3 of the FSTD evaluation report. There is one row that is not unambiguous. It is the row presenting "Specific airfield".

Different NAAs seem to comprehend this row in a different way. There are at least two different understandings on what to write on this row:
1) All the specific (i.e. non-generic) airfield in the visual database.
2) Only those specific airfield that were used in this evaluation.

We suggest that the meaning of this row is explained and instructed in the evaluation report or in the text related to it.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 5 to AR.ATO.200(a)(1) FSTD Evaluation Report p. 52-56

comment *5* comment by: *MVA*

FSTD Evaluation Report. There is not a consistent wording and numbering throughout the report. Corrections to be made:

- Page 1 (of the report): Contents 1. Flight Simulation Training Device characteristics (not only full flight simulator).
- Page 2: same as under „contents", 1. Flight Simulation Training Device characteristics (not only FFS).
- Page 2: 1. (d) shall read „FSTD Manufacturer and Identification serial number".
- Page 2, 2. Evaluation details (d): FSTD Qualification Level recommended:
  FFS: A, B, C, D, AG, BG, CG, DG, SC
  FTD: 1, 2, 3
  FNPT: I, II, III, II-MCC, III-MCC (remark: covers aeroplane and helicopter)
  BITD
- Page 4, 1. Classification of items must read „5. .....", (as on page 1, content).
- Page 4, 2. Findings must read „6. Results", (as on page 1, content).
- Page 4, subtitle under 6. Results (see above) must read „6.1. Subjective".
- Page 5, subtitle under 6. Results (see above) must read „6.2. Objective".

Page 5, Evaluation team should be numbered with „7. ...", (as on page 1, content).

comment *54* comment by: *STK*

ADD to **Objective** classification of findings

C Unservicebility under Objective tests

D Restriction under Objective tests

The reason being is if some tests in the QTG are not working properly e.g. automatic QTG test this is clearly and unservicebility and can lead to a restriction.

comment *346* comment by: *UK CAA*

Page No:
54 of 77

Paragraph No: AMC 5 to AR.ATO.200 (a)(1) FSTD Evaluation Report

Comment:

See also UK CAA comment against AMC 2 to AR.ATO.200 (a)(1), regarding applicability of the template. In addition:

a) Propose adding ZFTT (Zero Flight Time Training) to section 4
b) Propose deletion of Line Check
c) Propose adding other sections for specific items such as PWS and EVS
d) Delete reference to specific airfield

Justification:
a) The capability of a simulator for ZFTT should be defined rather than implied by the qualification level.
b) The line check is not considered appropriate for a simulator.
c) Better definition of simulator training testing and checking considerations.
d) The specific airfield is not part of CS FSTD. It is a classification made by an operator in accordance with EU-OPS.975 relating to route and airfield competence. Approval/acceptability of any simulator model of that airfield is the responsibility of the operator and may be different between operators as it is impacted by their operational procedures. Remove from the template.

comment *357* comment by: *Susana Nogueira*

Do not double use reserved standard terms such as FI (Flight Instructor and now Flight Inspector) in an other field of activity.

Confusion

comment *472* comment by: *Ryanair*

FSTD EVALUATION REPORT.
2. Evaluation details. (a) Data of evaluation:**Comment**
Typo: (a) **DATA** of Evaluation

Proposal

Date of Evaluation

comment *473* comment by: *Ryanair*

4. Training, testing and checking considerations
COMMENT
"CAT I RVR 550m DH 200ft".
This structure in the Evaluation Report does not seem to cater for Lower than Standard CATI Operations where RVRs less than 550m will be trained and checked in the simulator.

PROPOSAL
The FSTD Evaluation Report be structured to cater for Lower than Standard CATI Operations Minima

comment *793* comment by: *Irish Aviation Authority*

1. Under: Contents 1., the term 'Full Flight Simulator' is used. This has a specific definition in :

CSFSTD(A) BOOK 1
SUBPART B TERMINOLOGY
CS–FSTD(A).200 Terminology
(b) *Full Flight Simulator (FFS)*.

Whereas FSTD covers all devices.

Suggest that the word 'Full' is removed.

2. The paragraph numbering is at variance with the 'Contents: '1. Classification of items ' should be 5., '2. Findings ' should be '6. Results', subdivided into 6.1 Subjective, 6.2 Objective, and 6.3 Quality or Compliance, and '3. Evaluation Team ' should be 7.

3. The section for 2. Evaluation Details should also include FTD's and FNPT's as they are also FSTD's. See the application form in NPA 2008-22c AMC to OR.ATO.350 on page 73 of 83.

DCr 250509 modified 270509

comment *810* comment by: *CAA Belgium*

p.56 (3)

Proposal: Change FI into F. Inspec.

Reason: FI is the abbreviation for Flight Instructor.

comment *1251* comment by: *CAA CZ*

AMC 5 to AR.ATO.200(a)(1), page 56
Use different abbreviation for Flight **Inspector** should be considered. **FI** is confusing – it could be mistaken with the abbreviation for Flight Instructor in Part FCL.

comment *1598* comment by: *CAE*

The FSTD evaluation report is centered around an FFS, it should address all types of FSTD.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - GM to AR.ATO.200(a)(1) Initial evaluation procedure p. 57

comment *605* comment by: *ALSIM Simulateurs*

Proposed text:

For Full Flight Simulators, a useful explanation of how the validation tests should be run is contained in the 'RaeS Aeroplane Flight Simulator Evaluation Handbook' (February 95 or as amended) produced in support of the ICAO Manual of Criteria for the Qualification of Flight Simulators.

Comment:

Expectations have overall become similar for FNPTs as for FFSs. In fact, the Authorities often use the "*RAeS E valuation ha ndbook*" as their reference manual. Although the quality of this manual is universally recognised, it should be remembered that it was initially created to meet the requirements for FFSs, not for FNPTs. Using this document as a reference manual in the approval of FNPTs has therefore been detrimental to our industry due to the likening of our equipment to FFS equipment, something which it is not. As well for the ICAO Manual of criteria Rev 2 where the FNPT standard is not mentioned.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC to AR.ATO.200(a)(3) Initial evaluation procedure p. 57-59

comment *348* comment by: *UK CAA*

Page No:
57 of 77

Paragraph No: AMC to AR.ATO.200 (a)(3) paragraph 3

Comment:

The use of a slash ("/") can mean "and", "or" or "either" depending on interpretation. This has caused great difficulty in using regulatory material in other areas and should be avoided. This comment is valid in a number of places and it is recommended that a review be carried out to eliminate this problem. See also AMC 1 to AR. ATO.235 for another example of the use of a "/".

Justification:
Clarity, removal of ambiguity and consistency

Proposed Text (if applicable):

In this case it is proposed that the slash be replaced with "and".

comment *350* comment by: *UK CAA*

Page No:
57 of 77

Paragraph No: AMC to AR.ATO.200 (a)(3)

Comment:
Paragraph 5 implies that any Member State (MS) can, following the implementing rules becoming effective, issue a qualification certificate based upon their own investigation and that all MS are obliged to accept it even if that MS has not been standardised and accredited for the purpose. Is that the intention? Measures need to be put in place to assure that all qualifications will be issued to the appropriate standard.

Justification:
There is a need to assure that all qualifications meet an appropriate standard

that can assure acceptability in all MS. These rules advise MS who are unfamiliar with FSTD to contact the Agency or other competent authorities, but there is nothing to mandate them to do so. As a result, the standard of some qualifications of FSTD may not be satisfactory.

Proposed Text (if applicable):
None. Explanation and confirmation of legal position required.

comment *437* comment by: *Thales Training & Simulation*

AMC to AR.ATO.200(a)(3) Initial evaluation procedure
FUNCTIONS AND SUBJECTIVE TESTS – SUGGESTED TEST ROUTINE
Paragraph 8
- Systems Malfunctions - Approach

Should read:
- Systems Malfunctions
- Approach
Malfunction are not expected to be performed solely in Approach
as
as

comment *795* comment by: *Irish Aviation Authority*

Again, this refers to an ' Initial evaluation procedure ' but contains information on recurrent evaluations.

See above.

DCr 250509

comment *1129* comment by: *Irish Aviation Authority*

At the very last line '- Approach' should be a separate item and not part of '- System malfunctions'.

DCr 270509

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - GM to AR.ATO.200(a)(3) Initial evaluation procedure p. 59

comment *606* comment by: *ALSIM Simulateurs*

Proposed text:

For Full Flight Simulators, a useful explanation of Functions and Subjective Tests and an example of Subjective Test routine checklist may be found in the RAeS Airplane Flight Simulator Evaluation Handbook Volume II (February 95 or as amended) produced in support of the ICAO Manual of Criteria for the Qualification of Flight Simulators.

Comment:

Expectations have overall become similar for FNPTs as for FFSs. In fact, the

Authorities often use the "*RAeS E valuation ha ndbook*" as their reference manual. Although the quality of this manual is universally recognised, it should be remembered that it was initially created to meet the requirements for FFSs, not for FNPTs. Using this document as a reference manual in the approval of FNPTs has therefore been detrimental to our industry due to the likening of our equipment to FFS equipment, something which it is not.
As well for the ICAO Manual of criteria Rev 2 where the FNPT standard is not mentioned.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC to AR.ATO.220 Continuation of a FSTD qualification p. 60

comment *356* comment by: *UK CAA*

Page No:
Page 60 of 77

Paragraph No: AMC to AR.ATO.220 (re-instatement of deleted text)

Comment:
a) Make this paragraph AMC 1 to AR.ATO.220 and add a new AMC 2 to reposition the paragraph 5 from AMC 4 to ATO 200 (amended) relating to team composition.
b) Transfer the BITD team composition paragraph 8 to the new AMC
c) Change FFS to FSTD in the first line of the transferred paragraph.

Justification:
a) The alleviation on team composition is solely related to recurrent evaluations and so this is the appropriate place for it to be located.
b) Team composition guidance should be in one place for the recurrent processes.
c) It appears appropriate to apply this alleviation to all FSTD, not just FFS.

Proposed Text (if applicable):

Change title of AMC to AR.ATO.220 to become *AMC 1 to AR.ATO.220*

Add new AMC 2 to AR.ATO.220 as follows (amendment to previous text in *underline/italic*)

AMC 2 to AR.ATO.220 Recurrent evaluations

COMPOSITION OF THE EVALUATION TEAM

The composition of the evaluation team for a recurrent evaluation shall be the same as for the initial evaluation (see AMC 4 to AR.ATO.200 (a)(1).

1. On a case by case basis (except for BITD), when an *FSTD* is being evaluated, the Authority may reduce the evaluation team to a competent authority flight inspector supported by a type rated instructor from a main flight simulator user for evaluation of a specific flight simulator of a specific ATO operating a FSTD, provided:
a. This composition is not being used prior to the second recurrent evaluation;
b. Such an evaluation should be followed by an evaluation with a full competent

authority evaluation team;
c. The competent authority's flight inspector should perform some spot checks in
the area of objective testing;
d. No major change or upgrading has been applied since the directly preceding evaluation;
e. No relocation of the FSTD has taken place since the last evaluation;
f. A system should be established enabling the competent authority to monitor and
analyse the status of the FSTD on a continuous basis;
g. The FSTD hardware and software has been working reliably for the previous years. This should be reflected in the number and kind of (technical log) discrepancies and the results of the compliance monitoring system audits.

2. In the case of a BITD, the recurrent evaluation may be conducted by one suitably
qualified Flight Inspector only, in conjunction with the inspection of any ATO, using the BITD.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 2 to AR.ATO.230 Changes p. 60-61

comment *358* comment by: *UK CAA*

Page No:
60 of 77

Paragraph No: AMC 1 to AR.ATO.230

Comment:
Propose deletion of this AMC as it adds no value and is confusing. The scenario that this paragraph considers is unclear and confusing.

Justification:
Notwithstanding that this was copied from JAR FSTD, the text adds no value. The main text of the IR is completely clear as to the requirements for evaluation of an upgrade. A Special Evaluation is required whenever the upgrade occurs (be it at an anniversary or not) and the only practical reason for continuing at a lower qualification level would be a failure to meet the upgrade requirements at that time. However, the evaluation for upgrade will determine the acceptability of ongoing operation at the previous level.

Proposed Text (if applicable):

Delete AMC 1 to AR.ATO.230

comment *360* comment by: *UK CAA*

Page No:
61 of 77

Paragraph No: AMC 2 to AR.ATO.230 paragraph 8

Comment:

Propose change word inspect to evaluation in paragraph 8.

Justification:
AR.ATO.230 is about changes to FSTDs and the possible need to evaluate changes. The rule uses the word evaluate (which is correct). The review of a change by the competent authority is an evaluation and not an inspection.

Proposed Text (if applicable):
Amended text to Paragraph 8: (amendment *italic and underlined*)

The *competent au* thority should inform the ATO operating an FSTD of its decision within 30 days of receipt of all documentation where no *evaluation* is required or within 14 days of any subsequent *evaluation*.

comment *474* comment by: *Ryanair*

COMMENT
Typo: 3. An ATO operating a FSTD written application for a change,

PROPOSAL
Correct Typo

comment *1635* comment by: *Swiss FOCA*

Typing error just at begin of paragraph 1. Correct "FTSD" by "FSTD".

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 1 to AR.ATO.235 Findings and corrective actions - FSTD qualification certificate p. 61

comment *607* comment by: *ALSIM Simulateurs*

Add the following text:

5. In certain circumstances, some identified defects may be due to an inappropriate use of the device and/or a wrong interpretation during the evaluation. In the event that an ATO operating a FSTD fails to satisfy the competent authority's concerns for that reason, or if the warning to suspend or revoke a qualification is subject to be challenged for any other reason, an appeal process should be possible with independent competent expert or third EASA member state Authority.

In the case of a type of an FSTD previously approved by a competent Authority, the operator keeps the right to find a counterexample or another EASA member state Authority assessment which should enable the ATO to be granted a temporary certificate.

In the interim, this temporary certificate shall be automatically released unless a duly legitimate serious defect induces a clearly identified negative training.

The Operator should be informed by the EASA of such process of appeal as exists under National or European regulations.

Comment:

Raising an issue can result of bad knowledge of the FSTD or inappropriate use. This can happen if the Authority's evaluation team is not familiarized with the

operation of the device. A rational is sometimes sufficient to clarify the misunderstanding and to avoid useless development

If the competent Authority is not satisfied, it must be born in mind that suspending or revoking the qualification, which prevents operators from using their operational equipment, must be regarded as a serious issue and therefore used in a restrained and extremely well-targeted manner.

Experience have shown that certain European Authorities have sent qualification reports to Operators which contain "*Unacceptable-Serious defect*" regarding small issues on documentation which is clearly abuse. Does it make sense to revoke a qualification for that reason?

That's why the appeal process shall be clearly possible before the **application** of the decision to suspend or to revoke the qualification.

comment *799* comment by: *Irish Aviation Authority*

In 4. there is a reference to paragrapha 1 to 4 above.

This should be changed to 1 to 3

DCr 250509

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 2 to AR.ATO.235 Findings and corrective actions - FSTD qualification certificate p. 61-62

comment *365* comment by: *UK CAA*

Page No:
61 of 77

Paragraph No: AMC 2 to AR.ATO.235 paragraph 4

Comment:

Incorrect reference. AR.GEN.235 and an associated AMC do not exist.

Justification:
Editorial error

Proposed Text (if applicable):
Correct reference is believed to be AMC 1 to AR.ATO.235

comment *608* comment by: *ALSIM Simulateurs*

Proposed text:
1. When a decision has been taken to suspend, or limit, a FSTD qualification certificate, after the appeal process described in the AMC 1 to AR.ATO.235, the ATO operating a FSTD should be informed immediately by the quickest available means.

5. A FSTD qualification certificate should not remain suspended indefinitely. Further steps may be taken by the ATO operating a FSTD to reinstate the FSTD

qualification or, in default, should be taken by the competent authority to revoke the FSTD qualification certificate. ~~Should an ATO operating a FSTD wish to dispute the suspension of his FSTD's qualification certificate, he should be informed of such rights of appeal as exist under national regulations. If an appeal is lodged, the FSTD qualification may remain suspended until the appeal process is complete.~~

Comment:

See comment on AMC 1 to AR.ATO.235 Findings and corrective actions FSTD Qualification Certificate.
The appeal process shall be clearly possible before the **application** of the decision to suspend or to revoke the qualification.

B. Draft Rules - II. Draft Decision Part-AR - Subpart ATO - Section 2 - AMC 3 to AR.ATO.235 Findings and corrective actions - FSTD qualification certificate p. 62

comment *609* comment by: *ALSIM Simulateurs*

Proposed text:
1. The competent authority should give the ATO operating a FSTD notice that it intends to revoke the STD qualification followed by a formal letter of revocation.
2. ~~Should an ATO operating a FSTD wish to dispute this revocation, he should be informed of such rights of appeal as exist under national regulations.~~ Once revoked, there can be no further activities under the terms of the FSTD qualification.

Comment:

See comment on AMC 1 to AR.ATO.235 Findings and corrective actions FSTD Qualification Certificate.
The appeal process shall be clearly possible before the **application** of the decision to suspend or to revoke the qualification.

comment *1599* comment by: *CAE*

Paragraph 1, change STD to FSTD

response *Accepted*

The text will be corrected.

B. Draft Rules - II. Draft Decision Part-AR - Subpart FCL - Section 1 - AMC to AR.FCL.020 Record-keeping p. 63

comment *47* comment by: *George Knight*

There is an assumption here than is not appropriate for theoretical knowledge examinations for non-professional licences. It appears to be assumed that the competent authority will administer all examinations. Will it not be possible for students for non-professional licences to take examinations at their ATO?

If exams are permitted at ATOs then the proposed record keeping will not be possible.

If EASA is proposing that all examinations must be conducted by the competent authority on authority premises to a fixed timetable then that is a huge imposition of cost and inconvenience on students studying for recreational gliding, microlight, SLMG, TMG and SEP etc. licences and should e reconsidered. It will deter many from undertaking training.

comment *102* comment by: *DCA Malta*

AMC to AR.FCL.020
Delete or at least specify in (4) whether this is per session or from the start (remembering the 5 years retention period).

comment *359* comment by: *Susana Nogueira*

Delete totaly

comment *738* comment by: *Luftfahrt-Bundesamt*

What is expected to be evaluated by using recorded data, such as "breakdown by subject in relation to the total number of applicants, score range, score average overall percentage?

It should be left to the discretion of the responsible authorities, what data they need for statistical evaluation of their theoretical examinations in accordance to their management systems and individual examination procedures.

comment *800* comment by: *Irish Aviation Authority*

If an examination is spread over a lengthy period of, say, months, from when should the record keeping period of 5 years, which is required in AR.GEN.220 (b), commence? Is it the initial paper or the final one?

DCr 250509

comment *844* comment by: *CAA Belgium*

Delete the whole paragraph.

comment *1252* comment by: *CAA CZ*

AMC to AR.FCL.020, page 63
2. A breakdown by subject in relation to the total number of applicants;
It is not specified, for which period of time I take the total number of applicants. If per one day, once a month, once a year or per one session (sitting).

B. Draft Rules - II. Draft Decision Part-AR - Subpart FCL - Section 2 - AMC to AR.FCL.205 Monitoring of examiners p. 64

comment *48* comment by: *George Knight*

Topic has not considered environments where all training and examining is conducted on two-seater aircraft.

comment *122* comment by: *Aero-Club of Switzerland*

We propose to write: "Inspectors of the competent authority supervising flight examiners MUST meet the same requirements as the flight examiners being supervised."

Justification: We think the competence of the inspectors is of great importance to the safety of flight.

comment *273* comment by: *ECA- European Cockpit Association*

There are no provisions for appeal procedure for individuals. In this paragraph, it is particularly important that the examiners have a right to appeal, same as for an applicant on FCL.1030.

comment *361* comment by: *Susana Nogueira*

Delete totaly.

As a consequence of deletion of AR-FCL 205 and is a task of EASA

comment *811* comment by: *CAA Belgium*

Proposal: Delete this AMC.

Reason: We propose to delete AR.FCL.205.

comment *984* comment by: *DCAA*

If the Examiners do not work on behlaft of the Authority the monitoring of Examiners is the obligation of EASA

comment *1506* comment by: *Irish Aviation Authority*

As a Flight Examiner is a specific type of examiner (see FCL.1005.FE), suggest that 'flight examiners' should be amended to read 'examiners' otherwise this section could be interpreted as being applicable only to Flight examiners and not to TREs for example.

Also, no reference here to 'Senior Examiners' (see comments to AR.FCL.205) SW 280509

B. Draft Rules - II. Draft Decision Part-AR - Subpart FCL - Section 3 - AMC to AR.FCL.300 Examination procedures p. 65

comment *49* comment by: *George Knight*

There is an assumption here that is not appropriate for theoretical knowledge

examinations for non-professional licences. It appears to be assumed that the competent authority will administer all examinations and arrange suitable facilities etc..

EASA need to bring forward proposals for the conduct of theoretical examinations for non-professional licences that are appropriate for people learning as small ATOs.

comment *103* comment by: *DCA Malta*

AMC to AR.FCL.300(3)
Delete 'until the end of the examination session'
Otherwise the confidentially of the CQB will be compromised, or lost.

comment *123* comment by: *Aero-Club of Switzerland*

There are too many "should" in this paragraph. Please state what you/the NAA want to get, what they have to prepare respectively.

Justification: "should" is not firm enough. The examination has to be in written or a computer based form. The identity of the applicant must be confirmed and so on...

comment *362* comment by: *Susana Nogueira*

3. Delete 'until the end...' to the final.

comment *363* comment by: *Susana Nogueira*

10. Modify to read: ...; **this should include any recording or comunications devices.**

Delete any referente to a particular devic**e**

comment *598* comment by: *DGAC FRANCE*

AMC to AR FCL 300

the paragraph 3 is not necessary because the paragraph 6 is clear, it's state that the candidate hand back all the documents related to the examination after the end of it.

comment *704* comment by: *Boeing*

AMC to AR.FCL.300
Para 1.
Page 65

CONCERN: "*Written or comp uter based for m*" is not consistent with NPA 2008-17b, Part-FCL, where only "written" is specified.

REQUESTED CHANGE: Please correct this oversight in NPA 2008-17b. (This was also mentioned in the CRT document for NPA 2008-17b comments from Boeing.)

JUSTIFICATION: The change is necessary to allow for computer-based testing.

comment *741* comment by: *Luftfahrt-Bundesamt*

Item 10. It seems to be inappropriate and not necessary to list special product or software file formats as Bluetooth, MP3 (s).
Item 10 should read:
Applicant(s) sh all not us e any el ectronic eq uipment du ring th e examination(s) other than that specified above.

comment *750* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment for 3. :

The content of the examination papers includes questions from the Central Question Bank (CQB) and should therefore always be confidential in order to maintain the confidentiality of the CQB. A definition of "session" is also required.

Proposal for 3. :

The content of the examination papers should retain a confidential status even after the examination session.

Comment:

The requirement should be valid also for examiners certificate.

Proposal:

When issuing, revalidating or renewing a rating or certificate, the competent authority shall extend the validity period of the rating or certificate until the end of the month.

Comment:

Learning objectives for CPL, IR and ATPL both aeroplane and helicopter are missing. Learning objectives are closely connected to the syllabus in NPA 2008-17 and it is almost impossible to comment the syllabus without the Learning Objectives.

Proposal:

Publish Learning Objectives.

Comment:

Specification of which manuals can be used for theoretical knowledge examinations.

Proposal:

Specify which manuals can be used for theoretical knowledge examinations. It is imperative that manuals for helicopters, as well as for aeroplanes, are included.

comment *812* comment by: *CAA Belgium*

§10

Proposal: Read last part of sentence as: "this should include any recording or communication devices."

Reason: to avoid that new systems not taken up in the actual text could be used.

comment *845* comment by: *CAA Belgium*

§3

Delete some words to keep the CQB confidential.

comment *1253* comment by: *CAA CZ*

AMC to AR.FCL.300, page 65
3. The content of the examination papers should retain a confidential status ~~until the end of the examination session~~ .
We recommend that prevent disclosure of the content of the examination papers.

comment *1414* comment by: *CAA Finland*

Amend. Confidentailly shall be ensured totally. My comment is also on section 1. Confidentiality is so important, that it shall not be AMC material.

The content of the examination papers should retain a confidential status ~~until the~~
~~end of the examination session.~~

comment *1488* comment by: *CAE*

AMC to AR.FCL.300 (1) Page 65

"Written or computer based form" is not consistent with NPA 2008-17B, Part FCL, where only written is specified. It is correctly stated here in NPA 2008-22b: **Please correct this oversight in NPA 2008-17B**

This will allow for computer based testing.

comment *1508* comment by: *Irish Aviation Authority*

1) Para 3 - sentence should be changed to read "The content of the examination papers should retaina confidential status." - if wording is left as it is, the Question Bank will be compromised if exam papers are given to candidates after an exam.
2) Para 10 - sentence should be changed to read "Applicant(s) should not use any electronic equipment during the examination(s) other than that specified above; this should include ***any recording or communication devices***. SW 280509

comment *1535* comment by: *CAA Norway*

AMC AR.FCL.300

To item 3: Amend text as follows: "*The content of the exam ination papers should retain a confidential status ~~until the end of the examination session~~*"
If not changed, we will very soon have all the contents of the CQB public. When the CQB has a sufficient number of questions in all subjects, publication might be considered. As it is in reality today, we have a low number of questions for several subjects. The confidentiality is essential.

comment *1536* comment by: *CAA Norway*

AMC 1 AR.FCL.300(b)

This should be moved from AMC to AR.FCL. This is the core of the standardization of exams, ensuring the level playing field. Making it an AMC opens up for anyone to come up with an alternative AMC, and we will no longer have harmonized and standardized exams in the member states.

Considering to keep it as AMC due to a need for quick changes, this is not seen to be an argument, as the length of exams and distribution of questions can hardly be seen to be in need of quick changes.

The table needs to be proof-read, as there are errors.

comment *1537* comment by: *CAA Norway*

AMC 2 AR.FCL.300(b)

This should be moved from AMC to AR.FCL. This is the core of the standardization of exams, ensuring the level playing field. Making it an AMC opens up for anyone to come up with an alternative AMC, and we will no longer have harmonized and standardized exams in the member states.

Considering to keep it as AMC due to a need for quick changes, this is not seen to be an argument, as the length of exams and distribution of questions can hardly be seen to be in need of quick changes.

The table needs to be proof-read, as there are errors.

comment *1648* comment by: *FlightSafety International*

"Written or computer based form" is not consistent with NPA 17 part B, FCL, where only written is specified.
Please correct this oversight in NPA 17 B (this was also mentioned in the CRT document for part 17 from Boeing)

To allow for computer based testing.

B. Draft Rules - II. Draft Decision Part-AR - Subpart FCL - Section 3 - AMC 1 to AR.FCL.300(b) Examination procedures p. 66

comment *87* comment by: *FTO 09-157 FRENCH AIR FORCE*

The duration for the number of questions in certain subjects seems too short.
It concerns the subject 021 :
the last version of FCL 1 FRANCE
duration 2h00 for 76 MCQ . the duration was yet too short. why to increase the number of questions ?
It is the same for the subjects 033, 050, 061, 062.

comment *104* comment by: *DCA Malta*

AMC 1 to AR.FCL.300(b)
Should not be AMC but should move to IR.

comment *124* comment by: *Aero-Club of Switzerland*

What about the complexity of the questions to be asked?

Justification: We think, besides the time and the minimum number of questions, the element of the complexity of the questions also is important.

comment *149* comment by: *ECA- European Cockpit Association*

Comment: editorial change (see AMC 2 to AR.FCL.300(b), page 73):
ATPL (H)/IR, subject 062, questions: ~~**66**~~ **56**

comment *227* comment by: *DGAC FRANCE*

AMC 1 & 2 to AR.FCL 300(b)
The above mistakes appear in the JAR/FCL NPA
JAR-FCL 1 _AGM –section 5 Part.2 chap. 10 Procedures

Page 66 – Examin ation pr ocedures for Profes sional licences an d instrument ratings

After checking total of duration and total of number of questions for each examination, the following mismatches appear :
CPL (A)
The total duration for this exam doesn't match: **instead of** 13 h 15 **read *12 h 45***
The total number of questions for this exam doesn't match **: instead of** 492 **read *469***
CPL (H)
The total duration of this exam doesn't match : **instead of** 13 h 30 **read *13 h 00***
The total number of questions for this exam doesn't match: **instead of** 505 **read *475***
IR (A) and (H)
The total duration of this exam doesn't match : **instead of** 7 h 00 **read *6 h 30***
The total number of questions for this exam doesn't match : **instead of** 251 **read *253***

Page 73– Exam length, total questions and distribution of questions ATPL(H)/IR – Subject 062

The total number of questions for this exam doesn't match ; we can read 66 but when we add the numbers of questions for each topic together we find 56 ;

there must be a mistake either in the total or in the distribution according to topics.

comment *364* comment by: *Susana Nogueira*

Should be moved to section 1 as a rule.

All subjects must be reviewed with regard to the content, time and distributios. Many mistakes.

comment *599* comment by: *DGAC FRANCE*

AMC 1 and 2 to AR FCL 300 (b)

The duration and minimum numbers of question should be set in Part AR (hard law) for legal reasons. The equality of candidates through out the EU community should be ensured.

comment *772* comment by: *CAA Belgium*

CPLA total duration is 12:45 and not 13:15
CPLH total duration is 13:00 and not 13:30
CPLH total questions is 475 and not 505
IRA & IRH total duration is 6:30 and not 7:00
IRA & IRH total questions is 253 and not 251

comment *848* comment by: *CAA Belgium*

Subject Reference "071" should be "070".

comment *1255* comment by: *CAA CZ*

AMC 1 to AR.FCL.300 (b), page 66
We recommend following changes:

CPL(A)	Duration:	~~13:15~~	12:45	Questions: ~~492~~	469
CPL(H)	Duration:	~~13:30~~	13:00	Questions: ~~505~~	475
IR(A)&(H)	Duration:	~~7:00~~	6:30	Questions: ~~251~~	253

comment *1256* comment by: *CAA CZ*

AMC 1 to AR.FCL.300(b), page 66
We recommend following changes:

ATPL(H)/IR	Questions:	
062	~~66~~	56
Totals:	~~675~~	665

(see AMC 2 to AR.FCL.300(b), page 73)

comment *1291* comment by: *Adventia, European College of Aeronautics*

- The AMC 1 to AR.FCL 300(b) "Examination Procedures" establishes a

minimum number of questions per subject. In order to maintain a proper ratio between time-number of questions, we consider that the maximum number of questions per subject should also be specified.

It would also be important to standardize the number of points each question is worth and also the pass mark for the theoretical knowledge examinations (it mentions 75% in the Type rating examinations).

B. Draft Rules - II. Draft Decision Part-AR - Subpart FCL - Section 3 - AMC 2 to AR.FCL.300(b) Examination procedures p. 67-76

comment *105* comment by: *DCA Malta*

AMC 2 to AR.FCL.300(b)
Should not be AMC but should move to IR.

comment *150* comment by: *ECA- European Cockpit Association*

Comment: editorial change:
The number under ATPL(H)/IR, total questions is incorrect:
Correct figure is **56**, not ~~**66**~~.
(7 + 21 + 2 + 15 + 11 = 56).

comment *261* comment by: *ECA- European Cockpit Association*

Comment: in the table, p.72, subject 040: Human Performance
ECA requests to have the same amount of questions for each different type of licenses (i.e. 48 questions).

Justification:
The ATPL subject Human performance and limitations consists of the subjects psychology and physiology. ECA regards it as absolutely essential to equally consider both of the subjects in the exam. The amount of questions for each subject should be the same.

comment *773* comment by: *CAA Belgium*

p.68 ATPLA 021 03

"05" instead of "005"

comment *774* comment by: *CAA Belgium*

p.73 ATPLH/IR 062 03

"12" instead of "02"

comment *985* comment by: *DCAA*

CQB shall remain confidential. The content of the examination papers shall remain confidential.

comment *1257* comment by: *CAA CZ*

It is unable to apply the distribution of questions according to these rules for the subjects 010, 034 and 082, when they are not for the time being contained in the syllabus in Appendix 2 Part FCL (see Part FCL page 74, 75, 77).

comment *1258* comment by: *CAA CZ*

AMC 2 to AR.FCL.300(b), page 73
Total number of questions for the subject **062** for ATPL(H)/IR is 56 = 7 +21 +2 +15 +11 (and not 66).

comment *1259* comment by: *CAA CZ*

AMC 2 to AR.FCL.300(b), page 76
IR(H) in the last column, i.e. IR(A) **& IR(H)** should be added.

B. Draft Rules - II. Draft Decision Part-AR - Subpart MED - Section 1 - AMC to AR.MED.020 Medical assessor p. 77

comment *30* comment by: *Oliver Brock MD PhD AME*

As the AeMC´s are working fully self responsible and NOT on behalf of the CA, they cannot be allowed to do audits on medical assessors, as ther eis no legal reasoning for that and in cases of a missed audit the AeMC could be made liable for loss of profit.

comment *71* comment by: *AECA(SPAIN)*

1. ...
- have considerable experience of aeromedical practice and have undertaken a minimum **number of class 1 medical examination as determined by the competent authority**

Justification: In many countries this number (200) is not realistic.

comment *106* comment by: *DCA Malta*

AMC to AR.MED.020 (1)

Delete text after practice.

have considerable experience of aeromedical practice ~~and have undertaken a minimum of 200 class 1 medical examinations~~.

Where specialised medical knowledge is required the case will be referred to a specialist.

What is relevant is to have initially practice as an assessor under supervision. This is already done in practice.

Compare with AMC to AR.GEN 200(a)(2) - 1(g) for inspectors
- which requires - 'on the job training'

Also requirement does not take small States into consideration.

comment *125* comment by: *Aero-Club of Switzerland*

Again: Replace the "should" by "have to" or "must", please.

Justification: To get what you/the NAA want you have to ask for what you want to get.

comment *151* comment by: *ECA- European Cockpit Association*

There is a discrepancy in the minimum number of examinations required for medical assessor and head of AeMC: 200 is required for a medical assessor, whereas 500 for the head of AeMC. Still, the medical assessor has to decide on all the referred cases.Therefore, it is suggested that medical assessor should have at least the same amount of the class 1 examinations as the head of AeMC.

comment *164* comment by: *DGAC FRANCE*

AR.MED.020 (1)
Comment :
Medical assessors should participate in all types of training courses for AeMCs and AMEs..
It is incorrect to only mention the refresher training.
Modification :
Delete "**~~refresher~~**"

comment *165* comment by: *DGAC FRANCE*

AR.MED.020 (1)
Comment :
Medical assessors must participate in AME audit for oversight purposes. This is one of the basic function of a medical assessor.
Modification :
- participate in ~~refresher~~ training courses and audit of AeMCs **and AMEs.**

comment *366* comment by: *UK CAA*

Page No:
77
Paragraph No: AMC to AR.MED.020 (1)
Comment: Only refresher training is mentioned.
Justification: Medical assessors should participate in initial training for AeMC staff and AMEs.
Proposed Text : Delete 'refresher'.

comment *367* comment by: *UK CAA*

Page No:
77
Paragraph No: AMC to AR.MED.020

Comment: Audit is a function of medical assessors**.**
Justification: Medical assessors should participate in the oversight of AMEs.
Proposed Text (if applicable): add '….audit of AeMCs **and AMEs'.**

comment *370* comment by: *Susana Nogueira*

Change the wording: ... - have considerable experience of aermedical practice.

Delete the rest of phrase.
Assesors are only to check procedures

comment *456* comment by: *European CMO Forum*

AMC to AR.MED.020 (1)
Comment:
It is incorrect to only mention refresher training.
Justification:
Medical assessors should participate in all types of training courses for AeMCs and AMEs.
Proposed Text:
Delete 'refresher'.

comment *457* comment by: *European CMO Forum*

AMC to AR.MED.020(1)
Comment:
Medical assessors must participate in AME audit**.**
Justification:
Medical assessors should undertake AME audits for oversight purposes. This is a basic function of a medical assessor.
Proposed Text:
add '….audit of AeMCs **and AMEs'**

comment *682* comment by: *NATS*

NATS seeks clarification of the requirement under AMC to AR.MED.020 with regards to Authorised Medical Examiners attending "International Meetings" if they wish to remain current. It is unclear whether this truly requires travel "Internationally" to attend a meeting or whether this actually means an internationally approved meeting (NATS currently attend the UK CAA annual refresher meeting).

comment *802* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

The first line describes basic requirements for professional competence, the second line requirements for maintaining the professional competence. The third line is confusing because it seems to mix own continuing training and the tasks to be performed as a medical assessor.

•

• The considerable difference in aeromedical activities in the member states must be taken in account. In smaller states it might be

impossible to undertake 200 class 1 examinations, especially if there will be an unlimited number of AMEs. Experience from rulemaking and oversight activities might be as important.

•

• Participation (as a teacher) should also include basic training courses for AMEs and (as an audit team member) also audits of AMEs and audits of AME training facilities.

The requirements for a medical assessor should be comparable to the requirements for the head of an AeMC.

Proposal:

Separate the competency requirements and the tasks in different subparagraphs.

Delete the figure of 200 class 1 examinations.

Amend the last sentence:

" - participate in basic and refresher training courses for AMEs and audits of AeMCs, AMEs and AME training facilities."

comment *847* comment by: *CAA Belgium*

Delete "...and have undertaken a minimum of..."

comment *951* comment by: *Royal Swedish Aeroclub*

The requirement for 200 annual Class 1 examinations is too stringent. In a sparsely populated country like Sweden this requirement will not ensure that the position goes to the most suitable person.

comment *987* comment by: *DCAA*

There is no need to specify a specific number of medical examinations. The term considerable experience cover the subject.

comment *1176* comment by: *Irish Aviation Authority*

(1)
It is incorrect to mention only the refresher training. Medical assessors must participate in all types of training courses for AeMCs and AMEs. Delete 'refresher'.

Medical assessors must participate in AME audit**.** Medical assessors must undertake AME audits for oversight purposes. This is one of the functions of the medical assessor. add '….audit of AeMCs **and AMEs'.**
AR 27/05/09

comment *1260* comment by: *CAA CZ*

AMC to AR.MED.020, page 77
- have considerable experience of aeromedical practice ~~and have undertaken a minimum of 200 class 1 medical examinations;~~

The requirement for experience for the position of "Medical Assessor" to have undertaken a minimum of 200 1st class MCs we recommend to replace by the appropriate approved training course or training. Otherwise, smaller authorities will have a big problem to meet this requirement.

comment *1370* comment by: *Civil Aviation Authority Finland*

Comment:
The tasks and responsibilities of the medical assessor should be specified.
Also the description, tasks and responsibilities of the AeroMedical Section (AMS) as part of the competent Authority are missing.

Grounding:
Clarity of the role.

Add AMC to AR.MED.020 new paragraph 2:
The medical assessor should:
(i) Be responsible for all medical aspects of the Authority's tasks.
(ii) Take final medical decisions and delegate tasks to AeMCs and AMEs
(iii) Be allowed to revoke Medical Certificates, which are not issued correctly by AMEs and AeMCs.
(iv) Desi gnate an d supervise AMEs and Ae MC and with draw designation, if reason to this exists.

B. Draft Rules - II. Draft Decision Part-AR - Subpart MED - Section 1 - AMC to AR.MED.025 Referral to the competent authority p. 77

comment *107* comment by: *DCA Malta*

AMC to AR.MED.025
Should this read:
The AeMC or AME should supply the competent authority with all necessary information …. ?

comment *166* comment by: *DGAC FRANCE*

AR.MED.025 (1)
Comment :
This paragraph should apply in all circumstances in which the licensing authority is involved with decisions on fitness and unfitness
Modification :
Delete "~~**Class 1**~~".

comment *368* comment by: *UK CAA*

Page No:
77
Paragraph No: AMC to AR.MED.025(1)
Comment: It is not clear why only Class 1 applicants are mentioned.
Justification: The authority may need to supply the AeMC or AME with information about an applicant, or holder of, any class of medical certificate .
Proposed Text : Delete 'Class 1'.

comment *369* comment by: *UK CAA*

Page: 77
Paragraph No: AMC to AR.MED.025 (1) and (2)
Comment: See comment submitted for the corresponding IR. The title is '**Referral to the competent** Authority'.
Justification: It should be 'Referral to the licensing authority' as it is the licensing authority that assesses the applicant's fitness.
Proposed Text (if applicable): References to '**competent** authority' in paras 1 and 2 both need to be changed to 'Licensing Authority'.

comment *371* comment by: *Susana Nogueira*

(1) Change the wording: **The AeMC or AME sh ould su pply to t he competent authority** with all...

The proposed wording is controversial. The information go to the authority not fom the authority.

comment *427* comment by: *Civil Aviation Authority of Norway*

Comment to section (1):
The licensing authority may need to supply information on any licenseholder, not only class 1. This paragraph should apply to all circumstances in which the licensing authority is involved in decisions on fitness or unfitness. We therefore propose to delete "class 1".
Comment to section (1) and (2):
The requirement is inconsistent with "Part Medical", which requires the licensing authority of the licence holder to take these measures, not the competent authority of the AeMC or AME. "Part Medical" has the correct procedure. We therefore propose to

- Change title to "Referral to the licensing authority".
- Change "competent authority" to "licensing authority" in both (1) and (2).

comment *458* comment by: *European CMO Forum*

AMC to AR.MED.025(1)

Comment:
The licensing authority may need to supply information on any pilot to the AeMC or AME, not just Class 1.

Justification:
This paragraph should apply to all circumstances in which the licensing authority is involved with decisions on fitness and unfitness.

Proposed Comments:
Delete 'Class 1'.

comment *459* comment by: *European CMO Forum*

AMC to AR.MED.025(1) and (2)
Comment:
This AMC is inconsistent with Part MEDICAL, which requires the licensing

authority of the licence holder to take these measures, not the competent authority of the AeMC or AME. PART MEDICAL has the correct procedure.
Justification:
Consistency.
Proposed Text:
Change title to 'Referral to the licensing authority'.
Change 'competent authority' to 'licensing authority' in both (1) and (2).

comment *685* comment by: *DGAC FRANCE*

AMC to AR MED.025 (1) and (2)
Comment :
this AMC is inconsistent with PART MED, which requires the licensing authority of the licence holder to take these measures, not the competent authority of the AeMC or AME. PART MED has the correct procedure.
Modification :
Change the title to "**Referral to the licensing authority**"
Change "competent authority" to "**licensing authority**" in both (1) and (2).

comment *804* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:

- This section is inconsistent with Part-MED, which requires the licensing authority of the licence holder to take these measures, not the competent authority of the AeMC, AME or GMP.

Information on unfitness should also include Class 2 and LPL, because borderline cases for these medical certificates may also have been referred to the licensing authority.
Proposal:
Delete "competent" and insert "licensing".
Amend point (1) to include also Class 2 and LPL.

comment *846* comment by: *CAA Belgium*

To be reviewed.

comment *1178* comment by: *Irish Aviation Authority*

(1) The licensing authority will need to supply information on any pilot to the AeMC or AME, not just Class 1's. This paragraph has to apply to all circumstances in which the licensing authority is involved deciding on fitness and unfitness. Delete 'Class 1'.
(1)and(2)
This AMC is not consistent with Part MEDICAL, which requires the licensing authority of the licence holder to take these measures, not the competent authority of the AeMC or AME. PART MEDICAL has the correct procedure.
Consistency.
Change the title to 'Referral to the licensing authority'.
Change 'competent authority' to 'licensing authority' in (1) and (2).
AR 27/05/09

Appendix A

Attachments to comments on NPA 2008-22b

Lettre report EASA FNAM.pdf
Attachment #1 to comment #849

FRAPORT position on NPA 2008-22b 20090528.pdf
Attachment #2 to comment #1520

Model-PPL.pdf
Attachment #3 to comment #1187

Model-NF.pdf
Attachment #4 to comment #1187

Model MPA.pdf
Attachment #5 to comment #1187

Ratings.pdf
Attachment #6 to comment #1394

Agreed comments on Appendix IV - Standard EASA Medical Certificate format.pdf
Attachment #7 to comment #462

Attachment_SSP.pdf
Attachment #8 to comment #881

GM to AR_GEN_010.pdf
Attachment #9 to comment #891

II. Comments received on NPA 2009-02d

(General Comments) -

comment *15* comment by: *Angel Petrov*

We beleive that the new way which are proposing the structure of this NPA's would be difficult for people to get used to. The old way which EU OPS under 859/2008 and JAR OPS 1 and its AMC's were organized was a better way of organization.
Also it is not understandable what exactly would be the new Flight and Duty time limitations as the new ones are not corresponding exactly to Subpart Q of EU OPS.

Brgds

Angel Petrov

comment *69* comment by: *Boeing*

comment *246* comment by: *Austro Control GmbH*

As already commented to NPA 02b/General, it is recommended to check the AMC because too many safety relevant concerns and contents are found in AMC, but should better be regulated by the rules. Besides that it is not possible to make a comment when there are references to draft-requirements that do not yet exist (e.g. NPA-TCO).

Besides, there is no clear distinction and no detailed rule if all requirements are valid for all ramp inspections ("own"aircraft of MS or foreigen aircraft). But this aspect is important, because all points should not be valid for all kind of inspections (e.g. Austrian aircraft ramp inspections through Austrian Authority "SANA" shall not appear in the EU-Database).

It has to be clarified if the ramp checks as currently required by Part M (M.B.303; which covers the airworthiness items) will be substituted by these IR; therefore adaption of Part M has to be considered in time.

comment *247* comment by: *AEA*

Comment:
NPA 2009-02D 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, the AEA 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. The AEA 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 *248* comment by: *AEA*

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 *249* comment by: *AEA*

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 AEA comments to this NPA should be considered as the major concerns from AEA to this NPA but additional comments/concerns might be identified after the closure of the NPA comment deadline.
Proposal:
EASA should take on-board all AEA concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline. 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.

comment *268* 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 *305* comment by: *TAP Portugal*

Comment:
NPA 2009-02D 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, the AEA 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. The AEA 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 *306* comment by: *TAP Portugal*

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 *307* comment by: *TAP Portugal*

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 AEA comments to this NPA should be considered as the major concerns from AEA to this NPA but additional comments/concerns might be identified after the closure of the NPA comment deadline.
Proposal:
EASA should take on-board all AEA concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline. 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.

comment *335* comment by: *KLM*

Comment:
NPA 2009-02D 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, the AEA 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. The AEA 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 *336* comment by: *KLM*

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 *337* comment by: *KLM*

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 AEA comments to this NPA should be considered as the major concerns from AEA to this NPA but additional comments/concerns might be identified after the closure of the NPA comment deadline.
Proposal:
EASA should take on-board all AEA concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline. 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.

comment *376* comment by: *Deutsche Lufthansa AG*

Comment:
NPA 2009-02D 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 *377* 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 *378* 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.
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. 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.

comment *397* comment by: *AUSTRIAN Airlines*

Comment:
NPA 2009-02D 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, AUSTRIAN 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. AUSTRIAN 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 *398* comment by: *AUSTRIAN Airlines*

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 *399* comment by: *AUSTRIAN Airlines*

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 AUSTRIAN comments to this NPA should be considered as the major concerns from AUSTRIAN to this NPA but additional comments/concerns might be identified after the closure of the NPA comment deadline.
Proposal:
EASA should take on-board all AUSTRIAN concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline. 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.

comment *414* 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.

comment *424* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
NPA 2009-02D 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, the AEA 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. The AEA 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 *425* comment by: *Swiss International Airlines / Bruno Pfister*

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

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 AEA comments to this NPA should be considered as the major concerns from AEA to this NPA but additional comments/concerns might be identified after the closure of the NPA comment deadline.
Proposal:
EASA should take on-board all AEA concerns to these NPAs even when they have been identified after the closure of the NPA comment deadline. 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.

comment *442* 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 *481* comment by: *AIR FRANCE*

Comment :
This NPA contains several changes in term of structure, new concepts and content in comparison with the EU OPS which leads to additional complexity. The various NPAs (2008-17, 2008-22, 2009-01, 2009-02 and the NPA TCO) which are all closely linked have been open for consultation at different dates which make the reading difficult as some elements were missing. It means that additional comments may be provided after the closure of the NPA comment period. Moreover the size of these NPAs (more than 3000 pages) and the limited period of time left for reviewing this material make it impossible to review everything into details. Therefore the comments provided cannot be comprehensive.
The proposed structure which mix type of aircraft and type of operations add a lot of complexity and leads also to difficulties of understanding.
Proposal :
Consider a second consultation of the whole package following this consultation.

comment *498* comment by: *DGAC*

0 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 Shar ed 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 *589* 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 advice 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 *599* comment by: *President VNC*

VNC supports the comments made by ETF.

comment *606* comment by: *DCAA*

Draft Opinion and Decision Part -AR
Draft Opinion and Decision Part -OR
The NPA's include a lot of suggested complex procedures and reporting routines that will not create any added value to flight safety or to the reduction of cost. Further, for several issues, we do not see any clear legal basis in the Basic Regulation for certain requirement.

As examples:
- Besides flight inspections, there is a requirement to perform ramp inspections of national operators. What do ramp inspections cover that is not already covered by the flight inspection? What is the added value in this requirement?

- The requirement for approving wet lease from 3. country operators is far beyond ICAO requirement?
- Code Share operation shale be approved?

Denmark can not support the two NPA's in their actual version.

comment *608* comment by: *Civil Aviation Authority Finland*

General comment concerning AR:

When comparing the two NPAs (NPA No 2008-22b and NPA No 2009-2d) in total, there seems to be an unbalance between Authority Requirements for different tasks.

There are very much and exact requirements for procedures and arrangements of RAMP inspections (Subpart GEN, Section IV - Ramp inspections) and specially the training and experience of RAMP inspectors (AMC/GM Part, Subpart GEN, Section IV - Ramp inspections), but very little about the more important main tasks the Authority, the systematic continuous oversight and inspections (auditing) of the organization, management systems (SMS, QS), operation, training and records of the AOC holders or other stakeholders (Subpart GEN, Section II - Management and NPA No 2008-22b, Subpart GEN, Sections 1, 2 and 3), or about the requirements and training of the inspectors (FOIs) of the Authority (NPA No 2008-22d, AMC/GM Part, Sections 2 and 3).

The RAMP Inspections are only one part of the of the total continuous Authority oversight of the operations of different operators (Air carriers, AOC holders and other operating private stakeholders), and is mainly targeted to inspect the third country operators.

comment *653* 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 entiret y i s unfit for the pur pose for which it is intended and must b e w ithdrawn and re considered.** 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.

D. VI. Draft Opinion Part-AR p. 4

comment *134* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:

The "EASA Guidance Material on the Qualification of SAFA Inspectors" published on 29/09/2008 is more detailed and should be taken into consideration.

comment *267* comment by: *Walter Gessky*

1. General comment:
The NPA does not adequately regulate as mentioned in Article 22/1 of the Basic Regulation the EASA reaction without undue delay to a problem affecting the safety of air operation by determining corrective actions and by disseminating related information to the Member States.
The proposed solution in NPA 2008/22b as part of Part 21 is not acceptable and no mandate is given for this solution. Any safety problems related to the product type design, production and maintenance might be regulated in Part 21. Any other safety related problems and retroactive requirements in the past regulated under JAR 26, shall be regulated in the IR because it is effecting the whole fleet of aircraft operated in CAT. Adequate regulations have to be added to AR.GEN.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV p. 4

comment *506* comment by: *Ryanair*

Operators cannot accept the ramp inspections proposals on the basis the 'collective oversight' concept.

It is 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 and Accountable Manager availability requirements to meet with this additional oversight would be significant and unacceptable without delivering any safety benefit.

comment *507* comment by: *DGAC*

General comment

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

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.

comment *508* comment by: *DGAC*

General Comment: The connections, between the NPA-2009 2d) on the ramp inspections and the NPA-TCO, are crucial, especially as the ramp inspections

on TCO are considered. The comments of the NPA 2009-02d) ramp inspection section in this respect can not be drawn in a consistent and efficient manner as the NPA-TCO has not been published yet. For some parts of the proposed text, it is totally ineffective to request comments while the NPA-TCO has not been published.

comment *510* comment by: *DGAC*

General Comment: This NPA is including the requirements to be implemented while conducting ramp inspections, and in particular ramp inspections of TCO. It should be underlined that these ramp inspections are currently following the procedures and regulations of the SAFA programme and that a Guidance Material called "SAFA ramp inspection procedures" has been published by the EASA in July 2009, after having receiving the agreement of the European Commission and all the Member States.

Therefore, these dispositions, already implemented by the member States, are seeking an harmonisation of the programme, directly in compliance with the main objective of the basic regulation 216/2008 in terms of establishing and maintaining a uniform high level of safety in Europe.

Thus, these enacted and already in place dispositions should be reflected in the NPA, which is not the case. In terms of correct implementation, it is the utmost importance that this NPA, at least for the ramp inspections process of TCO, reflect the dispositions of the Guidance Material on the SAFA Ramp inspection procedures.

Though, as nothing particular has been defined within the SAFA programme regarding the inspection of European operators (these inspections are currently following the same procedures), a new programme, based on European regulations, could be defined to tackle the inspections of aircraft operated under the scope of the 216/2008 Article 4, 1(b) and (c). But it would be counter-productive to amend the procedures of inspections on TCO while satisfactory procedures are already in place and their efficiency agreed on by all the bodies involved (Member States, EASA, European Commission).

comment *511* comment by: *DGAC*

General Commen t: Lots of dispositions presented in this NPA are partial copy/paste of the dispositions of the Guidance Material of the EASA related to the qualification of SAFA ramp inspectors. While lots of the criteria hold could be applicable and relevant to the ramp inspection of national aircraft (SANA = ramp inspections on aircraft under the regulatory oversight of the Inspecting state), some are absolutely not applicable, which confirms that that the aim of the regulator was not to include the SANA ramp inspection programme within the scope of this NPA (which we fully approve). It is actually the utmost importance to enhance the consistency of the scope of application of this NPA to reflect that only aircraft subject to the dispositions of Article 4 of the 216/2008 §1.(b), (c) and (d), except those under the regulatory oversight of the Inspecting Member States, are included in the Scope established in the AR.GEN.405.

These items are examples that support the previous statement concerning SANA:
- The proof of ramp inspection form and ramp inspection report form included

in the Appendixes 2 and 3 are only reflecting the scope of the inspected items in the frame of a ramp inspection performed on a TCO. European or national operators can be inspected within a wider scope, as the European regulation is more detailed and restrictive than the ICAO international standards : Cabin crew qualification, In flight fuel monitoring system are inspected items for instance that have no relevance in the frame of inspections on TCO but that could be considered during a ramp inspection on a Member State,
- On the eligibility criteria (GM.AR.GEN 430 (b) (1)), a good practice of the English language for instance is not required to perform ramp inspectors on operators under the regulatory oversight of the Inspecting Member State (Ramp inspections performed by German inspectors on German operators for instance),
- the Checklists On-the-job training (GM6 AR.GEN.430(b)(2) and GM7 AR.GEN.430(b)(2)) of Inspectors are only applicable to SAFA ramp inspectors and not for ramp inspectors intending to conduct ramp check of European operators nor National operators as the scope of the inspected items will not be the same,
- the recency requirements (GM2.AR.GEN.430.(b)(3)) is indicating "This number could be reduced with the number of inspections on aircraft operated by **domestic op erators** (while the regulator is including these operators in the scope of the NPA) if the inspector is also a qualified flight operations, ramp or airworthiness inspector of an inspecting authority and is regularly engaged in the oversight of such operators".

Besides some provisions need to be reviewed to fit the purpose on ramp inspections on aircraft subject to the dispositions of Article 4 of the BR216/2008 §1.(b) and (c) ('SACA'), due to the change of inspection referential :

- The proof of ramp inspection form and ramp inspection report form included in the Appendixes 2 and 3 are only reflecting the scope of the inspected items in the frame of a ramp inspection performed on a TCO. European or national operators can be inspected within a wider scope, as the European regulation is more detailed and restrictive than the ICAO international standards : Cabin crew qualification, In flight fuel monitoring system are inspected items for instance that have no relevance in the frame of inspections on TCO but that could be considered during a ramp inspection on a Member State,
- the Checklists On-the-job training (GM6 AR.GEN.430(b)(2) and GM7 AR.GEN.430(b)(2)) of Inspectors are only applicable to SAFA ramp inspectors and not for ramp inspectors intending to conduct ramp check of European operators nor National operators as the scope of the inspected items will not be the same,

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.405 Scope p. 4

comment *141* comment by: *Arnold Andresa*

Content of the draft, opinions and decisions
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 *269* comment by: *Walter Gessky*

1. AR.GEN.405 Scope
Add the following:
This subpart establishes the requirements to be followed by a Member State inspecting
authority ~~or the Agency~~ when exercising its task and responsibilities regarding the performance
of ramp inspections of aircraft subject to the Basic Regulation when landed in the territory
under their jurisdiction **and Me mber St ate inspect ing a uthority or th e Agency** ~~the~~ **when** grounding of such aircraft.
Justification:
It is very clear in Article 10/2 ramp inspections are carried out by the MS only. The Agency is involved after that activities to audit the third country operator and his NAA but not to carry out ramp inspections in the MS (Art. 10/3). MS or the Agency can ground an aircraft.

comment *334* comment by: *Austro Control GmbH*

This subpart establishes the requirem ents to be followed by a Member State inspecting
authority ~~or the Agency~~ when exercising its ta sk and responsibilities regarding the performance
of ramp inspections of aircraft subject to the Basic Regul ation when landed in the territory
under their jurisdictio n ***and Member State inspecting authority or the Agency*** *~~the~~* ***when*** *grounding of such aircraft.*

Justification:
It is very clear in Article 10 (2)2 ramp inspections are carried out by the MS only. The Agency is involved in the follow on activities to audit the third country operator and his NAA but not to carry out ramp inspections in the MS (Art. 10/3.
(2) For the purpose of the implementation of paragraph 1, Member States shall, in addition to their oversight of certificates that they have issued, conduct investigations, including ramp inspections, and shall take any measure, including the grounding of aircraft, to prevent the continuation of an infringement

comment *418* comment by: *Department for Transport UK*

The use of the term "inspecting authority" rather than the competent authority has not been explained or justified. In the UK the competent authority functions in respect of ramp inspections on foreign airlines are split between the Department for Transport and the Civil Aviation Authority. The use of the term inspecting authority would therefore not be appropriate for the UK system. To avoid complications the obligations under section Subpart GEN Section IV should be placed on the competent authority.

comment *513* comment by: *DGAC*

Proposal :
Amend the text of the paragraph as follows :
" **(a)** This ~~subpart~~ **section** establishes the requirements to be followed by a Member State inspecting authority or the Agency when exercising its task and responsibilities regarding the performance of ramp inspections of **foreign** aircraft subject to the Basic Regulation when landed in the territory under their jurisdiction and the grounding of such aircraft."

(b) This section shall be without prejudice to the Member States' right to carry out inspections not covered by this section and to ground, ban, or impose conditions on any aircraft landing at their airports in accordance with Community and international law.

Justification :
(a) "section" Ramp Inspections is a section, not a subpart.

(a) "foreign" + (b) : There is no legal hook in R216/2008 that entitles the Commission to define how Member States shall conduct ramp inspections on aircraft used by operators for which they ensure the safety oversight. The proposed amendment is in line with the scope and objective of D 2004/36 *on the safety of third country aircraft using Community airports*, as laid-down in point 1 and point 2 of its article 1.

comment *514* comment by: *DGAC*

Comment: The scope defined in this paragraph shoud be consistent with the future NPA-TCO text. The comments in this respect can not be drawn in a consistent and efficient manner as the NPA-TCO has not been published yet.

comment *656* comment by: *IACA International Air Carrier Association*

Per article 10.2 of the Basic Regulation: "For the purposes of the implementation of paragraph 1, Member States shall, in addition to their oversight of certificates that they have issued, conduct investigations, including ramp inspections, and shall take any measure, including the grounding of aircraft, to prevent the continuation of an infringement."
Therefore the ramp inspections of this Section IV are only applicable to a Competent Authority's own registry. Having 30 other EASA states inspecting the same aircraft again implies an unacceptable duplication of efforts and burden, without any safety benefit.
Additionally, these inspections may have a negative impact on safety, cause unnecessary delay without any added value.
There is no justification for an EU member state to perform a ramp inspection on an aircraft subject to another EU Competent Authority.

comment *658* comment by: *IACA International Air Carrier Association*

The EASA "collective oversight" shall avoid repetition of the bad elements of the current SAFA inspections, causing a lot of operational disruption without any safety benefit. While SAFA means Safety Assessment of Foreign Aircraft, IACA airlines do no understand the sense and value for aviation safety of ramp inspections on EU registered aircraft in other EU Member States. Ramp inspections should be completed as far as possible within the turn-around-time and aircraft should not be delayed except for serious airworthiness issues. SAFA inspectors have no common standards and are often inexperienced. Several times, aircraft were grounded for incorrect findings. The work of flight

crew during rotation is disrupted affecting negatively the safety operations.

comment *668* comment by: *Europe Air Sports, VP*

It should be clarified that the provisions in this part of the NPA on Air Operations are applied for Commercial Operations.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV – AR.GEN.410 Definitions p. 4

comment *92* comment by: *CAA-NL*

Comment CAA-NL regarding:
'Ramp inspection' means the inspection of aircraft of flight and cabin crew qualifications and of flight documentation in order to verify the compliance with the applicable requirements.

Alternative tekst proposal CAA-NL:
'Ramp inspection' means the inspection of aircraft and handling of the aircraft during ground handling, taxi and take-off/landing where possible and applicable (based on information received from the respective organization), of flight and cabin crew qualifications and of flight documentation in order to verify the compliance with the applicable requirements.

comment *216* comment by: *Pietro Barbagallo ENAC*

Comment: Definitions - The term **foreign** associated with an EU registered aircraft and/or EU based operator appears unsual when used in the EC aviation regulation .
Justification: the term foreign should be referred only to third country operators or aircraft.

comment *420* comment by: *Department for Transport UK*

AR.GEN.410 defines 'foreign aircraft' and 'foreign operator' but not 'third country operator'. As the term "third country operator" is used in the rules (eg AR.GEN.420(e) and AR.GEN.445(e)) it needs to be defined. (NB paragraph 12 of Appendix III to the Explanatory Note states that "it is considered necessary to introduce a definition of 'third country aircraft' and 'third country operator'".)

Proposed amendment: "third country operator" means an operator which is not under the regulatory oversight of a Member State.

comment *515* comment by: *DGAC*

Proposal: Add a definition of TCA and TCO. And clarify whether the TCO/TCA are or not aircraft or operators of a country out of the EC or aircraft of operators out of the country of the Inspecting State.

Jsutification: The definitions are not making any clear distinction between the aircraft operated by other Member States than the inspecting Member State and the TCO. As the procedures of inspections will vary from one to the other (the referential will not be the same, the actions taken may also vary), it is

crucial to introduce the definitions of 'Third country aircraft' and 'third country operators'.

Besides, where is the AMC announced in §12 of the Explanatory note (NPA 2009-02-a, Appendix III) which will describe precisely the differences between European aircraft/operators and non-European aircraft/operators regarding the Inspecting State and in particularly if the Inspecting State is European or non European has to be created ?

comment *516* comment by: *DGAC*

Comment: The definition of ramp inspection shows that it includes the check of the cabin crew qualifications. It is not applicable for the inspections conducted under ICAO standards as ICAO does not require the cabin crew to be delivered a license to be hold during operations. Therefore, this definition is not applicable to the ramp inspection on TCO (that's why, in the Appendix 2 and 3 on the POI and the ramp inspection report, the inspection item "cabin crew license" is not included)

Proposal: create a clear difference in the definitions of ramp inspection of European operators and TCO.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.415 General p. 4-5

comment *16* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.415(c)(2): change as follows:

(c) The inspecting authority shall establish an annual programme for the conduct of ramp inspections of foreign aircraft. This programme shall:
(1) provide for a minimum annual quota of ramp inspections based on a calculation methodology taking into account historical information on the number of operators and their number of landings in the Member State's territory; and
(2) enable the inspecting authority to give priority to their inspections of aircraft of operators identified by the Agency as presenting a potential risk, based on analysis of available data. **Those data will receive protection and confidential treatment by th e Agency according to the applic able rules included in this regulation and related data protection rules.**

Justification:
All of the data related to the aircraft operation, which are available to the Agency, must be treated at all times and under any circumstance in an absolutely confidential manner, with the subsequent de-identification of crew.

comment *29* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.415(a)(1): change as follows: delete "foreign":

(a) The inspecting authority shall perform a ramp inspection:
(1) of any ~~**foreign**~~ aircraft suspected of not being compliant with the applicable requirements and
(2) of other aircraft using the spotcheck procedure Such a procedure shall be

based on a continuous risk assessment conducted by the inspecting authority.

Justification:
Any aircraft suspected of not being compliant shall be inspected, no matter if it is foreign or not.

comment *93* comment by: *CAA-NL*

Comment CAA-NL regarding:

AR.GEN.415 General
(e) When deemed necessary by the Agency, it shall conduct ramp inspections on aircraft to verify compliance with the applicable requirements for the purpose of:
(1) certification procedures assigned to the Agency by Regulation 216/2008;
(2) inspection of a Member State when it is suspected of not carrying out its inspections tasks in accordance with this regulation;
(3) inspections of undertakings in case of a detected level 1 or finding on its organisation or aircraft.
Alternative tekst proposal CAA-NL:

AR.GEN.415 General
((e) When deemed necessary by the Agency, it shall conduct ramp inspections on aircraft to verify compliance with the applicable requirements for the purpose of:
(1) certification procedures assigned to the Agency by Regulation 216/2008;
(2) inspection of a Member State when it is suspected of not carrying out its inspections tasks in accordance with this regulation;
(3) inspections of undertakings in case of a detected level 1 (audits) or cat 31[1] (ramp inspections) finding on its organisation or aircraft.

1[1] Use for Ramp inspection findings the SAFA system where a remark/finding is defined in category G, 1,2,3 and the relating class of action G 1.2.3a.3b.3c, or even 3d G= General Remark Cat 1 = Minor Cat 2 = Significant Cat 3 = Major

comment *135* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
AR.GEN.415 (e) The Agency has to inform the relevant Member State before any ramp inspection is conducted on its territory and it must invite representatives of the relevant Member States to participate at the ramp inspection. In additional it should be described in the regulation more detailed on what terms EASA is entitled to conduct ramp inspections.

Proposal:
AR.GEN.415 (e)
...
~~(1) certification procedures assigned to the Agency by Regulation 216/2008~~;(Optionally a more limited and clearly defined number of the applicable certification procedures could be introduced here.)
(1~~2~~) inspection of a Member State when it is suspected of not carrying out its inspections tasks in accordance with this regulations. Whenever the

Agency has such a suspicion, it has to inform the relevant Member State and await his respond for at least 30 days, before conducting a ramp inspection;
(2~~3~~) inspections of undertakings in case of a detected level 1 finding on its organisation or aircraft.
(f) In cases where the Agency conducts a ramp inspection on the territory of a Member State, it has to inform the relevant Member State of the planned action in advance and invite representatives of the relevant Member States to participate at the ramp inspection.

comment *147* comment by: *Airbus S.A.S.*

Typo error.
In the firs line of AR.GEN.415 (a)(2), add a break point between words "procedure" and "Such".

comment *181* comment by: *UK CAA*

Paragraph No: AR.GEN.415 (b)

Comment: The paragraph requires a Member State to conduct ramp inspections on aircraft operated by companies holding certificates issued by that Member State. The requirements are highly prescriptive and Member States are required to report the results of all such ramp checks to the Agency. However, ramp checks are only one, minor, aspect of the wide range of inspecting and auditing processes used by Member States to ensure their operators are compliant and able to ensure a safe operation, and yet Member States are not required to share the results of these, arguably more significant, inspections and audits with the Agency. The result will be an over emphasis on one, fairly coarse, inspecting process. It will also reduce the level of flexibility available to Member States in their own internal inspecting regimes. They will be forced to use a system designed for the collection of information on foreign operators, where no direct regulatory responsibility exists, for an inspecting activity where the responsibilities are entirely different.

In addition, the requirement incorrectly assumes that a Member State's "inspecting authority" is the same body as its "competent authority" for the oversight of operators under AR.GEN.300.

Justification: The techniques and procedures used by a Member State for the oversight of those operators for whom they have oversight responsibilities are, correctly, left to the Member State to decide. By elevating the process for conducting ramp checks to a Community Level activity it over emphasizes the ramp check's importance in the range of activities used by a Member State to ensuring an operator, certificated by that State, is safe.
It is not clear why inspections of aircraft undertaken as part of the continuing oversight of operators under AR.GEN.300 should be mentioned in AR.GEN.415. For operators that competent authorities oversee directly, ramp inspections are but one element of the oversight activities covered by AR.GEN.300.

In addition Member States must retain the responsibility for deciding whom to designate as the authority for carrying out various tasks for the implementation of Regulation 216/2008. Member States may decide to appoint different bodies to carry out "ramp inspections".

Proposed Text (if applicable):

delete (b)

comment 182 comment by: *UK CAA*

Paragraph No: AR.GEN.415 (d)

Comment: "AR.GEN.455(b)(4)" should read "AR.GEN.460(b)(4)"

Justification: Incorrect cross reference

comment 215 comment by: *Pietro Barbagallo ENAC*

Comment: the term "inspecting authority" used in the text is confusing. Clarity and legal certainty is needed with regards to the meaning of "competent authority" to avoid any possible conflict or misinterpretation with the term inspecting authority.

comment 219 comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

AR GEN.415
(a) The inspecting Authority shall perform a Ramp Inspection.
(**1)** of any foreign aircraft suspected of not being compliant with the applicable requirements
And
(2) of other aircraft using the …….
(b) The inspecting Authority shall conduct ramp inspections on aircraft used by operators for which it ensures oversight as laid down by AR.GEN.300

Comment:

It is the impression that EASA interprets Basic Regulation Article 10 Para 2 to provide a basis for National Authorities to 'inspect' foreign A/C which are not under their oversight' [including EU registered aircraft]

This is not the case.
Article 10 Para 2 refers to additional requirements in addition to the oversight of certificates THEY have issued. This indicates that the ramp inspections referred to are applicable to the authority having oversight as under AR.GEN.415 (b) only

[Such Inspections are intrusive and distracting. Theoretically it could be possible for the same aircraft that flies to 3 different EU States in a daily rotation to be inspected 3 times by 3 different EU Authorities. These inspections may well have a negative effect on safety, cause unnecessary delays and have no positive product.]

Proposal:
There is no justification for an EU National authority to perform a ramp inspection on an A/C subject to another EU National authorities oversight.

comment 265 comment by: *Boeing*

NPA 2009-02d, Part AR (Subpart GEN, OPS and CC)
AR.GEN.415, General
Para (a)(1)
Page 4 of 103

BOEING COMMENT:
By stating that a ramp inspection shall be performed on any "*foreign aircraft suspected of not bei ng comp liant,"* it appears that there must be a different rule for "local" operators.

We recommend deleting the word "foreign" from the proposed text.

JUSTIFICATION: Deleting the word "foreign" would make the requirement applicable to all aircraft. This will ensure a level playing field and lead to improved safety.

comment *270* comment by: *Walter Gessky*

1. **AR.GEN.415 General**
(a) The inspecting authority shall perform a ramp inspection:
(2) of other aircraft using the spotcheck procedure Such a procedure shall be based on a continuous risk assessment conducted by the inspecting authority.
Comment: criteria for the risk assessment are missing
(b) The inspecting authority shall conduct ramp inspections on aircraft used by operators for which it ensures oversight as laid down in AR.GEN.300.

Comment:
Ramp inspection reports from an aircraft from an EU operator shall not be added in the same data base than the reports from third country operators.

(c)(2) enable the inspecting authority to give priority to their inspections of aircraft of operators identified by **the Commis sion,** the Agency **or inspecting auth orities of ot her Member States** as presenting a potential risk, based on analysis of available data
Justification:
Information from the COM and from other MS shall also taken into consideration.

(d) The Agency ~~shall~~ **will** provide the inspecting authorities with a list of operators for the prioritisation of ramp inspections, in line with (c)(2). This list shall include information generated in accordance with AR.GEN.~~455(b)(4)~~ and be produced in a regular and timely manner and at least once every 4 months.
Comment:
Referenced AR.GEN.455(b)(4) seems to be incorrect. The list shall only be provided when a risk is identified and it is required to inspect the operator.
also take into account Priorisation Regulation 351/2008.

comment *271* comment by: *Walter Gessky*

1. **AR.GEN.415**
(e) When deemed necessary by the Agency, ~~it shall conduct ramp inspections on aircraft~~ to
verify compliance **of t he op erator** with the applicable requirements ~~for the purpose of~~:
~~(1) certification procedures assigned to the Agency by Regulation 216/2008;~~

~~(2) inspection of a Member State when it is suspected of not carrying out its inspections tasks in accordance with this regulation;~~
the Agency shall inspect~~ions of~~ the undertakings in case of a detected level 1 finding on its organisation or aircraft based on certification procedures assigned to the Agency by Regulation 216/2008
Justification:
(e) according to Art 10/2 of the basic regulation the MS is responsible to carry out the ramp inspection while the Agency has to inspect only the undertakings.
(e)(1) deleted and added to the new sentence.
(e)(2) deleted, inspection of MS shall be regulated in the CR 726/2006 and not here.
(e)(3) reworded and added to the initial sentence. According Art 9/3 the Agency may inspect undertakings when potential risk is identified by an operator.

comment *352* comment by: *Austro Control GmbH*

(a) The inspecting authority shall perform a ramp inspection:
(2) of other aircraft usin g the spotcheck proce dure Such a procedure shall be based on a continuous risk assessment conducted by the inspecting authority.

Comment: criteria for the risk assessment are missing and should be established with regard to existing items

(b) The inspecting authority shall conduct ramp inspections on aircraft used by operators for which it ensures oversight as laid down in AR.GEN.300.

Comment:obviously national checks of nationl aircraft by NAA ("SANA") have to be conducted by the same criteria as foreign aircraft and same requirements shall be valid. This should be clarified with the consideration, that for foreign aircraft some items may be different.
Furthermore national SANA-Reports should not be reported in the EU-Database, because the results would be part of SAFA-analysis (with effect to the ranking) and could be read by third parties and used by them for own interests (competition) even if there is only a national impact!

(c)(2) enab le the i nspecting au thority to gi ve priority to their i nspections o f aircraft of
operators identified by ***the Commission,*** *the Agency* ***or inspecting authorities of other Member States*** *as presenting a potential risk, based on analysis of available data*
Justification:
Information from the COM and from other MS shall also taken into consideration (Art. 15 Basic Reg.)

(d) T he Agency s~~hall~~ ***will*** *provid e the ins pecting a uthorities wi th a list of operators for the*
prioritisation of ramp inspections, in line wit h (c)(2). T his lis t sha ll inc lude information
generated in accordanc e with AR.G EN.~~455(b)(4)~~ and be p roduced in a regular and
timely manner and at least once every 4 months.
Comment:
Referenced AR.GEN.455(b)(4) seems to be incorrect as it does not exist. The list shall only be provided when a risk is identified and it is required to inspect the operator.

(e) When deem ed necessary ~~by the Age ncy~~, ~~it shall conduct ramp inspections on aircraft~~ to
verify co mpliance ***of the operator*** *with t he applicable requirements ~~for the purpose of:~~*
~~(1) certification procedures assigned to the Agency by Regulation 216/2008;~~
~~(2) inspection of a Mem ber State when it is suspe cted of not carryi ng out its inspections tasks in accordance with this regulation;~~
the Agency shall *inspect ~~of~~ the undertakings in ca se of a detect ed level 1 finding on its organi sation or aircraft ba sed on certifica tion procedures assigned to the Agency by Regulation 216/2008*

Justification:
(e) according to Art 10 (2) of the Basic Regulation the MS is responsible to carry out the ramp inspection while the Agency has to inspect only the undertakings.
(e)(1) deleted and added to the new sentence.
(e)(2) deleted, inspection of MS shall be regulated in the CR 736/2006 and not here.
(e)(3) reworded and added to the initial sentence. According Art 10 (3) the Agency may inspect undertakings when potential risk is identified by an operator (inspection of aircraft in cooperation with MS!)

comment *415* comment by: *CAA CZ*

AR.GEN.415 (d): The requirement of the provision AR.GEN.455(b)(4) does not exist.

comment *419* comment by: *Department for Transport UK*

Ramp checks on a Member States aircraft should not be treated in the same way as SAFA inspection. 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 also constrain the ability of Member States to implement inspecting regimes tailored to their particular circumstances.

Proposed amendment: delete paragraph (b)

comment *517* comment by: *DGAC*

Proposal :
Delete (b)

Justification :
There is no legal hook in R216/2008 that entitles the Commission to define how Member States shall conduct ramp inspections on aircraft used by operators for which they ensure the safety oversight.

comment *518* comment by: *DGAC*

If ever this section was meant to be applicable to the ramp inspections performed on operators under the regulatory oversight of the inspection

Member State ('SANA'), then the following comment would apply:
Comment:
(a)(1) As this subpart appears to be, according to the AR-GEN.405, also applicable for National aircraft or operators, this sentence has to be modified and the word 'foreign' has to be deleted.

comment *519* comment by: *DGAC*

Comment: (e) The words 'it shall conduct…' are used without any mention to a reference of what "it" stands for.

Proposal: Replace 'it' by 'a specific team named by the Agency' and create an AMC to describe more precisely the definition of this team and the tasks their members has to conduct.

comment *520* comment by: *DGAC*

Comment: (d) "produced at least once every 4 months": The prioritization list is taken into account the evolution of the European black list. IN the regulation 2111/2005, Article 15 §3, the period between two air safety committee "Black List " is set at three months. Therefore, the sentence should be renamed.

Proposal: modify the sentence by "at least once after every air safety committee held in line with the dispositions of the EC regulation 2111/2005 or at least every 4 months, whatever is less".

comment *531* comment by: *Ryanair*

Comment
(a)(1) - All Community operators will be required to comply with the Requirements of Regulation (EC) 216/2008 (and associated implementing rules, AMCs and GM) under the supervision of the competent authority designated by the Member State where the operator has its principle place of business. Therefore, this would be an entirely subjective assessment which could be misused by the inspectorates of Members States.

Proposal
Remove for Community operators

Comment
(a)(2) - The only authority qualified to conduct a meaningful risk assessment of an operator is the competent authority designated by the Member State where the operator has its principle place of business.

Proposal
"...such a procedure shall be based on a continuous ~~risk~~ assessment *of previous ramp inspections* conducted by the inspecting authority.

Comment
(c)(2) All Community operators will be required to comply with the Requirements of Regulation (EC) 216/2008 (and associated implementing rules, AMCs and GM) under the supervision of the competent authority designated by the Member State where the operator has its principle place of business.

Proposal
Remove for Community operators

comment *533* comment by: *Ryanair*

(e)(2) - A Member State's failure must not result in increased inspection activity for Community Operators. In this instance the Agency must address identified shortcomings with the competent authority concerned.

comment *657* comment by: *IACA International Air Carrier Association*

Per article 10.2 of the Basic Regulation: "For the purposes of the implementation of paragraph 1, Member States shall, in addition to their oversight of certificates that they have issued, conduct investigations, including ramp inspections, and shall take any measure, including the grounding of aircraft, to prevent the continuation of an infringement."
Therefore the ramp inspections of this Section IV are only applicable to a Competent Authority's own registry. Having 30 other EASA states inspecting the same aircraft again implies an unacceptable duplication of efforts and burden, without any safety benefit.
Additionally, these inspections may have a negative impact on safety, cause unnecessary delay without any added value.
There is no justification for an EU member state to perform a ramp inspection on an aircraft subject to another EU Competent Authority.

comment *659* comment by: *IACA International Air Carrier Association*

The EASA "collective oversight" shall avoid repetition of the bad elements of the current SAFA inspections, causing a lot of operational disruption without any safety benefit. While SAFA means Safety Assessment of Foreign Aircraft, IACA airlines do no understand the sense and value for aviation safety of ramp inspections on EU registered aircraft in other EU Member States. Ramp inspections should be completed as far as possible within the turn-around-time and aircraft should not be delayed except for serious airworthiness issues. SAFA inspectors have no common standards and are often inexperienced. Several times, aircraft were grounded for incorrect findings. The work of flight crew during rotation is disrupted affecting negatively the safety operations.

comment *666* comment by: *FAA*

1. AR.GEN.415 General

Comment:
The proposed regulation indicates:
(a) The inspecting authority shall perform a ramp inspection:
(1) of any foreign aircraft suspected of not being compliant with the applicable requirements and
(2) of other aircraft using the spotcheck procedure Such a procedure shall be based on a continuous risk assessment conducted by the inspecting authority.

Subparagraph (1) implies that this criterion for a ramp inspection is only applicable to foreign aircraft and not a domestic aircraft. It would seem that the intent would be to have it applicable to all aircraft.

Recommendation:
Consider rewriting the text to indicate:
(1) of any aircraft suspected of not being compliant with the applicable requirements and

D. VI. Draft Opinion Part-AR- Subpart GEN - Section IV – AR.GEN.420 Prioritisation criteria p. 5

comment *30* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.420(c):

Clarification required : how and by who can a banned aircraft be subject to a ground inspection ?

Justification:
It must be specified under which provisions such ramp inspections of banned operators shall be performed.

comment *94* comment by: *CAA-NL*

Comment CAA-NL regarding:
AR.GEN.420 Prioritisation criteria

Tekst Proposal CAA-NL add:

(f) (f)Aircraft of Operators and Aircraft registered in a state or operated by and operator with a licence in a state that is listed in the priority list In accordance with the provisions laid down in Article 3(2) as provided under Article 2 of Commission Regulation 351/2008/EC implementing Directive 2004/36/EC of 16 April 2008 as regards the prioritisation of ramp inspections on aircraft using Community airports, Member States are to prioritise their ramp inspections on subjects landing at any of their airports open to international air traffic.

comment *150* comment by: *Airbus S.A.S.*

The paragraph AR.GEN.420 (c) reads:
"Aircraft of operators, which aircraft are subject to an operating ban pursuant to Regulation (EC) No 2111/2005."

The text is not clear.
Airbus interpretation is the following:
"Aircraft of operators, whose aircraft are subject to an operating ban pursuant to Regulation (EC) No 2111/2005."
A clarification would be appreciated.
If Airbus interpretation is confirmed, EASA should replace word "which" with "whose".

comment *151* comment by: *Airbus S.A.S.*

The sub-paragraph AR.GEN.420 (d) reads:
"Aircraft operated by other operators certified in the same State as any operator subject to an operating ban pursuant to Regulation (EC) No

2111/2005."

It is not understood whether "certified" refers to aircraft or to operators.
The text could lead to misunderstanding; a clarification would be needed.

comment *152* comment by: *Airbus S.A.S.*

In sub-paragraph AR.GEN.420 (e), a comma should be added between words "into" and "within", to read:
"Aircraft used by a third-country operator that operates into, within or out of the territory where [...]".

comment *272* comment by: *Walter Gessky*

1. AR.GEN.420 Prioritisation criteria
(a) Add either under (a) after Agency **"or the inspection authority of the MS"** or add a new **(f)**

(c) Aircraft of operators, which aircraft are **on Annex B of the list of air carriers** subject to an operating ban pursuant to Regulation (EC) No 2111/2005.
Justification:
Aircraft on Annex A are not entitled to enter EU airspace and no ramp inspection can be carried out.

(d) Aircraft operated by other operators certified in the same State as any operator subject
to an operating ban pursuant to Regulation (EC) No 2111/2005.
Comment: It is required that RL 2004/36/EG to be revoked.
(f) Aircraft operators or aircraft types or particular aircraft identified by the inspecting authority based in information collected under AR.GEN.425 (a)

Comment:
What happens with the data collected under AR.GEN.425? Can the MS use this information to adopt the inspection plan?

comment *353* comment by: *Austro Control GmbH*

General comment:
It is requested to take into consideration Regulation (EC) No 351/2008 to avoid duplication and to adapt this regulation accordingly.

Add under (a) after *Agency* ***"or the inspection authority of the MS"***

(c) Aircraft of operators, which aircraft are ***on Annex B of the list of air carriers*** *subject to an operating ban pursuant to Regulation (EC) No 2111/2005.*
Justification:
Aircraft on Annex A are not entitled to enter EU airspace and no ramp inspection can be carried out.

Comment:
What happens with the data collected under AR.GEN.425? Can the MS use this information to adopt the inspection plan?

comment *521* comment by: *DGAC*

Comment: (c): "Aircraft of operators, which aircraft are subject to an operating ban pursuant to Regulation (EC) No 2111/2005". If the operator is subject to an operating ban, its aircraft can not be inspected in Europe as they are forbidden to come. Therefore this sentence is nonsense.

Proposal: Replace the sentence by "Aircraft of operators, which aircraft have been subject to an operating ban pursuant to Regulation (EC) No 2111/2005"

comment *522* comment by: *DGAC*

Comment: (e): "Aircraft used by a third country operator that operates into within or out of the territory where the Treaty applies for the first time or has not been inspected for more than 6 months". This criterion is not included in the EU regulation 351/2008. Therefore, although this criterion appears to be quite logical and consistent with the prioritization procedures, there is no legal basis to include this criterion in the prioritisation criteria.

Furthermore, the implementation of such criterion appears to be more than tricky for the Agency or the Member States as they should be aware of all the commercial transportation authorisations that have been granted in every Member States.

If this criterion is left as it is though, a major modification is required: "Aircraft used by a third country operator that operates **commercial transportation flight** into within or out of the territory where the Treaty applies for the first time or has not been inspected for more than 6 months".

There is no reason or benefit, in terms of obtaining an efficient and precise overview of the technical level of operations of an air carrier in inspecting maintenance flight, or positioning flights in a non-revenu background as the referential used will not be the same (Annex 6, Part II).

comment *523* comment by: *DGAC*

Comment: (e): "Aircraft used by a third country operator that operates into within or out of the territory where the Treaty applies for the first time or has not been inspected for more than 6 months". What will be the tool used by the EASA to monitor this criterion and to inform the Member States that an operator is meeting this criteria When talking about the first venue of an operator, Eurocontrol could provide some useful data.

Still, one must paid attention to the accuracy of the data provided by Eurocontrol, especially regarding the type of operations performed (commercial, private, maintenance, training) and the accurate technical operator of the flight (the wet lease operations are rarely mentioned in the flight plan of Eurocontrol whereas the only interest when performing a ramp inspection is the technical operator of the flight and not the commercial one). There is no **regulation** to be enforced to compel the TCO to fill out with accuracy the flight plan they perform. Therefore, unless such regulation is enacted at an European level, the data used by the EASA in this frame shall only be an indication and not considered as facts.

D. VI. Draft Opinion Part-AR- Subpart GEN - Section IV - AR.GEN.425 Collection of information p. 5

comment *17* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.425(a): change as follows:

(a) The inspecting authority and the Agency shall collect and process any information deemed useful for continuing oversight or conducting ramp inspections. **All collected and processed data must be de-identified and treated confidentially.**

Justification:
All of the data related to the aircraft operation, which are available to the Agency, must be treated at all times and under any circumstance in an absolutely confidential manner, with the subsequent de-identification of crew.

comment *183* comment by: *UK CAA*

Paragraph No: AR.GEN.425 (a)

Comment: The collection of information useful for continuing oversight will only be useful if it is made available to those responsible for that oversight.

Justification: Member States may decide to appoint different bodies to carry out "ramp inspections" from those responsible for carrying out oversight of their operators i.e. competent authorities. In such cases inspecting authorities will not necessarily be in a position to "process" information they collect that might be useful for continuing oversight.

Proposed Text (if applicable):
"(a) The inspecting authority and the Agency shall collect and process any information deemed useful for conducting ramp inspections. Where the inspecting authority is not the same as the competent authority for continuing oversight of operators in the Member State, the inspecting authority shall pass on to the competent authority any information it collects about the operators overseen by the competent authority."

comment *273* comment by: *Walter Gessky*

AR.GEN.425 Collection of information
(a) The inspecting authority and the Agency shall collect and process any information
deemed useful for continuing oversight or conducting ramp inspections.
Add the information from AMC AR.GEN.425.

(b) This information **when used to carry out the ramp inspection programme** shall be included in the standard report form established in Appendix

Comment:
(a)This point does not adequately define the data collection system.
This article shall define the EU reporting system. A link to the ECAIRS system

seems to be necessary.
The information from AMC AR.GEN.425 shall be transferred to item (a).
In addition information from ICAO USOAP and audit findings from third country authorities (FAA, TCCA, etc) shall be taken into consideration.
(b) This information shall only referenced in the standard report when basis to select the operator/aircraft for ramp inspections.

comment *354* comment by: *Austro Control GmbH*

How is it possible to collect and process any information deemed usefull for conduction og ramp checks when these informations are not available? There is no legal possibility to collect such information from aircraft/operator to ramp inspections (e.g. 3rd Countries)

Therefore it is suggested to delete the whole paragraph or at least review and reword it totally with the essential items. In either case it shall be reduced only to "conducting ramp inspections" and delete "continuing oversight".

comment *421* comment by: *Department for Transport UK*

Information received by the competent authorities of member states may take many forms. The competent authorities are best placed to determine the format in which they wish to hold that information. If transferring the information received onto a form in the format set in Appendix 1 does not help the competent authorities concerned it would be a pointless bureaucratic exercise. If the information has to be entered into the database under AR.GEN.455 it can then can be retrieved automatically in the format set in Appendix 1.

Proposed amendment: delete paragraph (b)

comment *524* comment by: *DGAC*

Comment: According to the AR-GEN.425 (a), a new form has been created to include the information "*deemed useful for continuing oversight or conducting ramp inspections*". Therefore, these information are the one used to focus ramp inspections on particular inspected items of fields but does not intend to serve the purpose of ramp inspection report, contrary to what is indicated on the form presented in the Appendix 1. It is clearly inconsistent with the purpose of this form.

Therefore, there seems to be no special necessity to create a new report form quite similar to the ramp inspection form (proof of inspection as enacted by the directive 2004/36 and 2008/49). All the information gathered to tailor the ramp inspection regarding previous safety deficiencies could be included in any form, depending on the State's procedures (mail, word …). What will be the use of this form.

Furthermore, this form does not enable to gather the information mentioned in AMC.AR.GEN425 (2).

Proposal: It is absolutely not clear what could be the purpose and more especially the content of this form. AS it is presented, it is a double incomplete form in respect of the ramp inspection report and the Appendix 1 is absolutely not tailored for the aim described in the AR-GEN.425 (a). Delete this form (and

the § AR-GEN.425 (b) or amend it to fit its aim (which is to gather information, not to be a draft report of a ramp inspection).

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV – AR.GEN.430 Qualification of inspectors p. 5-6

comment *131* comment by: *TNT Airways*

(b) (2) :
Comment:
We have noticed a big amount of difference in the way the inspections are performed between countries.
To ensure a better harmonisation, a list of senior inspector should be made available between states. A checkride has to be performed by a senior inspector of another member state.
Criterias have to be defined for the senior inspectors.

Proposal:
(b)(2)(iii) checkride performed under the supervision of a senior inspector of another community member state or the Agency.

(f) A senior inspector shall have his qualification current and an experience of at least two years in SAFA inspections.

comment *136* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Proposal:
Change title from "Qualification of inspectors" to "Qualifications of ramp inspectors"

comment *184* comment by: *UK CAA*

Paragraph No: AR.GEN.430(d)

Comment: It seems incorrect for Regulations that affect the Agency to be published in the AR Section. Does this paragraph indicate that the Agency itself will be running training courses for ramp Inspectors? Will the Agency become an appropriately qualified training organisation proving the training defined in AR.GEN.430(b)(2)(i)?

comment *220* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

AR.GEN.430 Qualification of Inspectors
(b) (2)(i)

Comment:
It would be appropriate **to add (D) Dangerous Goods**

comment *250* comment by: *AEA*

Comment:
The AEA has identified a general concern with SAFA inspectors not knowing the

EASA rules, which seem to indicate a lack of training and competence
There is therefore a need for a better qualification and training of SAFA inspectors. Some auditors go well beyond the manner in which an audit should be conducted and on occasions are quite aggressive towards crew. They need to be advised that crew are preparing for a flight with limited time and such distractions are most unwelcome from a safety perspective.
Proposal:
Add a requirement for SAFA inspectors to be subject to a mandatory examination by EASA

comment *274* comment by: *Walter Gessky*

AR.GEN.430 Qualification of inspectors
(a) The inspecting authority ~~and the Agency shall~~ has qualified inspectors to conduct ramp
inspections. **The Agency s hall h ave q ualified i nspectors to co nduct inspections of the undertaking when required due to safety concerns.**
Justification:
According Art 10/2 ramp inspections will be carried out by the MS. EASA shall inspect, if required due to the ramp inspection findings, inspect the third country undertakings.
Comment:
Qualification requirements for Agency staff to inspect undertakings shall be added.

(b)2.(ii) onthejob training delivered by a senior inspector appointed by the inspecting authority ~~or the Agency~~, using the appropriate syllabus.
Justification:
Delete Agency because ramp inspections are only carried out by MS and not by the Agency.

(d) The Agency **in coor dination with the MS** shall develop training **syllabusses** ~~programmes~~ and foster the organisation and implementation of training courses and workshops for inspectors to improve the understanding and uniform implementation of this section.
Justification:
The syllabus and not the full training programme shall be developed by the Agency. MS involvement is essential because the MS and not the Agency have the experience to carry out ramp inspections.

comment *308* comment by: *TAP Portugal*

Comment:
The AEA has identified a general concern with SAFA inspectors not knowing the EASA rules, which seem to indicate a lack of training and competence
There is therefore a need for a better qualification and training of SAFA inspectors. Some auditors go well beyond the manner in which an audit should be conducted and on occasions are quite aggressive towards crew. They need to be advised that crew are preparing for a flight with limited time and such distractions are most unwelcome from a safety perspective.
Proposal:
Add a requirement for SAFA inspectors to be subject to a mandatory examination by EASA

comment *338* comment by: *KLM*

Comment:
The AEA has identified a general concern with SAFA inspectors not knowing the EASA rules, which seem to indicate a lack of training and competence
There is therefore a need for a better qualification and training of SAFA inspectors. Some auditors go well beyond the manner in which an audit should be conducted and on occasions are quite aggressive towards crew. They need to be advised that crew are preparing for a flight with limited time and such distractions are most unwelcome from a safety perspective.
Proposal:
Add a requirement for SAFA inspectors to be subject to a mandatory examination by EASA

comment *355* comment by: *Austro Control GmbH*

(a) The in specting aut hority ~~and the Agenc y shall~ **has** *qualified inspectors to conduct ramp*
inspections. ***The Agency shall have qualified inspectors to conduct inspections of the undertaking according to the Basic Regulation when required due to safety concerns.***
Justification:
According Art 10 (2) ramp inspections will be carried out by the MS. EASA shall inspect, if required due to the ramp inspection findings, inspect the third country undertakings.
Comment:
Qualification requirements for Agency staff to inspect undertakings shall be added.

(b)(2)
(i) delete (A) to (D) and replace it by:
(A) Operations
(B) Licencing
(C) Airworthiness
(D) Dangerous Goods
Justification:
it is suggested to use the ICAO-items, which were also basis for Directive 2008/49. Therefore there would be compliance with ICAO and the advantage is this items are now known through experience. The items of the NPA are included in the items of ICAO.
(ii) o nthejob train ing delivered by a se nior inspec tor appoint ed by t he inspecting authority ~~or the Agency~~, using the appropriate syllabus.
Justification:
Delete Agency because ramp inspections are only carried out by MS and not by the Agency.

(d) The Agency ***in coordination with the MS*** *shall develop training* ***syllabus*** *~~programmes~~ and fost er the org anisation and implementation of trainin g courses and works hops for inspectors to improve the unders tanding a nd uniform implementation of this section.*
Justification:
The syllabus and not the full trainings programme shall be developed by the Agency. MS involvement is essential because the MS and not the Agency have the experience to carry out ramp inspections.

(b) (3): replace "*minumum of ~~12~~ inspections...*" with "***24*** *inspections...*"
Justification:
Experience shows that 12 inspections are not adequate for good knowledge

and should be raised.

Furthermore it should be considered that in many MS the ramp inspectors are also national flight inspectors and therefore have to keep their ratings by flying for an operator. If there is a limitation to fly for a comapny, they never could keep their ratings or they never could do their job as ramp inspector. For reasons of practical need and for avoiding bias, it is recommended to develop AMC for that requirement.

comment *380* comment by: *Deutsche Lufthansa AG*

Comment:
Lufthansa has identified a general concern with SAFA inspectors not knowing the EASA rules, which seem to indicate a lack of training and competence
There is therefore a need for a better qualification and training of SAFA inspectors. Some auditors go well beyond the manner in which an audit should be conducted and on occasions are quite aggressive towards crew. They need to be advised that crew are preparing for a flight with limited time and such distractions are most unwelcome from a safety perspective.
Proposal:
Add a requirement for SAFA inspectors to be subject to a mandatory examination by EASA

comment *400* comment by: *AUSTRIAN Airlines*

Comment:
AUSTRIAN has identified a general concern with SAFA inspectors not knowing the EASA rules, which seem to indicate a lack of training and competence
There is therefore a need for a better qualification and training of SAFA inspectors. Some auditors go well beyond the manner in which an audit should be conducted and on occasions are quite aggressive towards crew. They need to be advised that crew are preparing for a flight with limited time and such distractions are most unwelcome from a safety perspective.
Proposal:
Add a requirement for SAFA inspectors to be subject to a mandatory examination by EASA

comment *427* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
The AEA has identified a general concern with SAFA inspectors not knowing the EASA rules, which seem to indicate a lack of training and competence

There is therefore a need for a better qualification and training of SAFA inspectors. Some auditors go well beyond the manner in which an audit should be conducted and on occasions are quite aggressive towards crew. They need to be advised that crew are preparing for a flight with limited time and such distractions are most unwelcome from a safety perspective.

Proposal:
Add a requirement for SAFA inspectors to be subject to a mandatory examination by EASA

comment *459* comment by: *Civil Aviation Authority of Norway*

Comment to (b)(3);
The continued validity requirements should only apply for conducting ramp inspections on foreign aircraft, as ramp inspections on national aircraft is performed in addition to the established foreign aircraft ramp inspection program (SAFA) and conducted by non-SAFA inspectors.

comment *482* comment by: *Irish Aviation Authority*

Comment:
(b)(2)(i) - Ground Operations is not included in the list of categories under 'Qualification of Inspectors'

Proposed text:
Under Qualification of Inspectors, add another category to the list of categories (e) " Ground Operations"

comment *661* comment by: *IACA International Air Carrier Association*

(b)(2)(i)(D)
It would be appropriate to replace (D) Cargo by (D) Dangerous Goods

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.435 Conduct of Ramp inspections p. 6

comment *18* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.435(c): change as follows:

(a) The inspecting authority and the Agency shall take the necessary measures to ensure that an inspector will not perform a ramp inspection when that could result directly or indirectly in a conflict of interest, in particular family and financial interest.
(b) The ramp inspection shall be performed in a standardised manner using procedures issued by the Agency and the ramp inspection report form established in Appendix 3.
(c) When performing a ramp inspection, the inspector(s) shall make all possible efforts to avoid an unreasonable delay of the aircraft inspected. **This does not imply that the inspectors must not complete all the items of the inspection.**
(d) On completion of the ramp inspection, the pilot in command or, in his/her absence, another member of the flight crew or a representative of the aircraft operator shall be informed of the ramp inspections results using the form established in Appendix 2.

Justification:
This paragraph seems to follow a commercial aim (to avoid the delay of the departure of the flight), but the rule maker cannot forget that the main objective of the law is to ensure the safety of the operation. That is the reason why it is essential to ensure the effectiveness of the inspection and not the avoidance of delays.

comment *84* comment by: *Quality Assurance, Denim Air*

The Ramp inspection is a politically sensitive matter that has caused problems for operators in many EASA member states. It is not possible to combine a 'risk based system' with the notion of a national quota as described by EASA (see content of the workshops provided by EASA on these NPAs). The current proposal will only make such problems more common.

comment *211* comment by: *Thomsonfly*

It is understood that Basic Regulation Article 10 para 2 is believed to provide a basis for National Authorities to 'inspect' foreign aircraft which are not under their 'oversight'
This is not the case.
Article 10 para 2 refers to additional requirments in addition to the oversight of certificates THEY have issued
This indicates that the Ramp Inspections refered to are applicable to the Authority having oversight only
(AR.GEN.415 (b).

There is no Justification for an authority 'not having oversight' to perform a ramp inspection on an aircraft subject to another EASA Authority which does have oversight.

Such Inspections are intrusive and distracting to flight crew at what may be a critical time.
They may even have negative affect on safety.

comment *221* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

AR.GEN.435 Conduct of ramp inspections
(c)

Comment:

Replace "an unreasonable delay" with "any delay"

comment *251* comment by: *AEA*

Comment:
There is a general concerns about the lack of feedback being given to the operator after a SAFA inspection. For example some operators did not received any reports or information relating to the details of SAFA inspections for a 3 - 6 month period after the inspection, thus making it difficult for effective company procedures to react to the findings in a reasonable time. Our understanding is that a formal report of the findings should be sent to the airline and the NAA within 15 days, but for whatever reason we do not find this is happening effectively. We suggest establishing a short-term notification process (within 24h) to operators.
Proposal:
Add a requirement to establish a formal notification process within 24h to the operator concerned

comment *275* comment by: *Walter Gessky*

AR.GEN.435 Conduct of Ramp inspections
(a) The inspecting authority ~~and the Agency~~ shall take the necessary measures to ensure
that an inspector will not perform a ramp inspection when that could result directly or
indirectly in a conflict of interest, in particular family and financial interest.
Justification:
Only the MS will carry out ramp inspections.

Comment to (b) and (d): why using two separate forms (Appendix 2 and 3) with almost identical content. This is an unnecessary bureaucracy one form shall be deleted.

comment *309* comment by: *TAP Portugal*

Comment:
There is a general concerns about the lack of feedback being given to the operator after a SAFA inspection. For example some operators did not received any reports or information relating to the details of SAFA inspections for a 3 - 6 month period after the inspection, thus making it difficult for effective company procedures to react to the findings in a reasonable time. Our understanding is that a formal report of the findings should be sent to the airline and the NAA within 15 days, but for whatever reason we do not find this is happening effectively. We suggest establishing a short-term notification process (within 24h) to operators.
Proposal:
Add a requirement to establish a formal notification process within 24h to the operator concerned

comment *339* comment by: *KLM*

Comment:
There is a general concerns about the lack of feedback being given to the operator after a SAFA inspection. For example some operators did not received any reports or information relating to the details of SAFA inspections for a 3 - 6 month period after the inspection, thus making it difficult for effective company procedures to react to the findings in a reasonable time. Our understanding is that a formal report of the findings should be sent to the airline and the NAA within 15 days, but for whatever reason we do not find this is happening effectively. We suggest establishing a short-term notification process (within 24h) to operators.
Proposal:
Add a requirement to establish a formal notification process within 24h to the operator concerned

comment *356* comment by: *Austro Control GmbH*

(a) The inspecting authority ~~and the Agency~~ shall take the necessary measures to ensure
that an inspector will not perform a ramp inspection when that could result directly or
indirectly in a conflict of interest, in particular family and financial interest.
Justification:
Only the MS will carry out ramp inspections.

Comment to (b) and (d): why using two separate forms Appendix 2 and 3 with almost identical content. This is an unnecessary bureaucracy one form shall be deleted.

comment *381* comment by: *Deutsche Lufthansa AG*

Comment:
There is a general concerns about the lack of feedback being given to the operator after a SAFA inspection. For example some operators did not received any reports or information relating to the details of SAFA inspections for a 3 - 6 month period after the inspection, thus making it difficult for effective company procedures to react to the findings in a reasonable time. Our understanding is that a formal report of the findings should be sent to the airline and the NAA within 15 days, but for whatever reason we do not find this is happening effectively. We suggest establishing a short-term notification process (within 24h) to operators.
Proposal:
Add a requirement to establish a formal notification process within 24h to the operator concerned

comment *401* comment by: *AUSTRIAN Airlines*

Comment:
There is a general concerns about the lack of feedback being given to the operator after a SAFA inspection. For example some operators did not received any reports or information relating to the details of SAFA inspections for a 3 - 6 month period after the inspection, thus making it difficult for effective company procedures to react to the findings in a reasonable time. Our understanding is that a formal report of the findings should be sent to the airline and the NAA within 15 days, but for whatever reason we do not find this is happening effectively. We suggest establishing a short-term notification process (within 24h) to operators.
Proposal:
Add a requirement to establish a formal notification process within 24h to the operator concerned

comment *416* comment by: *CAA CZ*

AR.GEN.435(b),(d): The usage of two kinds of report forms in accordance with Appendix 3 and Appendix 2 will constitute superfluous administrative burden. We recommend developing of one and only report form, the original of the document should serve the need of inspecting NAA and the copy should be designated for the flight crew.

comment *422* comment by: *Department for Transport UK*

Paragraph (b) requires the use of the ramp inspection report form while paragraph (d) requires that a copy of the proof of inspection form be completed and passed to the aircraft crew. Both forms contain identical information. It is unnecessary for both forms to be used. In practice the proof of inspection form is more likely to be used by inspectors as they will need to pass a copy to the crew. The information will then be entered directly onto the SAFA database without the SAFA report form being used.

Proposed text for AR.GEN.435(b): The ramp inspection shall be performed in a standardised manner using procedures issued by the Agency and the form established in Appendix 2.

Appendix 3 could then be deleted.

comment *428* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
There is a general concerns about the lack of feedback being given to the operator after a SAFA inspection. For example some operators did not received any reports or information relating to the details of SAFA inspections for a 3 - 6 month period after the inspection, thus making it difficult for effective company procedures to react to the findings in a reasonable time. Our understanding is that a formal report of the findings should be sent to the airline and the NAA within 15 days, but for whatever reason we do not find this is happening effectively. We suggest establishing a short-term notification process (within 24h) to operators.
Proposal:
Add a requirement to establish a formal notification process within 24h to the operator concerned

comment *502* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.435 (d):
ECA requests to clarify the wording:
The pilot-in-command shall, in any case, be informed in first place of the outcome of the ramp inspection by the use of the adequate form before continuing his duty in order to avoid continuation of an unsafe flight.
If the mission is continued by the same PIC, such result and form (or copy of it) shall be included in the records of the flight.

comment *525* comment by: *DGAC*

Comment: (c) When performing a ramp inspection, the inspector(s) shall make all possible efforts to avoid an unreasonable delay of the aircraft inspected. This principle has been updated by a more relevant one, still in compliance with the Article 16 of the Chicago Convention, that is included into the GM for SAFA ramp inspections procedures published by the EASA in July 2009.

Proposal: Replace it or complete it by the following: "Departure delay of an aircraft should be avoided. However, when an inspector discovers
an issue which may have a major effect on flight safety or requires further investigation to clarify the issue, a delay may be justified"

comment *562* comment by: *Ryanair*

Comment
(d) This requires further clarification. For example, it would be entirely inappropriate for a Ground Handling Agent (representative of the aircraft operator) to be informed of ramp inspection results. The pilot-in-command must always be informed.

Proposal
On completion of the ramp inspection, the pilot-in-command ~~or in his/her absence another member of teh flight crew or a representative of the aircraft operator~~ shall be informed of the ramp inspections results .....

comment *663* comment by: *IACA International Air Carrier Association*

(c)
Replace "an unreasonable delay" by "any delay".

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.440 Categorisation of findings p. 6

comment *95* comment by: *CAA-NL*

Proposal CAA-NL, add the following tekst (in blue):

AR.GEN.440 Categorisation of findings
(a) For each inspection item, three categories of possible non-compliances with the applicable requirements are defined as findings. The findings are categorised according to the perceived influence on flight safety.
(1) A category 1 finding is considered to have a minor influence on safety.
(2) A category 2 finding may have a significant influence on safety as well as any non-compliance with the requirements or the terms of an approval or certificate which could lower the safety standards and possibly hazard flight safety.
(3) A category 3 finding may have a major influence on safety as well as any significant non-compliance with the requirements or the terms of an approval or certificate which lowers the safety standards and seriously hazards flight safety..
Note: Any other safety relevant issues identified during a SAFA inspection, although not constituting a finding, can be reported as a General Remark (category G) under each inspection item.
(b) The findings should be categorised according to the list as provided by EASA when applicable. However this list can not cover all possible deviations that could occur.
(c) Findings on arrival flights should lead to the same categorisation as the same findings made for departure flights, although the corrective action might not be possible when the flight has been completed.
Note: For a detailed description of categorisation see SAFA Ramp Inspectors Procedures Manual as provided by EASA

comment *128* comment by: *Luftfahrt-Bundesamt*

The system of findings stipulated in this paragraph should include a possibility to notify an observation. Beside this the system of findings does not comply to the form included in appendix 2 ("Proof of Ramp Inspection Form").
A change to a „Two-level-System" in Finding categories minimizes the authorities' scope of discretion.
If, nevertheless, a change to a two-level-system is unavoidable, the following has to be ovserved:

- This new Finding philosophy should be changed to the following:

Level 1: former Cat. 3 + part of Cat.2 (non-compliance which clearly lowers standard)
Level 2: former Cat. 1 + rest of Cat. 2 (non-compliance which could have influence on flight safety)

- The previous follow-up actions that go along with the finding-categorisation have to be adjusted to the new finding categorisation.
The appendixes have to comply with the new categorisation format.

comment *186* comment by: *UK CAA*

Paragraph No: AR.GEN.440 Categorisation of findings

Comment: The categorisation of findings has been reduced from the three levels, currently used in the SAFA process, to two. This has been done, according to the explanatory text, to harmonise the categorisation of findings with the other Parts. The impact of this change is to significantly reduce the flexibility of inspectors to indicate minor findings that do not have a marked effect on flight safety, but that are useful in indicating general standards exhibited by the operator, and which provide a means to help foreign operators to raise their standards without the need for any formal follow-up action. By removing the first level of finding it also increases the workload, and therefore costs, on Member States who are required to request corrective action for the non-compliance, and to follow up such corrective action (AR.GEN.345). The explanatory note states that "Nonetheless the content of Directive 2004/36 on the follow up actions has not been changed", but by removing a level of finding the action is, in effect, changed.

Justification: The SAFA system, as it is currently designed, works well in its primary task of identifying operators who are falling below international standards. By trying to fit the SAFA programme into a system designed for the oversight of national operators by their own regulatory authority the effectiveness of the SAFA programme is degraded and the workload on Member States is increased, with no additional safety benefit.

comment *187* comment by: *UK CAA*

Paragraph No: AR.GEN.440

Comment: AMC material defining "significant non-compliance" (level 1) and "non-compliance" (level 2) is required.

Justification: Currently there is no explanation available in the AMC material defining the differences between the levels

comment *233* comment by: *Pietro Barbagallo ENAC*

Comment : A level 3 finding (equal to current CAT 1 finding) should be considered only for SAFA Inspection.
Justification: Such condition increases statistics information flow and flexibility of management remarks.

comment *276* comment by: *Walter Gessky*

. **AR.GEN.440 Categorisation of findings**
The s ystem wi th r egard t o categorisation of findings sh all n ot be changed.
Justification:
The inspectors and industry is trained to use the existing categorization system. Categorisation system used for organizations might not fit to ramp inspections. Any change might confuse the inspectors and industry.

comment *357* comment by: *Austro Control GmbH*

Even if the current system is not in compliance with the finding-system in Part-M and other parts and despite the advantage of uniform data collection it must be emphazised that the inspectors and industry are trained to use the existing categorization system with three levels. Categorisation system used for organizations might not fit to ramp inspections. Any change will confuse the inspectors and industry.

The suggested Level 1 and Level 2 finding system is not so detailled because current L1 (information to captain and crew) will no more exist. This is an administrative simple point, but has a deep safety impact. Level 2 will not be more detailled.
So if this new system for ramp checks will be established it is from a practical view absolutly necessary to consider this impact and to distinguish more classification in the level.

comment *423* comment by: *Department for Transport UK*

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 would involve considerable extra work for the Member States as, in accordance with AR.GEN.445 and AR.GEN.345, all findings would need to be followed up.

The finding leves should also reference applicable international standards as the cause of the finding may arise from non implementation of such standards by the Sate of Operator/Registry

Proposed text:

For each inspection item, three categories of possible non compliances with the applicable requirements are defined as findings. Such findings shall be categorised as follows:

A level 1 finding is any non compliance with applicable international standards or non compliance with the requirements or the terms of an approval or certificate which is considered unlikely to hazard flight safety.

A level 2 finding is any non compliance with applicable international standards or non compliance with the requirements or the terms of an approval or certificate which lowers safety standards and possibly hazards flight safety.

A level 3 finding is any non compliance with applicable international standards or non compliance with the requirements or the terms of an approval or certificate which lowers safety standards and seriously hazards flight safety.

comment 466 comment by: *ERA*

European Regions Airline Association Comment

This is a different categorisation system than the one currently in use (SAFA example in appendix 2 uses three levels and level 3 has three more). Why not use the current SAFA as the standard?

comment 500 comment by: *ANE (Air Nostrum) OPS QM*

This is a different categorisation system than the one currently in use (SAFA example in appendix 2 uses three levels and level 3 has three more). Why not use the current SAFA as the standard?

comment 526 comment by: *DGAC*

Attachment #1

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 is 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. In fact, it is clearly going against the main purposes of the 216/2008 in "establishing and maintaining a uniform level of safety in Europe" as far as the TCO operations are concerned. Having been correctly implemented by the Member States for the last years, this major unnecessary change will introduce major confusion and issues concerning its implementation.

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 satisfactorily 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.* "

Proposal: Regarding the ramp inspections performed on TCO, keep the current and actual harmonized procedures of the Guidance Material of the EASA, §5.

comment 527 comment by: *DGAC*

Comment: In line with comment 526, two different categorisation processes could be envisaged. One cat 1/2 for the ramp inspections performed on European operators (216/2008 Article 4, 1(b) and (c)) and the actual 1/2/3 method for the ramp inspections on TCO (216/2008 Article 4, 1(d)). This method will enable the Member States to keep the implementation of a very well established ramp inspection programme already existing and efficient on TCO, the SAFA programme, and will enable to harmonize the results of all the oversight activities performed on European operators, as for now, the programme of ramp inspection on EU-operators is not defined yet (they are currently inspected under the SAFA ramp inspection procedures with the international standards of ICAO as a referential)

comment *528* comment by: *DGAC*

Comment: The current procedures within the SAFA programme have introduced the notion of categorisation G – General Remark which enables to notify to the operator additional safety relevant information. This information does not stand for finding as they are not a clear deviation from an applicable international standard. Although, this information appears to be very useful for an operator to monitor its operations and improve its level of general safety, which is the final aim of the 216/2008.

These Cat G – General remark could be applied for instance when an operator is operating in compliance with ICAO standards but not in compliance with the procedures enacted in its OPS Manual.
This is a very important notion in the way the SAFA programme is implemented regarding operator behaviour.

The cat G – General Remark has been officially introduced in the SAFA programme by the Guidance Material on the Ramp inspection Procedures published by the EASA on July 2009 (§5 SAFA- Categorisation).

Proposal: This categorisation (cat G) has to be added in this field, for the ramp inspection on TCO (216/2008 Article 4, 1(d)) as well as for the ramp inspection of European operators (216/2008 Article 4, 1(b) and (c))

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.445 Follow up actions on non-compliances

p. 6-7

comment *33* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.445 (b):

ECA requests clarification:
There is a reference to missing provisions (AR.TCO.340 and AR.TCO.345). ECA cannot have an opinion on this text until reading of the referred provisions.

comment *96* comment by: *CAA-NL*

Proposal CAA-NL Regarding add the following tekst (in blue):

AR.GEN.445 Follow up actions on non-compliances
(a) When a finding is raised during a ramp inspection, the inspecting authority shall act in accordance with the conditions and procedures laid down

in Part AR.GEN.345 or AR.GEN.350, as applicable.
(b) When a finding is raised during a ramp inspection carried out by the Agency, the Agency shall act in accordance with the conditions and procedures pursuant Subpart AR.TCO.340 or AR.TCO.345, as applicable.
(c) The inspecting authority shall inform the Agency, the competent authority of the State of the operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued and, where appropriate, request for confirmation of their acceptance of the corrective actions taken by the operator.
(d) The inspecting authority shall:
1. inform the Agency, when the aircraft is used by a third country operator;
2. for category 3 findings and due to the significance of their potential influence on the safety of the aircraft and its occupants take immediate steps by:.
(i) imposing a restriction on the aircraft flight operation; or
(ii) requiring immediate corrective actions; or
(iii) grounding the aircraft; or
(iv) banning the aircraft and/or it's operator

(e) The Agency shall inform the competent authority of the state of the third country operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued and, where appropriate, request for confirmation of their acceptance of the corrective actions taken by the third country operator.

comment *97* comment by: *CAA-NL*

Comment CAA-NL:

The follow-up actions of ramp inspection findings may be distinguished in two stages. The first stage is the follow-up action directly as a result from the findings found during the respective inspection, the second stage is the monitoring and follow-up of any correspondence, sent out to the operator and the State of oversight, which should result in closure of the findings.
Actions resulting from an inspection
Based on the results of the inspection and on how the findings have been categorised,
common follow-up actions have been defined. The relations between the category of findings
and the resulting class of actions to take are given in Chapter 7, Appendix 2 (class of actions
matrix) of de EASA SAFA procedures manual.
Chapter 7, Appendix 2 repeats the requirements to hand over the Proof of Inspection to the flight crew and to send letters to the operator and its competent authority. Although crews, operators and authorities become more and more familiar with the SAFA programme, it might be necessary to inform them about the SAFA programme and to explain them what is expected from their side when an inspection has been performed. For this purpose two templates for information leaflets are proposed in Appendix 4; one for the operator and its competent authority and one for the general public. These leaflets may be e.g. handed out to the flight crew, may be attached to the letters sent to the operator or handed out to the passengers in case they raise questions about the inspection performed.
The inspecting authorities are invited to adhere as much as possible to these templates in the

interest of standardisation and harmonisation. Contact details for the inspecting authority
should be added to the last paragraph of the leaflet.

a) Class 1 action: information to the captain
A class 1 action is to be taken after each inspection, and consists of providing information about the results of that SAFA inspection, regardless of whether findings have been identified or not. This is achieved by handing over the Proof of Inspection (POI) to the aircraft commander or the representative of the operator. When completing the POI, the following should be taken into account:
- The POI does not require the category of the finding to be mentioned. However, every Member State may decide to include more information to be shown on the POI than the minimum required (e.g. the delay incurred as a result of the inspection).
- When handing over the POI to the commander/operator representative, the inspector should ask him/her to sign the POI whilst explaining that the signature does not mean that he/she agrees with the findings. The signature only confirms that the POI has been received by the commander/operator representative.

b) Class 2 action: Information to the authority and the operator
Category 2 and 3 findings are considered to have a significant and major influence on safety. Therefore, when category 2 and/or 3 findings have been raised, communications must be made by means of a letter to both:
- The operator:
  The letter should request that corrective actions are taken (or alternatively the provision of a corrective action plan), and evidence supporting the corrective actions taken;
- The State of oversight:
  The letter should contain, where appropriate, a request for confirmation that they are satisfied with the corrective actions taken or proposed by the operator.
  This might be appropriate, for example but not limited to:
  i. in the case of a high number of findings,
  ii. repetitive findings,
  iii. lack of appropriate response from the operator,
  iv. where there is evidence of consistently poor standards demonstrated by operators from that State
  v. where certain findings indicate possible shortcomings at State level (e.g. Medical certificate does not indicate the medical class)
  vi. where action by the state of oversight might be required given the seriousness of the findings

The primary source of information to enable an operator to take swift action to address
safety deficiencies is the POI. In order to inform the States of oversight in sufficient time to
permit appropriate action to be taken, and to confirm to the operator the findings made,
these letters should be sent not later than 30 working days after the inspection. In the case
where the operator has already replied, to the satisfaction of the competent inspecting

authority, based on the information contained in the POI, the letter to the operator might
not be sent.

Note: In exceptional cases where multiple category 2 findings have been found and the
accumulation of these findings or their interaction justifies a corrective action, the class of
action may be increased to a class 3 action.

c) Class 3 actions: Restrictions or corrective actions
A class 3 action follows a category 3 finding which are considered to have a major effect on the safe operation of the aircraft. For that reason, action(s) need to be taken before the departure of the aircraft. On the ramp inspection report only the actions required/imposed by the inspector (competent authority) should be mentioned.
If the operator voluntary corrected a cat 1 or 2 finding before the flight this should not be reported as a class 3b action. Instead, such voluntary action should be mentioned in the "Additional information box".
If the category 3 (major) findings that have been established during the SAFA Ramp Check concerns damage of a nature such that the aircraft is no longer airworthy, this has to be communicated immediately to the responsible State of oversight. Although the first contact may be, as a matter of urgency, accomplished by telephone, it is advisable to use written communication procedures. For ICAO guidance on this matter refer to ICAO Annex 8 Part II Chapter 3.6 - Temporary Loss of Airworthiness.

The class 3 action is divided into 4 sub-actions:

Class 3a. Restriction on the aircraft flight operation
The inspector(s) (competent authority) performing the ramp inspection have concluded that, as a result of some deficiencies identified during the inspection, the aircraft may depart only under certain restrictions. Some examples of class 3a actions are:
- Restrictions on flight altitudes if oxygen system deficiencies have been found,
- A non revenue flight to the home base if allowed for by the MEL,
- Some seats that may not be used by passengers,
- A cargo area that may not be used.

Class 3b. Corrective actions before flight
The ramp inspector(s) (competent authority) have identified some deficiencies that require corrective action(s) before the intended flight. Such corrective actions may be:
- (temporary) repairs to defects according to the AMM,
- Recalculation of mass and balance, performance calculations and/or fuel figures,
- A copy of a missing license/document to be sent by fax or other electronic means,
- Proper restraining of cargo.

Class 3c. Aircraft detained by inspecting National Aviation Authority
An aircraft is grounded in a situation where the category 3 (major) findings are not corrected by the operator before flight. Because the safety of the aircraft and its occupants is at stake, the aircraft has to be

prevented from resuming its flight and has to be 'grounded' until the safety hazard is removed. This class of action should be imposed only if the crew refused to take the necessary corrective actions or to respect the restrictions on the aircraft flight operation. A class 3c action would also be appropriate when an operator refuses to permit the performance of a SAFA inspection without a valid reason.

Class 3d. Immediate operating ban
In case of an immediate and obvious safety hazard a competent authority may react by
imposing an operating ban on an operator or an aircraft.

Further follow-up
In the case where category 2 or 3 findings have been found the related action(s) should have
been taken. The follow-up however does not end there, further follow-up and/or monitoring is
required.

d. Class 2 action
The class 2 actions comprise of letters to be sent to the operator and to the State of oversight.

- Letters to operators:
  These letters always need further follow-up since they should contain a request for corrective actions taken or planned. The Member State should monitor if a reply is received and if it gives sufficient reason to close the finding(s) or prompts the need to request further information. In order to close the finding, the reply of the operator does not necessarily need to contain evidence that the deficiency has been corrected; the "corrective action taken" by the operator might also be the implementation of a corrective action plan. It is up to the Member State to decide, based on the related risk and impact, whether or not a finding may be closed based on future actions.
- Letters to authorities:
  The letters are primary meant to inform the State of oversight; no reply is expected to these letters. Only where appropriate, the letter should ask for "confirmation that they are satisfied with the corrective actions taken" by the operator. For these letters, the Member States should monitor if such a reply is received and if the content is satisfactory.

e. Class 3 actions
Depending on which class 3 of action has been taken when a cat 3 finding has been found, certain further follow-up actions may be deemed necessary to verify if the restrictions are respected or if corrective actions have been taken. Although it is preferred to perform such verification this might not always be required (e.g. if the operator is trusted) or possible (e.g. for flight segments outside the EUROCONTROL area). It is up to the Member State to determine if verification is feasible and needs to be done.

- Class 3a (restrictions on the aircraft operation)
  Restrictions have been agreed/imposed. Adherence to the restrictions might be considered. E.g. adherence to a restricted flight altitude may be checked by checking the ATC flight plans and/or the actual altitude flown as reported by the

EUROCONTROL CFMU system. If some seats were to be blocked for their usage by passengers, it might be checked just before departure to confirm that the seats are not occupied;

- Class 3b (Corrective actions before flight)
  A corrective action is required from the operator before the flight is commenced, therefore it should be possible to verify the corrective actions taken (e.g. if the tyre has been changed, if the recalculation of Mass & balance has been done [correctly], etc.)
- Class 3c (Aircraft grounded by inspecting NAA)
  At first, the inspecting State has to make sure that the aircraft will not depart as long as the reasons for the grounding remain.
  Secondly, the grounding needs to be communicated as soon as possible to the State of oversight and the Operator home base. Any records of communication and other evidence should be gathered as evidential material.
- Class 3d (Immediate operating ban)
  When class 3d action is imposed it is usually in addition to a Class 3a, 3b or 3c action. Therefore, the further follow-up for the SAFA programme is considered to be covered by the follow-up of those actions. However, when class 3d action is taken member states should be mindful of their obligations under the Regulation 2111/2005.

The Above long text could also be replaced by the shorter text of directive 2008/36/EC

Which reads:

FOLLOW-UP ACTIONS TO BE TAKEN

a.) Without prejudice to paragraph 1.2, a proof of inspection containing at least the elements set out in Appendix 2 must be completed and a copy handed over to the aircraft pilot in command, or in his/her absence, to a member of the flight crew or to the most senior representative of the operator present in or near the aircraft upon completion of the SAFA inspection. A signed acknowledgment of receipt of the proof of inspection shall be requested from the recipient and be retained by the inspector. Refusal by the recipient to sign shall be recorded in the document. Relevant detailed instructions will be developed and published by EASA as detailed guidance material.

b.) Based on how the findings have been categorised, certain follow-up actions have been defined. The relations between the category of findings and the resulting actions to take are presented in the class of actions and will be developed and published by EASA as detailed guidance material.

c.) Class 1 action: This action consists of providing information about the results of the SAFA Ramp inspection to the aircraft pilot in command, or in his/her absence, to another member of the flight crew or to the most senior representative of the operator present. This action consists of a verbal debriefing and the delivery of the proof of inspection. A class 1 action shall be taken after each inspection, regardless of whether findings have been identified or not.

d.) Class 2 action: This action consists of

(1) a written communication with the operator concerned and shall contain request for evidence of corrective actions taken, and

(2) a written communication with the responsible state (state of operator and/or registry) addressing the results of inspections

carried out on aircraft operated under the safety oversight of the respective state. The communication shall contain, where appropriate, a request for confirmation that they are satisfied with the corrective actions taken under point (1).

Member States shall make available to EASA a monthly report on the status of follow-up actions which they have taken pursuant to ramp inspections.

A class 2 action shall be taken after inspections where category 2 or category 3 findings have been identified.

Relevant detailed instructions will be developed and published by EASA as detailed guidance material.

e.) Class 3 actions: A class 3 action shall be taken after an inspection where a category 3 finding has been identified.

Owing to the significance of category 3 findings with regard to their potential influence on the safety of the aircraft and its occupants, the following sub-classes have been identified:

(1) Class 3a — Restriction on the aircraft flight operation: The competent authority performing the ramp inspection concludes that following deficiencies identified during the inspection, the aircraft may depart only under certain restrictions.

(2) Class 3b — Corrective actions before flight: The ramp inspection identifies deficiencies which require corrective action(s) before the intended flight may take place.

(3) Class 3c — Aircraft grounded by the inspecting national aviation authority: An aircraft is grounded in a situation where following the identification of category 3 (major) findings, the competent authority performing the ramp inspection is not satisfied that corrective measures will be taken by the aircraft operator to rectify the deficiencies before flight departure, thereby posing an immediate safety hazard to the aircraft and its occupants.

In such cases, the national aviation authority performing the ramp inspection shall ground the aircraft until the hazard is removed and shall immediately inform the competent authorities of the operator concerned and of the State of registration of the aircraft.

Actions taken under paragraphs 2 and 3 may include a non-revenue positioning flight to the maintenance base.

(4) Class 3d — Immediate operating ban: A Member State may react to an immediate and obvious safety hazard by imposing an operating ban as provided under the applicable national and Community law.

comment

222 comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

AR.GEN.445 Follow up actions on non-compliances
(c)

Comment/Proposal:

Follow up actions to include the "Operator".

comment

277 comment by: *Walter Gessky*

AR.GEN.445 Follow up actions on non-compliances
Subpart (a):

Comment: It shall be noted that we have comments to the referenced part AR.GEN.345 and AR.GEN.350.
Subpart (b): shall be deleted,
Justification: According Art 10/2 only the MS shall carry out ramp inspections. The Agency will only carry out inspections of the undertakings according Art 10/3, when fundamental organization problems are expected.
Subpart AR.TCO.340 and AR.TCO.345 are not available. This point is for the moment not accepted, because the referenced Subparts are not available.
Subpart (c):
The inspecting authority shall inform ~~the Agency,~~ the competent authority of the State of the operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued and, where appropriate, request or confirmation of their acceptance of the corrective actions taken by the operator.
Justification:
Delete Agency because the reports including the findings are available in the data base (see AR.GEN.460(a), to reduce bureaucracy no separate reporting is required.

Subpart (d) The inspecting authority shall:
~~1. inform the Agency, when the aircraft is used by a third country operator;~~
~~2~~1. for level 1 findings and due to the significance of their potential influence on the safety of the aircraft and its occupants take immediate steps by:
(i) imposing a restriction on the aircraft flight operation; or
(ii) requesting immediate corrective actions; or
(iii) grounding the aircraft.
(iv) inform the competent authority of the state of the third country operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued.
(v) ban of aircraft
2. for level 1 findings inform the Agency **and the other MS** , when the aircraft is used by a third country operator; **and provide the proposed corrective action plan to the Agency.**
Justification:
Renumbering required for clarification, because the important step would be that the MS reacts immediately and impose the necessary restriction.
The MS shall immediately inform the third country operator.
Only safety related level 1 findings shall be reported immediately to the Agency and also to all other MS. All other findings will be available in the data bank, therefore no additional reporting is required. The initial proposed action plan shall be provided to the Agency.

(e) The Agency shall ~~inform~~ **coordinate with** the competent authority of the state of the third country operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued and ~~,where appropriate,~~ request for confirmation of their acceptance of the corrective actions taken by the third country operator.
Justification:
Rewording required, because the MS shall immediately react in case of a level 1 finding. Than the Agency can continue to act and coordinate with the third country NAA with regard to the corrective action plan and any future ban of the operator.

Comment: Categorisation of findings see AR.GEN.440

comment 358 comment by: *Austro Control GmbH*

Subpart (a):
Comment: It shall be noted that there are comments to the referenced part AR.GEN.345 and AR.GEN.350.
Subpart (b): shall be deleted,
Justification: According Art 10 (2) only the MS shall carry out ramp inspections. The Agency only carry out inspections of the undertakings according Art 10 (3), when fundamental organization problems are expected.
Subpart AR.TCO.340 and AR.TCO.345 are not available. This point is for the moment not accepted, because the referenced Subparts are not available.
Subpart (c):
The inspecting authority shall inform ~~the Agency,~~ the competent authority of the State of the operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued and, where appropriate, request or confirmation of their acceptance of the corrective actions taken by the operator.
Justification:
Delete Agency because the reports including the findings are available in the data base (see AR.GEN.460(a), to reduce bureaucracy no separate reporting is required.

Subpart (d) The inspecting authority shall:
~~1. inform the Agency, when the aircraft is used by a third country operator;~~
~~2~~1. for level 1 findings and due to the significance of their potential influence on the safety of the aircraft and its occupants take immediate steps by:
(i) imposing a restriction on the aircraft flight operation; or
(ii) requesting immediate corrective actions; or
(iii) grounding the aircraft.
(iv) inform the competent authority of the state of the third country operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued.
2. for level 1 findings** inform the Agency **and the other MS**, when the aircraft is used by a third country operator; **and provide the proposed corrective action plan to the Agency.
(v) ban of aircraft
Justification:
Renumbering required for clarification, because the important step would be that the MS reacts immediately and impose the necessary restriction.
The MS shall immediately inform the third country operator.
Only safety related level 1 findings shall be reported immediately to the Agency and also to all other MS. All other findings will be available in the data bank, therefore no additional reporting is required. The initial proposed action plan shall be provided to the Agency.
The reason for addition of ban of aircraft is led down in EASA-guidance material V.1 from July 2009 and therefore already practical use.

*(e) The Agency shall i~~nfor m~~ **further coordinate with** the competent authority of the state of the third country operator and, where relevant, the State in which the aircraft is registered or where the licence of the pilot in command was issued ~~and, where appropriate,~~ request for confirmation of their acceptance of the corrective actions taken by the third country operator under oversigth of the Agency.*
Justification:
Rewording required, because the MS shall immediately react in case of a level 1 finding. Than the Agency can continue to act and coordinate with the third

country NAA with regard to the corrective action plan and any future ban of the operator.

Comment: Categorisation of findings see AR.GEN.440
Besides that, in general it is not clear who has to do what. Is the competence for actions by the operator, by the Agency, buy the operator's authority, by NAAs? Follow up should stay in the competence of the MS.
In every case AMC to this point is urgently requested!

comment *503* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.445 (b):
ECA requests clarification:
The current wording seems to imply that any TCO shall be ramp inspected by the sole Agency. Is this the intention of the rule? If so, then it is stated nowhere else.

comment *529* comment by: *DGAC*

Comment: (b) As NPA-TCO is not yet published, there is no possibility to comment this paragraph.

comment *530* comment by: *DGAC*

Comment: (c) and (e): two communications of the ramp inspections results on TCO are made toward the competent authority of the operator: the one performed by the inspecting authority and the one performed by the agency. It appears to be ineffective and even counter-productive in terms of resources dedicated to the communication process (as they may even get the same feedback for a double communication that appears to be useless).

Proposal: In order to close the findings detected during a ramp inspection on a TCO, the inspecting authority should perform the communication with the operator, seeking for evidence that corrective actions were taken to address the findings. The communication with the competent authority could be left under the responsibility of the Agency (as the entity responsible for the issuance of the technical authorisation granted to a TCO) but in any case, it brings no benefit to the overall safety to double this communication.

comment *532* comment by: *DGAC*

Comment: In order to be consistent with the current SAFA procedures well implemented, the communication process of ramp inspections performed on TCO should follow the dispositions of the §6.1.2 of the Guidance Material published by the EASA on the SAFA ramp inspection procedures.

comment *534* comment by: *DGAC*

Comment: (d) (2) In order to be consistent with the SAFA procedures, the communication process of the results of a ramp inspection on a TCO having raised significant or major finding should be triggered by the identification a category 2 or 3 finding. This should be reflected in (d)(2).

comment 664 comment by: *IACA International Air Carrier Association*

(c)
The inspecting authority shall also inform the operator concerned.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN. 450 Grounding of aircraft p. 7

comment 19 comment by: *ECA - European Cockpit Association*

Comment on AR.GEN. 450(a)(1): change as follows:

(a) In the case of a level 1 finding where it appears to the inspecting authority or the Agency that the finding would clearly be hazardous to flight safety, and that the aircraft is intended or is likely to be flown without completion by the operator or owner of the appropriate corrective action, the inspecting authority shall:
(1) notify the pilotincommand ~~**or the person appearing to be in command of the aircraft**~~ that the aircraft is not permitted to commence the flight until further notice;

Justification:
The pilot in command is always in command of the aircraft according to the law. No one else can appear to be in command of the aircraft.

comment 34 comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.450 (b):

Extend scope of information **-** broadcast to all member states the operator ~~**goes**~~ **operates** from/to.

Justification:
All authorities concerned by the operator shall be immediately informed of the grounding.

comment 35 comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.450 (d): Delete paragraph.

Justification:

It is unacceptable to grant the possibility to take off to an aircraft recognized unsafe to the point of requiring a grounding, without corrective action to be taken before.

comment 36 comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.450 (d): Missing reference : AR.TCO.210 is not available for comment.

Justification:
Irrespective of previous comment, additional opinion is deferred to the reading of the referred provisions.

comment *98* comment by: *CAA-NL*

Tekst proposal CAA-NL, add tekst in blue:

AR.GEN. 450 Grounding of aircraft

(a) In the case of a level 1 finding where it appears to the inspecting authority or the Agency that the finding would clearly be hazardous to flight safety, and that the aircraft is intended or is likely to be flown without completion by the operator or owner of the appropriate corrective action, the inspecting authority shall:

(1) notify the pilot in command or the person appearing to be in command of the aircraft that the aircraft is not permitted to commence the flight until further notice;

(2) take such steps as may be necessary to ground that aircraft.

(b) The inspecting authority where the aircraft is grounded shall immediately inform the competent authority of the State of the operator of the grounded aircraft or, when relevant, the State in which the aircraft is registered and the Agency in case the aircraft is used by a third country operator.

(c) When the aircraft is registered in a Member State, the State of the operator or the State of registry may prescribe the necessary conditions under which the aircraft can be allowed to takeoff. If the deficiency affects the validity of the certificate of airworthiness of the aircraft or Airworthiness Review Certificate (if applicable), the grounding shall only be lifted when the operator shows evidence that he has obtained a permit to fly in accordance with Part 21 Subpart P.

(d) When the aircraft is registered in a third country or in a Member State, which has delegated its regulatory oversight to a third country, and used by a third country operator, the Agency, in coordination with the State of the operator or the State of registry, may authorise the aircraft to takeoff in accordance with Subpart AR.TCO 210 If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted by the Member State authority when the operator shows evidence that it has obtained an operational authorisation from the Agency.

Appendix 3 – Ramp Inspection Report:
Add text: and category in the last sentence

comment *117* comment by: *Luftfahrt-Bundesamt*

- In case of Level 2-Findings the inspecting authority should be allowed to make a decision whether and to which extend information shall be provided to the appropriate constitutions (i.e. the Agency, the competent authority of the state of operator, and where relevant, the State of registry or where the licence of the pilot in command was issued.). Otherwise the bureaucratic expense would be horrendous.

- The wording in this paragraph should be changed from „grounding" to „delaying" and „aircraft is detained", respectively. The term „grounding" might cause irritations. Otherwise there should be a further description of what is meant by „grounding an aircraft" in the paragraph's context.

comment *188* comment by: *UK CAA*

Paragraph No: AR.GEN.450 (a)

Comment: The description of a hazardous situation is superfluous.

Justification: The entry states that "In the case of a Level 1 finding where it appears…..that the finding would clearly be hazardous to flight safety". AR.GEN.440 describes a Level 1 finding, iner alia, as a non-compliance that seriously hazards flight safety. Thus by definition a Level 1 finding indicates a hazardous condition and will therefore require the actions described subsequently in AR.GEN.450 (a)(1) & (a)(2).

Proposed Text (if applic able): "In the case of a Level 1 finding where it appears that the aircraft is intended or is likely to be flown….etc"

comment *278* comment by: *Walter Gessky*

AR.GEN. 450 Grounding of aircraft
(a) In the case of a level 1 finding where it appears to the inspecting authority ~~or the~~
~~Agency~~ that the finding would clearly be hazardous to flight safety, and that the aircraft
is intended or is likely to be flown without completion by the operator or owner of the
appropriate corrective action, the inspecting authority shall:
Justification:
According Art 10/2 only the MS will carry out ramp inspections.

(c) When the aircraft is registered in a Member State, the State of the operator or the State of registry may prescribe the necessary conditions under which the aircraft can be allowed to takeoff. If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted when the operator shows **to the inspecting authority** evidence that he has obtained a permit to fly in accordance with Part 21 Subpart P **and the ins pecting aut hority is satis fied with th e restrict ions and conditions under which the PtF is issued.**.
Comment: the PtF shall be shown to the inspecting authority and the authority has to be satisfied under which conditiond the aircraft can be operated.

(d) For the moment no comment possible because AR.TCO 210 is not available. This point is not supported for the moment.

comment *359* comment by: *Austro Control GmbH*

(a) In the case of a level 1 fin ding where it appears to the inspecting authority ~~or the~~
~~Agency~~ that the finding wo uld cle arly be hazardous to flight safety, and that the aircraft
is intended or is likely to be flown without completion by the operator or owner of the
appropriate corrective action, the inspecting authority shall:
Justification:
According Art 10 (2) only the MS will carry out ramp inspections.

(b) it is urgently requested to develop AMC to this requirement (for guideline, time frame, forms etc)

(c) When the aircraft is registered in a Member State, the State of the operator or the State of registry may prescribe the necessary conditions under which the aircraft can be allowed to take off. If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted when the operator shows ***to the inspecting authority*** *evidence that he has obtained a permit to fly in accordance with Part 21 Subpart P* ***and the inspecting authority is satisfied with the restrictions and conditions under which the PtF is issued.***.
Comment: the PtF shall be shown to the inspecting authority and the authority has to be satisfied under which conditiond the aircraft can be operated.

(d) For the moment a comment is not possible because AR.TCO 210 is not available. This point is not supported for the moment.

comment *441* comment by: *Department for Transport UK*

The final sentence of paragraph (d) states that "If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted by the Member State authority when the operator shows evidence that it has obtained an operational authorisation from the Agency." Currently in these circumstances the operator has to obtain permission from all States which will be overflown on the flight in question. It is not clear if the Agency in issuing the authorisation will ensure that the operator has obtained permission from any third countries which will be overflown if the destination of the flight in questions is outside of the EU. However, it would be useful to restate here that the operator still has the responsibility to obtain clearance from non EU States.

Proposed text for the final sentence of AR.GEN.450(b): If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted by the Member State authority when the operator shows evidence that it has obtained an operational authorisation from the Agency and permission from any non-EU states which will be overflown.

comment *535* comment by: *DGAC*

Comment: In order to be consistent with the current SAFA procedures well implemented, the dispositions of this paragraph in regards of the ramp inspections of TCO should reflect the acted dispositions of the Guidance Material published by the EASA on the SAFA ramp inspection procedures, §6.1.3 and 6.2.2.

comment *536* comment by: *DGAC*

Comment: (a) (1) "notify the pilot-in-command or the person appearing to be in command of the aircraft that the aircraft is not permitted to commence the flight until further notice". According to ICAO, Annex 6, §4.3.1, only the pilot in command is responsible for the operations of the aircraft. Therefore, the only counterpart of a ramp inspector for the information of grounding an aircraft has to be the pilot-in-command only.

Proposal: Delete the words "or the person appearing to be in command"

comment *537* comment by: *DGAC*

Comment: (b) "The inspecting authority where the aircraft is grounded shall immediately…" Due to the lack of the contact address on the field and the lack of communication means, compliance with the immediate information is really tricky to achieve.

Proposal: It could be replaced by "The inspecting authority where the aircraft is grounded shall as soon as possible…"

comment *538* comment by: *DGAC*

Comment: (b) "and the Agency in case the aircraft is used by a third country operator". What is the benefit in terms of safety to inform immediately the Agency while the information will be contained in the report entered into the database (the SAFA database in this case) that has to be drawn in the maximum delay of 21 calendar days (in compliance with AR-GEN.455). As the Agency has not more information from the field than the Inspecting Authority, the first priority is to inform the competent authority of the operator and to deal with the correction of the safety issues detected.

Proposal: To remain consistent with the current SAFA procedures enacted in the Guidance Material published by the EASA on the SAFA ramp inspection procedures §6.1.3 and 6.2.2, and to avoid unnecessary workload for the inspectors on the field that have lots of tasks to deal with while grounding an aircraft.

comment *539* comment by: *DGAC*

Comment: (c) The responsibility to authorise the aircraft grounded to be operated again is transferred to the State of the operator. This is not acceptable and not in compliance with ICAO standards, Annex 8, chapter 3.6 underlining that this procedure is only applicable following a damage affecting the airworthiness conditions of the aircraft.

For grounding linked with all the others fields except the airworthiness, the decision to release the aircraft shall be the responsibility of the Inspecting authority upon implementation of corrective actions to address the deficiency identified.

comment *540* comment by: *DGAC*

Comment: (c) The measures prescribed by the State of Operator / Registry must be deemed as acceptable by the State of Inspection.

Proposal : Replace by the following text "(c) When the aircraft is registered in a Member State, the State of the operator or the State of registry may prescribe the necessary conditions under which the aircraft can be allowed to take-off. These measures should be acceptable by the Inspecting Member State. If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted when the operator shows evidence that he has obtained a permit to fly in accordance with Part 21 Subpart P."

comment *541* comment by: *DGAC*

Comment: (d) "the Agency, in coordination with the State of the operator or the State of registry, may authorise the aircraft to take off … only be lifted by the Member State authority when the operator shows evidence that it has obtained an operational authorisation from the Agency". It is absolutely not practical from a field point of view as these cases have to be solved as quickly as possible. The Agency has no precise overview of the situation, while the Inspecting Authority has all the technical elements in regards of the deficiencies leading to the grounding of the aircraft. Further restrictions or decision against this operator may be taken by the Agency on the basis of the communication performed with the competent authority of the inspected operator (see AR-GEN.445). But it does not seem relevant nor applicable for the EASA to have an active role while the ramp inspection process is not over.

Moreover, this procedure will introduce more delays in the solving of the crisis.

comment *542* comment by: *DGAC*

Comment: (d) "If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted by the Member State authority when the operator shows evidence that it has obtained an operational authorisation from the Agency". In this case, the ultimate responsible for the dispatch conditions remains the State of Registry of the aircraft, in direct compliance with the applicable ICAO standards (Annex 8, §3.6). Therefore, this procedure does not seem to be compliant with international standards and shall be therefore deleted. If the Agency is willing to take further actions, they may enforce them during the communication process of the ramp inspection results to the competent Authority of the inspected operator.

comment *543* comment by: *DGAC*

Comment: (d) As NPA-TCO is not yet published, there is no possibility to comment this paragraph.

comment *544* comment by: *DGAC*

Comment: (d) The measures prescribed by the State of Operator / Registry must be deemed as acceptable by the State of Inspection.

Proposal : Replace by the following text "(d) When the aircraft is registered in a third country or in a Member State, which has delegated its regulatory oversight to a third country, and used by a third-country operator, the Agency, in coordination with the State of the operator or the State of registry, may authorise the aircraft to take-off in accordance with Subpart AR.TCO 210. These measures should be acceptable by the Inspecting Member State.

If the deficiency affects the validity of the certificate of airworthiness of the aircraft, the grounding shall only be lifted by the Member State authority when the operator shows evidence that it has obtained an operational authorisation from the Agency."

comment *545* comment by: *DGAC*

Comment: Looking at the very important potential problem laid down by this paragraph, a GM must be developed in addition of an AMC.

comment *576* comment by: *Ryanair*

Comment
(a)(1) There shall always be a pilot-in-command assigned to a flight. The ramp inspector must identify this person therefore reference to "the person appearing to be in command of the aircraft" is unacceptable.

Proposal
Remove reference to "the person appearing to be in command of the aircraft"

Comment
(c) - further clarification required

Proposal
(c) The authority designated by the Member State where the operator has its principle place of business *shall prescribe* the necessary conditions under which the aircraft.....

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN. 455 Reporting p. 7

comment *21* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN. 455: add (e):

(e) National Authorities must assure that any operation-related information provided voluntarily by the aeronautical personnel involved in the operation, could never be used against the personnel reporting this information in any administrative or labour process.

Justification:
This is the only way to ensure the voluntary reporting by aeronautical personnel involved in operational procedures to ensure the safety of the operations through a database of operational information which helps to increase the level of safety.

comment *37* comment by: *ECA - European Cockpit Association*

Comment on AR.GEN.455 (d): Remove reference to AR.GEN.435 (d)

Justification:

All ramp inspection reports are, by essence, non voluntary.

comment *118* comment by: *Luftfahrt-Bundesamt*

Point (a): Wrong reference: AR.GEN.430 (b) does not refer to ramp inspection reports. The right reference should be: AR.GEN.435(b).

comment *189* comment by: *UK CAA*

Paragraph No: AR.GEN.455 (a)

Comment: The reference to AR.GEN.430(b) is incorrect; it should be AR.GEN.435 (b).

comment *279* comment by: *Walter Gessky*

AR.GEN. 455 Reporting
(a) The completed ramp inspection reports referred to in AR.GEN.430 (b) shall be entered
into the centralised Agency database within 21 calendar days after the inspection;

Comment. AR.GEN.430(b) is the wrong reference.

(b) The inspecting authority or the Agency shall enter into the centralised Agency database
any information useful for the application of the Basic Regulation and its implementing
rules and for the accomplishment by the Agency of the tasks assigned to it by this
Regulation, including information covered by AR.GEN.425(a);
Question:
Which kind of information is entered in the data base by the Agency when no ramp inspections are carried out?

(c) Whenever a report as referred to in AR.GEN 425 (b) shows the existence of a potential
hazardous safety threat or in case of a level 1 finding, the report shall be communicated
without delay to the competent authorities of the Member States and the Agency when
the aircraft is registered ~~in a Member State or~~ in a third country.
Justification: Only when third country operators are affected, the Agency will be informed separately. In all other cases the information are available in the data base.

comment *360* comment by: *Austro Control GmbH*

a) The completed ramp inspectio n reports referred to in AR.GEN.430 (b) shall be entered
into t he c entralised Agency dat abase wit hin 21 cale ndar days after the inspection;

Comment. AR.GEN.430(b) is the wrong reference.

(b) T he ins pecting aut hority ~~or t hc Agenc y~~ shall en ter into t he centralise d Agency database
any i nformation use ful for the a pplication o f the Basic Regulatio n and its implementing
rules and for the acco mplishment by the Ag ency of the tasks assigned to it by this
Regulation, including information covered by AR.GEN.425(a);
Justification:
Delete Agency, according Art 10 (2) only the Ms shall carry out ramp

inspections.

(c) Whenever a report as referred to in AR.GEN 425 (b) shows the existence of a potential
hazardous safety threat or in case of a level 1 finding, the report shall be communicated
without delay to the competent authorities of the Member States and the Agency when
the aircraft is registered ~~in a Member State or~~ in a third country.
Justification:
Only when third country operators are affected the Agency will be informed. In all other cases the information are available in the data base.

In general Level 2 findings actually (SAFA) have to be reported to operator's NAA; this will disappear with the new IR and therefore safety relevant concerns (e.g. incorrect mass and balance corrections) will not be reflected; there is no follow up action for EASA and priorisation aspects.

comment *417* comment by: *CAA CZ*

AR.GEN. 455 (a): The requirement of the provision AR.GEN.430(b) does not pertain to the ramp inspection reports but to the qualification of inspector.

comment *444* comment by: *Department for Transport UK*

The wording of paragraph (a) suggests that a ramp inspection report form must completed before the information can be entered onto the database. It is unnecessary for inspectors to complete both a ramp inspection form and a proof of inspection form, inspectors are likely to just use the proof of inspection form during the inspection. The wording also rules out the possibility of being able to enter the data directly on the database during the inspection. The rule should be flexibile to allow for differing administrative procedures in Member States while ensuring that ramp inspection results are entered into the database promptly.

Paragraph (c) applies to the information reports required under AR.GEN.425 but the reference to level 1 findings suggests that it is also applicable to ramp inspection reports. Currently Member States meet their information sharing by entering information onto the SAFA database where category 3 (level 1) findings are flagged up. The words "when the aircraft is registered in a Member States or in a third country" would cover any aircraft and do not add anything to the requirement. This drafting of this rule needs to be more precise and reflect exisiting practice.

Proposed text for AR.GEN.455(b): All relevant information relating to a ramp inspection shall be entered into the centralised Agency database within 21 calendar days after the inspection

Proposed text for AR.GEN.455(c): Whenever information collected under AR.GEN.425 or a ramp inspection shows the existence of a potential hazardous threat to safety, all relevant information shall be entered into the centralsied Agency database without delay.

comment *546* comment by: *DGAC*

Comment: (a) "The completed ramp inspection reports referred to in AR.GEN.430 (b)". The reference is false and should be AR.GEN.435 (b).

comment *547* comment by: *DGAC*

Comment: (b) "The inspecting authority or the Agency shall enter into the centralised Agency database any information useful for the application of the Basic Regulation". According to this definition, all the information contained in the AMC.AR.GEN.425 (a) will be entered into the database. Therefore, it appears as mandatory to enter the data collected by ECCAIRS. It does not appear to be the case as the centralized database is designed to gather the information linked with ramp inspections activity. Therefore, the sentence is clearly misleading.

comment *549* comment by: *DGAC*

If ever this section was meant to be applicable to the ramp inspect ions performed on operators under the regu latory oversight of the inspection Member State ('SANA'), then the following comment would apply:

Comment: (b) "The inspecting authority or the Agency shall enter into the centralised Agency database any information useful for the application of the Basic Regulation and its implementing rules and for the accomplishment by the Agency of the tasks assigned to it by this Regulation". Asking the Member States to enter into the database the ramp inspection reports performed on foreign aircraft is consistent and in compliance with the dispositions of the directive 2004/36.

However, in regards of the main objective of the 216/2008 (Article 2), asking the Member States to share with the community (at least with the Agency) the results of the ramp inspections performed on the operator for which they have the regulatory oversight is not pursuing the same goal. Indeed, the Member States will naturally not incline in sharing information on the safety deficiencies identified through their own ramp inspection on their operator as this information might be used against them by the Agency.

They will subsequently diminish the number of ramp inspections performed on their operator and will be reluctant to share the results of them. This could even lead the Member States to hide the results in the final reports entered into the database for the deficiencies to be deal with internally and leaving a clean sheet for the Agency, which is clearly not the objective of the 216/2008.

Proposal: This principle of sharing the information regarding the ramp inspection outcome in a common database should be only mandatory for the ramp inspections conducted on foreign aircraft/operator.

comment *578* comment by: *Ryanair*

Operators must be provided with a copy of all ramp inspection reports even if there are no findings arising

The Agency must confirm that where an operator successfully appeals a ramp inspection finding databases will be updated accordingly

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comment *280* comment by: *Walter Gessky*

AR.GEN. 460 Database
(a) The Agency shall manage and operate the tools ~~and procedures~~ necessary for the
collection and exchange of:
Justification:
The essential part of the procedures to manage the data base shall be regulated in the IR

(b)
(2) develop, maintain and provide continuous updating of a centralised database containing:
Questiont:
Is it intended to have a link with the ECAIRS data base?

(i) all the information which the Member States are obliged to collect and make available on the basis of AR.GEN.425 and AR.GEN.435,
Comment: MS are not required to report according AR.GEN.425 and 435.
When it is required, than this shall be mentioned in the effected points .

(ii) any other relevant information **which is required to be reported by the operator** concerning the air safety of aircraft and of ~~air operators~~ **air operation**;
Justification:
Reporting shall be added. This reports of unsafe conditions are the basis for the Agency to act according Art 22/1 of the basic regulation.

(4) add a new (iv):
(iv) the Agency shall issue without an undue delay a safety directive to correct a problem affecting the safety of air operation and inform also the MS adequately.
Justification:
To comply with Art 22/1 of the basic regulation:
The Agency shall react without undue delay to a problem affecting the safety of air operations by determining corrective action and by disseminating related information, including to the Member States.

comment *361* comment by: *Austro Control GmbH*

Generally Database shall be explained in AMC!

(a) The Agency shall manage and operate the tools ~~and procedures~~ necessary for the
collection and exchange of:
Justification:
The essential part of the procedures to manage the data base shall be regulated in the IR

(b)(2) develop, maintain and provide continuous updating of a centralised database
containing:

Comment: Any link of the data base with ECAIRS shall be notified.

(i) all the information which the Member States are obliged to collect and make available on the basis of AR.GEN.425 and AR.GEN.435,
Comment: MS are not required to report according AR.GEN.425 and 435. When required, this shall be added .

(ii) any other relevant information ***which is required to be reported by the operator*** *concerning the air safety of aircraft and of ~~air operators~~* ***operation****;*
Justification:
Reporting shall be added. This reports of unsafe conditions are the basis for the Agency to act according Art 22/1 of the basic regulation.

(4) add a new (iv):
(iv) the Agency shall issue without an undue delay a safety directive to correct a problem affecti ng the safety of ai r operation and infor m also the MS adequately.
Justification:
To comply with Art 22 (1) of the Basic Regulation:
The Agency shall react without undue delay to a problem affecting the safety of air operations by determining corrective action and by disseminating related information, including to the Member States.

comment *446* comment by: *Department for Transport UK*

The cross references in paragraphs (b)(2)(i) need to include to AR.GEN.455 as this contains requirements on the exchange of information.

Proposed text for AR.GEN.460(b)(2)(i): All the information which Member States are obliged to collect and make available on the basis of AR.GEN.425, AR.GEN.435 and AR.GEN.425.

comment *585* comment by: *Ryanair*

A copy of all ramp inspection reports must be sent to the Operator

(b) The Agency must confirm that where an operator successfully appeals a ramp inspection finding the database will be updated accordingly

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.465 p. 8

comment *153* comment by: *Airbus S.A.S.*

Typo error.
In Subparagraph AR.GEN.465 (c), replace "an" with "An".

comment *362* comment by: *Austro Control GmbH*

A headline for AR.GEN.465 is missing and shall be added.
Suggestion: *"Information to the Commission"*

comment *550* comment by: *DGAC*

Comment: This paragraph has no title

Proposal: entitle this paragraph "Annual Report"

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - AR.GEN.470 Information to the public p. 8

comment *252* comment by: *AEA*

Comment:
This should be avoided to present safety sensitive information to the public since this might give false impressions about the level of safety. For example, the amount of findings an operator are irrelevant if they all are non-safety significant.
Proposal:
Delete the requirement for information on SAFA to the public. General information on safety achievements is already available to the public through the EASA Annual Safety Report.

comment *310* comment by: *TAP Portugal*

Comment:
This should be avoided to present safety sensitive information to the public since this might give false impressions about the level of safety. For example, the amount of findings an operator are irrelevant if they all are non-safety significant.
Proposal:
Delete the requirement for information on SAFA to the public. General information on safety achievements is already available to the public through the EASA Annual Safety Report.

comment *340* comment by: *KLM*

Comment:
This should be avoided to present safety sensitive information to the public since this might give false impressions about the level of safety. For example, the amount of findings an operator are irrelevant if they all are non-safety significant.
Proposal:
Delete the requirement for information on SAFA to the public. General information on safety achievements is already available to the public through the EASA Annual Safety Report.

comment *382* comment by: *Deutsche Lufthansa AG*

Comment:
This should be avoided to present safety sensitive information to the public since this might give false impressions about the level of safety. For example, the amount of findings an operator are irrelevant if they all are non-safety significant.
Proposal:
Delete the requirement for information on SAFA to the public. General information on safety achievements is already available to the public through the EASA Annual Safety Report.

comment *402* comment by: *AUSTRIAN Airlines*

Comment:
This should be avoided to present safety sensitive information to the public since this might give false impressions about the level of safety. For example, the amount of findings an operator are irrelevant if they all are non-safety significant.
Proposal:
Delete the requirement for information on SAFA to the public. General information on safety achievements is already available to the public through the EASA Annual Safety Report.

comment *429* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
This should be avoided to present safety sensitive information to the public since this might give false impressions about the level of safety. For example, the amount of findings an operator are irrelevant if they all are non-safety significant.
Proposal:
Delete the requirement for information on SAFA to the public. General information on safety achievements is already available to the public through the EASA Annual Safety Report.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - Appendix 1 - Standard Report Form p. 9

comment *137* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
Appendix 1 to 3 have allready been taken over by the (EC) Regulation 2008/49.

comment *363* comment by: *Austro Control GmbH*

Appendix 1 is not in harmonisation with AR.GEN.425 and AMC

comment *553* comment by: *DGAC*

Comment: In reference with comment 524 on AR.GEN.425: amend this form to tailor it to its own objective or delete it.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - Appendix 2 - Proof of ramp inspection form p. 10-11

comment *12* comment by: *LE PUIL, Frederic*

In part "action taken" a line should be added " maintenance check required" to report when a doubt occured during the inspection , requiring a check from maintenance staff . This can generate a delay but can lead to a minor finding or even nothing if the damage is just within the limits .

comment *119* comment by: *Luftfahrt-Bundesamt*

There should be a consistent categorisation regarding findings and follow-up actions. A Category 3-follow-up-action following a Level 1-Finding is misleading and might cause irritation.
The previous follow-up actions concerning to the Finding-categorisation have to be conform with the new finding categorisation.
The appendixes have to comply with the new categorisation standard.

comment *223* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Comment:

'Action Taken ' box at the bottom left corner . Suggest that the numbering should be reversed with (0) at the top and (3c) at the bottom.

comment *281* comment by: *Walter Gessky*

Appendix 2 and 3
Comment: the content of Appendix II and III is identical. To reduce bureaucracy and duplication of work one form shall be deleted.

comment *364* comment by: *Austro Control GmbH*

Comment:
the content of Appendix 2 and 3 is identical. To reduce bureaucracy and duplication of work one form shall be deleted.

comment *554* comment by: *DGAC*

Comment: The form presented is only valid for the ramp inspection performed on the TCO. Indeed, ramp inspection performed on European operators under the European regulations may include other inspected items such as "cabin crew qualification" or "fuel monitoring" where no ICAO international standards are applicable/usable for TCO ramp checks.

comment *555* comment by: *DGAC*

Comment: It happens very often that a dubious aircraft condition make necessary to require an investigation to ensure that this defect remains within the applicable limitations (leakages, tyre condition, impact or damage that should be checked in accordance with the limitations of the manufacturer enacted by the Structure Repair Manual…). This can induce a delay as envisaged by the Guidance Material on the SAFA ramp inspection procedures §3 (f): "Departure delay of an aircraft should be avoided. However, when an inspector discovers an issue which may have a major effect on flight safety or requires further investigation to clarify the issue, a delay may be justified".

The result of this investigation of the airline may often be that this defect was not identified nor assessed according to the applicable limitations but that it remains within these limitations. Therefore, it will be reported as a category 2 finding as within limits but not previously addressed / monitored (as a

deviation of ICAO standards, Annex 6, §4.5.4 and §4.3.1). This investigation process should be reported in the report, under "action taken".

Proposal: This action is relevant to be communicated to the operator. Therefore proposal to add a new line in the class of actions, class of actions level "0": "maintenance check required".

comment *556* comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A6 should be renamed " Navigation and instrument charts" as radio navigation is too restrictive, referring only to enroute charts, whereas other type of charts are checking while performing a ramp inspection on TCO,

comment *557* comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A10 should be renamed "AOC and OPS specifications" as these specifications are now required by the latest amendment (n#32) of ICAO, Annex 6, §4.2.15 and 4.2.1.6.

comment *558* comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A14 should be renamed " mass and balance calculation" as this item encompasses aspects that are wider than just the document itself, but is also used to report wrong procedures not directly linked to the document itself. Some findings included into the current SAFA procedures (GM Ramp inspections procedures, Appendix 1, item A14) are the following "Insufficient data to enable the crew to check mass and balance calculation"),

comment *559* comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A 20 " Flight crew licences / ratings / composition" to be more accurate with the requirements of Annex 1 in this respect, especially, chapter 2,

comment *560* comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A24 should be renamed "pre-flight inspection / acceptance" as, according to ICAO, Annex 6, chapter 4.3.1 requirements the pilot in command is supposed to accept the differed maintenance items that, among others, ensure the operations of the aircraft in the conditions of its certificate of airworthiness and within the imitations enacted by the manufacturer,

comment *561* comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- D3 should be renamed "Securing of cargo / ULD condition" ULD standing for unit load devices: pallets and containers. This would be more relevant than "safety of cargo" when the safety investigated is the one of passengers. Furthermore, this field is also used in the current SAFA procedures to report damage to the unit load devices used to load cargo on board that would endanger their integrity or could harm the loading personnel.

comment *563* comment by: *DGAC*

Comment: A box for possible crew comments on the proof of inspection is of high interest, as a kind of "right of defence". This add-on also facilitates the communication with the crew during the ramp inspection process.

Proposal: Add a box at the bottom of the proof of inspection entitled "Crew comments (optional)".

comment 564 comment by: *DGAC*

Comment: Replace inspectors "sign or number " by "sign or code" which seems to be more appropriate as a title for this box.

comment 587 comment by: *Ryanair*

The pilot-in-command must always be informed and is the only person authorised to sign this form.

D. VI. Draft Opinion Part-AR - Subpart GEN - Section IV - Appendix 3 - Ramp inspection report p. 12-14

comment 99 comment by: *CAA-NL*

Attachment #2

Proposal CAA-NL:
CAA-NL proposes to EASA to use the enclosed report form instead of the report form in Appendix 3. The Inspection report form is in .doc and .pdf format.

Reason:
Improved usability and clarity

comment 120 comment by: *Luftfahrt-Bundesamt*

Item 3d (immediate operatorating ban) has to be deleted since there is no hint of such a follow-up action as a ban mentioned elsewhere in this document.
The Item has to comply with AR.GEN.440.

comment 154 comment by: *Airbus S.A.S.*

Typo error in Appendix 3 "Ramp Inspection Report".
At thebottom of the page, the first bullet reads:
"- This report represents an indication of what was found on this occasion and must not be construed as a determination
that the aircraft is fit for the intended flight."

A typo error is to be corrected between word "determination" and "that".

comment 223 ☐ comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Comment:

'Action Taken ' box at the bottom left corner . Suggest that the numbering should be reversed with (0) at the top and (3c) at the bottom.

comment 282 comment by: *Walter Gessky*

Appendix 2 and 3
Comment: the content of Appendix II and III is identical. To reduce bureaucracy and duplication of work one form shall be deleted.

comment *554* ☐ comment by: *DGAC*

Comment: The form presented is only valid for the ramp inspection performed on the TCO. Indeed, ramp inspection performed on European operators under the European regulations may include other inspected items such as "cabin crew qualification" or "fuel monitoring" where no ICAO international standards are applicable/usable for TCO ramp checks.

comment *555* ☐ comment by: *DGAC*

Comment: It happens very often that a dubious aircraft condition make necessary to require an investigation to ensure that this defect remains within the applicable limitations (leakages, tyre condition, impact or damage that should be checked in accordance with the limitations of the manufacturer enacted by the Structure Repair Manual…). This can induce a delay as envisaged by the Guidance Material on the SAFA ramp inspection procedures §3 (f): "Departure delay of an aircraft should be avoided. However, when an inspector discovers an issue which may have a major effect on flight safety or requires further investigation to clarify the issue, a delay may be justified".

The result of this investigation of the airline may often be that this defect was not identified nor assessed according to the applicable limitations but that it remains within these limitations. Therefore, it will be reported as a category 2 finding as within limits but not previously addressed / monitored (as a deviation of ICAO standards, Annex 6, §4.5.4 and §4.3.1). This investigation process should be reported in the report, under "action taken".

Proposal: This action is relevant to be communicated to the operator. Therefore proposal to add a new line in the class of actions, class of actions level "0": "maintenance check required".

comment *556* ☐ comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A6 should be renamed " Navigation and instrument charts" as radio navigation is too restrictive, referring only to enroute charts, whereas other type of charts are checking while performing a ramp inspection on TCO,

comment *557* ☐ comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to

reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A10 should be renamed "AOC and OPS specifications" as these specifications are now required by the latest amendment (n#32) of ICAO, Annex 6, §4.2.15 and 4.2.1.6.

comment *558* ☐ comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A14 should be renamed " mass and balance calculation" as this item encompasses aspects that are wider than just the document itself, but is also used to report wrong procedures not directly linked to the document itself. Some findings included into the current SAFA procedures (GM Ramp inspections procedures, Appendix 1, item A14) are the following "Insufficient data to enable the crew to check mass and balance calculation"),

comment *559* ☐ comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A 20 " Flight crew licences / ratings / composition" to be more accurate with the requirements of Annex 1 in this respect, especially, chapter 2,

comment *560* ☐ comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- A24 should be renamed "pre-flight inspection / acceptance" as, according to

ICAO, Annex 6, chapter 4.3.1 requirements the pilot in command is supposed to accept the differed maintenance items that, among others, ensure the operations of the aircraft in the conditions of its certificate of airworthiness and within the imitations enacted by the manufacturer,

comment *561* ☐ comment by: *DGAC*

Comment: As far as the ramp inspections on TCO are concerned, the inspected items presented on the proof of inspection should be updated to reflect with more accuracy the different aspects of ICAO standards that are checked. As it was enacted by the Directive 2004/36, Member States were reluctant to update a community directive only for that purpose but with this NPA, it might be a very good opportunity to enhance the relevance of the process.

Proposal:
- D3 should be renamed "Securing of cargo / ULD condition" ULD standing for unit load devices: pallets and containers. This would be more relevant than "safety of cargo" when the safety investigated is the one of passengers. Furthermore, this field is also used in the current SAFA procedures to report damage to the unit load devices used to load cargo on board that would endanger their integrity or could harm the loading personnel.

comment *564* ☐ comment by: *DGAC*

Comment: Replace inspectors "sign or number " by "sign or code" which seems to be more appropriate as a title for this box.

comment *565* comment by: *DGAC*

Comment: This form is a copy/paste of the SAFA form of the SAFA programme whereas the scope of the ramp inspection of the NPA is wider and now includes ramp inspections on European operators.

Proposal: Create a new specific form for European operators with a different list of inspected items to be consistent with the inspection of applicable European regulations and delete into the title the word 'SAFA' as the rule does not make any reference to this wording.

The classes of actions are not consistent with the numbering of the finding of the AR.GEN.440. This shall cause a major misunderstanding in the way those reports could be read. Therefore, this section of the form has to be kept for the inspections performed on TCO (as well as the three steps categorisation as mentioned in the previous comments), but has to be amended to reflect the new two steps categorisation proposed by the AR.GEN.440.

D. VI. Draft Opinion Part-AR - Subpart CC p. 15

comment *225* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment *283* comment by: *Walter Gessky*

Subpart CC:
Comment:
The content of the Subpart is exceeding EU-OPS and not in line with the mandate of Art. 8/4 of the Basic Regulation. It should be made very clear in the rules that the cabin crew attestation is only certifying that initial safety training was completed and the holder of the attestation has no privileges when the required Conversion and differences training, the familiarization, recurrent training and refresher training is completed. In addition the mandatory medical standards, which are very close to the standards for private pilots, could impose significant unnecessary costs on authorities. There is no evidence that flight safety, or the safety of passengers during emergency evacuation, has ever been compromised as a result of cabin crew incapacitation.
EASA should only propose to regulate the attestation as required by EU OPS and develop the 'EASA attestation' concept later, as this is not a priority for safety. When EASA intend to continue, changes are proposed to the individual points.

comment *322* comment by: *Austro Control GmbH*

Subpart CC:
General Comment:
The content of the Subpart is not completely in line with Art. 8 (4) of the basic regulation. The rules should express very clear, that the cabin crew attestation only certifies the completion of the initial safety training and that the holder of the attestation has no privileges when the required Conversion and differences training, the familiarization, recurrent training and refresher training is completed.

D. VI. Draft Opinion Part-AR - Subpart CC - Section I p. 15

comment *132* comment by: *UK Department for Transport*

testing comment

delete after viewing

comment *225* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:
It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

D. VI. Draft Opinion Part-AR - Subpart CC - Section I - AR.CC.100 Approval of organisations providing cabin crew training p. 15

comment *74* comment by: *CAA-NL*

Comment CAA-NL:
The Agency should explain what it means by 'suitable experienced and qualified.

comment *75* comment by: *CAA-NL*

Comment CAA NL:
The Angency should make clear who are aloud to conduct the examinations and the specification for such a person.

comment *103* comment by: *FSC - CCOO*

This does not achieve harmonization. Common standards for requirements applicable in the Member States should be explained in AMC.

comment *104* comment by: *FSC - CCOO*

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered;~~ **authorised cabin crew instructors**.

Reason.
What does "suitably experienced" mean? This does not provide legal certainty.

Comment: Qualification standards for cabin crew instructors should be developed.

comment *105* comment by: *FSC - CCOO*

Comment:
Does that mean the personnel conducting the examinations shall not be employed by the same organization that conducted the training? It could be interpreted that they should just belong to a different department in the same organization. "Independent" should be defined in AMC or GM in order to provide legal certainty.

comment *149* comment by: *ETF*

AR.CC.100
General comment: ETF Cabin Crew Committee (CCC) ask that missing criteria for training organisation, training devices and instructor's qualifications be developed.
Do the requirements applicable in the Member State refer to standards such as GM 5 AR.GEN.430(b)(2)? ETF CCC call on more details.

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered;~~ **authorised cabin crew instructors**.

Comment: ETF CCC ask that missing qualifications standards for cabin crew instructors be developed.

(d)
Comment: GM material should explain what "independent" is in this relation.

comment *174* comment by: *Austro Control GmbH*

Requirement for Austro Control is generally okay, but ICAO Annex 6 requires skills and qualification of the cabin crew member instructors and examiners. These requirements are not mentioned in this NPA and NAAs have to file a difference to ICAO.

It would be recommended to provide a clear definition of "suitably qualified and experienced" for the reason of uniforme legal certainty in the member states.

comment *190* comment by: *UK CAA*

Paragraph No: AR.CC.100 – (c)

Comment: New text refers to instructors being experienced as well as suitably qualified.

Justification: The meaning of experienced is unclear – does it mean experienced in cabin crew duties or their specific training subject?

Proposed Text (if applicable): Clarification required.

comment *224* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

AR.CC.100
(d)

Comment:

What constitutes "independent" in this context?

comment

225 comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment

230 comment by: *Jill Pelan*

AR.CC.100
General comment: ETF & the CFDT France ask that missing criteria for training organisation, training devices and instructor's qualifications be developed. ETF & CFDT France assume that the requirements applicable in the Member State refers to standards such as GM 5 AR.GEN.430(b)(2). Common principles for standards should be explained in AMC material.

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered;~~ **authorised cabin crew instructors**.

Comment: ETF & the CFDT FRANCE ask that missing qualifications standards for cabin crew instructors be developed.

(d)
Comment: GM material should explain what "independent" is in this relation.

comment

240 comment by: *Thomas Cook Airlines*

Comment:
Requires clarification of the approval requirements of a training organisation, who will provide the approval

comment

241 comment by: *Thomas Cook Airlines*

Justification:
c) Clarification required on the definition of experience, does this mean that they have operated as Cabin Crew, Nursing for First Aid Training etc?

Proposal:
Suggest removal of the word experienced

comment

242 comment by: *Thomas Cook Airlines*

Justification:

d) the requirement to have independant personnel conducting examination from those that completed the training brings no significant benefits to the training requirements. There is no evidence to suggest that this will improve safety standards.
This will add an additional resource requirement to the operator/training organisation

Proposal
Remove all of point (d)

comment *284* comment by: *Walter Gessky*

1. AR.CC.100 Approval of organisations providing cabin crew training
Add a new
(e) Training of cabin crews by trainings organisation shall be limited to the initial safety training when the training organization can not show that item (b) is satisfied by a contract with the operator where the cabin crew is intending to be employed.
Justification:
For the required conversion and differences training, the familiarization, recurrent training and refresher training specific data from the operator are required like aircraft configuration, cabin operating and emergency procedures etc. this data differ between the operator therefore with the initial training alone the cabin crew cannot work.

ICAO Annex 6 requires skills and qualification of the cabin crew member instructors and examiners. These requirements are not mentioned in this NPA and NAAs have to file a difference to ICAO.
It would be recommended to provide a clear definition of "suitably qualified and experienced" for the reason of uniform legal certainty in the member states.

comment *298* comment by: *kapers Cabin Crew Union*

AR.CC.100
General comment: kapers ask that missing criteria for training organisation, training devices and instructor's qualifications be developed.
kapers assumes that the requirements applicable in the Member State refers to standards such as GM 5 AR.GEN.430(b)(2) but call on more details.

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered;~~ **authorised cabin crew instructors**.

Comment: kapers ask that missing qualifications standards for cabin crew instructors be developed.

(d)
Comment: GM material should explain what "independent" is in this relation.

comment *323* comment by: *Austro Control GmbH*

Add a new paragraph (e):
(e) *(e)Training of cabin crews by training organisations shall be limited to the*

initial safety training when the training organization can not show that item (b) is satisfied by a contract with the operator where the cabin crew intends to be employed.

Justification:
For the required Conversion and differences training, the familiarization, recurrent training and refresher training specific data from the operator are required like aircraft configuration, cabin operating and emergency procedures etc. this data differ between the operator therefore with the initial safety training alone the cabin crew cannot work.

Harmonized common requirements (e.g. head of training, quality system, adequate facilities etc.) for training organisations are also requested, as for the moment there a no rules and no conditions for approval to establish a cabin crew training organisation. All trainings at the moment are related to the operators.

comment *326* comment by: *Elaine Allan Monarch*

Page No.
15

Ref No.
NPA 2009 - 2d AR CC 100

Summary of EASA Proposed Requirement:
The procedure to approve an operator or a training organisation to provide Cabin Crew training shall be conducted in accordance with the requirements applicable to the Member Stare and ensure that:....

Comment:
Who is required to approve is this in the UK will it be the CAA

Justification:
Requires clarification of who will be able to approve and criteria required for training organisation to meet.

Proposed Text (if applicable)

comment *327* comment by: *Elaine Allan Monarch*

Page No.
15

Ref No.
NPA 2009 - 2d AR CC 100 (c)

Summary of EASA Proposed Requirement:
The trainers and instructors conducting the training sessions are suitably **experienced** and qualified in the training subject covered

Comment:
What is the definition of experience

Justification:

Clarification required on the definition of experience, does this mean that the Instructor has operated as Cabin Crew or that they have completed relevant training courses?

Proposed Text (if applicable)
Suggest removal of the word ***experienced***

comment *448* comment by: *UCC SLO*

This does not achieve harmonization. Common standards for requirements applicable in the Member States should be explained in AMC.

comment *451* comment by: *UCC SLO*

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered~~ **authorised cabin crew instructors**.

Reason.
What does "suitably experienced" mean? This does not provide legal certainty.

Comment: Qualification standards for cabin crew instructors should be developed.

comment *453* comment by: *UCC SLO*

Comment:
Does that mean the personnel conducting the examinations shall not be employed by the same organization that conducted the training? It could be interpreted that they should just belong to a different department in the same organization. "Independent" should be defined in AMC or GM in order to provide legal certainty.

comment *460* comment by: *Civil Aviation Authority of Norway*

Comment to (d);
It must be specified how this independence should be ensured, as the number of instructors are usually limited. As we see it, the independency would be sufficient if the checking was assessed and verified by more than one person, regardless of whom actually conducted the training.

comment *483* comment by: *cfdt france*

AR.CC.100
General comment: ETF & the CFDT France ask that missing criteria for training organisation, training devices and instructor's qualifications be developed. ETF & CFDT France assume that the requirements applicable in the Member State refers to standards such as GM 5 AR.GEN.430(b)(2). Common principles for standards should be explained in AMC material.

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced~~

~~and qualified in the training subject covered;~~ **authorised cabin crew instructors**.

Comment: ETF & the CFDT FRANCE ask that missing qualifications standards for cabin crew instructors be developed.

(d)
Comment: GM material should explain what "independent" is in this relation.

comment *488* comment by: *AIR FRANCE*

Comment :
The Basic regulation in its article 8 § 4 states that the cabin crew shall hold an attestation as described in regulation 3922/91 subpart O. This attestation deals with initial training.
There is no requirement in the basic regulation for approving the airlines having an AOC and providing other training than cabin crew initial safety training.
The proposal aims to get the same level of requirements than the one in regulation 3922/91which says :

"OPS 1.1005
Initial Safety training
(...)
(b) Training courses shall, at the discretion of the Authority, and subject to its approval, be provided:
either
1. by the operator
— directly, or
— indirectly through a training organisation acting on behalf of the operator; or
2. by an approved training organisation."

It is proposed to replace at every occurrence (including in the title) "cabin crew training" by "cabin crew initial safety training".
As the cabin crew initial safety training is a generic training, reference to the cabin environment of the aircraft type should be deleted as it is related to the operator cabin.

Proposal :

The procedure to approve an operator or a training organisation to provide cabin crew ADD "initial safety" training shall be conducted in accordance with the requirements applicable in the Member State and shall ensure that:
(a) the conduct and the programmes of the ADD "cabin crew" initial ADD "safety" training courses provided by the organisation
comply with the relevant requirements of PartCC and PartOR;
(b) the training devices provided by the organisation realistically represent DELETE "the aircraft
cabin environment of the aircraft type(s) and" the technical characteristics of the equipment to be operated by the cabin crew;
(c) the trainers and instructors conducting the ADD "cabin crew" initial ADD "safety" training sessions are suitably experienced and qualified in the training subject covered;
(d) the personnel conducting the examinations are independent from the personnel that conducted the training

comment 598 comment by: *FlightSafety International*

This is prohibitive to the small AOC Holder or training provider who operates and trains on many types. Preference would be for cabins of representative environment.

(b) For an organization that operates a fleet of the same aircraft, the training devices provided represent the aircraft cabin environment of the aircraft type…crew.
For an AOC Holder who only has a few aircraft of different types, the training devices provided by the training organization should represent a similar aircraft cabin environment of the aircraft type…crew.

comment 669 comment by: *CUD*

This does not achieve harmonization. Common standards for requirements applicable in the Member States should be explained in AMC.

comment 670 comment by: *CUD*

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered;~~ **authorised cabi n crew instructors**.

Reason.
What does "suitably experienced" mean? This does not provide legal certainty.

Comment: Qualification standards for cabin crew instructors should be developed.

comment 671 comment by: *CUD*

Comment:
Does that mean the personnel conducting the examinations shall not be employed by the same organization that conducted the training? It could be interpreted that they should just belong to a different department in the same organization. "Independent" should be defined in AMC or GM in order to provide legal certainty.

D. VI. Draft Opinion Part-AR - Subpart CC - Section II p. 15

comment 225 □ comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of

competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

D. VI. Draft Opinion Part-AR - Subpart CC - Section II - AR.CC.200 Procedures for the issue of a cabin crew attestation p. 15

comment *28* comment by: *ECA - European Cockpit Association*

Comment on AR.CC.200 (b):
ECA requests clarification:
Possible misinterpretation.
Does this imply that it is possible to issue a licence when just fulfilling the requirements?

comment *70* comment by: *CAA-NL*

Comment regarding:
(b) If satisfied that the applicant meets the requirements, the competent authority shall (…/...)

Comment:
CAA-NL requests EASA to remove this requirement or create alternatives.

comment *106* comment by: *FSC - CCOO*

(a) & (b) Supported. An appeal procedure should be established if an application is rejected and the applicant wishes to appeal.

(c)(1):
Add: **AR.CC.200** (c) (1) The conduct of the examination after completion of the initial safety training course by personnel **that is independent from the personnel that conducted the training course;**

Reason: As in **AR.CC.100 (d)** the personnel conducting the examinations should be independent from the personnel that conducted the training.

comment *155* comment by: *ETF*

General comment on the cabin crew attestation:
At present half of the EU countries enjoy certification or licensing of their cabin crews through their National Aviation Authorities. The additional non harmonised requirements on training and medical fitness still at national level for cabin crew typically amount to about 70 pages. For ETF the NPA proposed texts on cabin crew has the potential to enhance the integrity of cabin crew on issues related to safety, security and survivability through the official recognition of well trained safety professionals with common standards. The EASA text does not go far enough and is not strong enough to secure cabin crew certification.

ETF Cabin Crew Committee (CCC) refer to the aim of harmonised safety standards of a high level and harmonising Member State (MS) legislation for cabin crew in Regulation 1899/2006 Whereas (7) and ask that EASA assess if

the new standards high enough compared to MS CC certification/licensing. To substantiate this, in Article 1 paragraph 2, the Legislator state that the course towards further harmonisation of cabin crew training requirements and any other safety requirement as described in OPS 1.988 should be maintained.

A cabin crew attestation has the potential to harmonise MS rules for cabin crew certification or licensing and ensure their uniform application. However the current proposal does not go far enough. ETF CCC furthermore shows to Regulation 216/2008 Article 8 point 5 and 5(e) and point 6 and finally ER 7.b. of the same regulation.

Comment to (a): Supporting documentation is too vague. In half of the MS that have certification or licensing of cabin crew it is tied to a medical certificate. In one country outside Europe the certificate is tied to aircraft category but this is a difficult road as the operator is responsible for type training. ETF CCC ask that EASA strengthen the attestation considerably if this should work as certification.

Add: (c) (1) The conduct of the examination after completion of the initial safety training course by personnel **that is indepen dent from th e personnel that conducted the training course;**

Comment: (1) While (a) and (b) is supported it is a bit inconsistent with AR.CC.100 that an operator or training organisation is permitted to conduct the examination. Here as in AR.CC 100 the personnel should be independent.

Delete: ~~(2) The issuance of cabin crew attestations.~~

Comment: (2) ETF CCC is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

comment

225 □ comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment

226 comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II - Cabin Crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.
Proposal:
Sections included in pages 15-19 relating to Attestations sections should be removed as they serve no useful purpose.

comment *231* comment by: *Jill Pelan*

General comment on the cabin crew attestation:
At present half of the EU countries enjoy certification or licensing of their cabin crews through their National Aviation Authorities. The additional non harmonised requirements on training and medical fitness still at national level for cabin crew typically amount to about 70 pages. For ETF & the CFDT France the NPA proposed texts on cabin crew enhances the integrity of cabin crew on issues related to safety, security and survivability through the official recognition of well trained safety professionals with common standards.

ETF refer to the aim of harmonised safety standards of a high level and harmonising Member State (MS) legislation for cabin crew in Regulation 1899/2006 Whereas (7) and ask that EASA assess if the new standards high enough compared to MS CC certification/licensing. To substantiate this, in Article 1 paragraph 2, the Legislator state that the course towards further harmonisation of cabin crew training requirements and any other safety requirement as described in OPS 1.988 should be maintained.

A cabin crew attestation has the potential to harmonise MS rules for cabin crew certification or licensing and ensure their uniform application. ETF & the CFDT FRance furthermore refers to Regulation 216/2008 Article 8 point 5 and 5(e) and point 6 and finally ER 7.b. of the same regulation.

Add: **AR.CC.200** (c) (1) The conduct of the examination after completion of the initial safety training course by personnel **that is independent from the personnel that conducted the training course;**
Delete: ~~(2) The issuance of cabin crew attestations.~~

Comment: (1) While ETF supports (a) and (b) we find it **totally inconsistent** with AR.CC.100 that an operator or training organisation is permitted to conduct the examination. Here as in AR.CC 100 the personnel should be independent.

Comment: (2) ETF & the CFDT France does not accept & is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

comment *244* comment by: *Thomas Cook Airlines*

Comment:
Clarification required as to who will be permitted to examine Cabin Crew and issue attestations within the UK. This rule appears to add a further level of bureacracy and may restrict operators

comment *253* comment by: *AEA*

Relevant Text:
AR.CC.200 Procedure for issue of cabin crew attestations
c) If permitted under national law and subject to a specific approval, the competent Authority may delegate to an operator or a training organization, provided they have been approved for cabin crew training
Comment:
This goes beyond the requirements for EU-OPS. This is unacceptable since there is no safety jusitification for doing this. The attestation for cabin crew training should remain limited to an attestation for initial safety training.

In line with EU-OPS. the Competent Authority may delegate to its operators (AOC holder) the task to issue the attestation for initial safety training without a need for a specific approval (which would only add further cost and bureauctracy). The need for specific approval should therefore be deleted and it should be left to the discretion of the Competent Authority to give a generic approval to all its AOC holders to issue the attestations

Proposal:
Replace 'attestation' with '**attestation for initial safety training'**..

Delete 'and subject to a specific approval' and replace it with '**'AOC holder or an approved training organization'**

comment *266* comment by: *fédération des transports CGT, membre de ETF*

CGT (member of ETF) proposition

(c) ~~If permitted under national law and subject to a specific approval, the competent authority may delegate to an operator or a training organisation, provided they have been approved for cabin crew training, one or more of the following tasks that shall be undertaken in accordance with PartCC:~~
National Authority will
(1) conduct of the examination after completion of the initial safety training course;
(2) issue the cabin crew attestations.
coment: the same as in 2009.2e part CC.CCA.100,105,110 and CC.TRA 115,125

:

- all attestations must be **delivered, suspended or limited by the Authority only**
- **we ask for further garanties on organisation or operators approvement** All the training organisations or operators who are in charge of all trainings must be approved by the Authority on procedures that has to be determined through this regulation in part AR
- all the instructors and examinators must be qualified and approved by the Authority on procedures that has to be determined through this regulation in part AR
- The conduct of the examination after completion of the initial safety training course by personnel **that is independent from the personnel that conducted the training course;**

comment 285 comment by: *Walter Gessky*

1. **AR.CC.200 Procedures for the issue of a cabin crew attestation *for initial safety training***
Justification:
Add the reason for the attestation, to attest that the initial safety training only is completed.

(a) Upon receipt of an application for the issue of a cabin crew attestation and of any supporting documentation, the competent authority **or the approved organisation** shall verify whether the applicant meets the applicable requirements **and the initial safety training was completed.**
Justification:
Attestation does not grant any privileges and can be issued by an approved organization too.
(b) If satisfied that the applicant meets the requirements, the competent authority **or an approved organization** shall issue the cabin crew attestation.
Justification:
Attestation does not grant any privileges and can be issued by an approved organization too.

(c) If permitted under national law and subject to a specific approval, the competent authority may delegate to an operator or a training organisation, provided they have been approved for **the initial safety training of** cabin crew ~~training~~, ~~one or more of the following tasks that shall be undertaken~~ in accordance with PartCC:
Justification: It is only required that the organization is approved to provide the initial safety training.

(1) The conduct of the examination after completion of the initial safety training course; **and if approved;**
(2) The issuance of cabin crew attestations.

Justification: Rewording

comment 299 comment by: *kapers Cabin Crew Union*

General comment on the cabin crew attestation:
At present half of the EU countries enjoy certification or licensing of their cabin crews through their National Aviation Authorities. The additional non harmonised requirements on training and medical fitness still at national level for cabin crew typically amount to about 70 pages. For kapers the NPA proposed texts on cabin crew has the potential to enhance the integrity of cabin crew on issues related to safety, security and survivability through the official recognition of well trained safety professionals with common standards.

kapers refer to the aim of harmonised safety standards of a high level and harmonising Member State (MS) legislation for cabin crew in Regulation 1899/2006 Whereas (7) and ask that EASA assess if the new standards high enough compared to MS CC certification/licensing. To substantiate this, in Article 1 paragraph 2, the Legislator state that the course towards further harmonisation of cabin crew training requirements and any other safety requirement as described in OPS 1.988 should be maintained.

A cabin crew attestation has the potential to harmonise MS rules for cabin crew

certification or licensing and ensure their uniform application. kapers furthermore shows to Regulation 216/2008 Article 8 point 5 and 5(e) and point 6 and finally ER 7.b. of the same regulation.

Comment to (a): Supporting documentation is too vague and should spell out receipt of passed relevant training and passed medical examination.

Add: (c) (1) The conduct of the examination after completion of the initial safety training course by personnel **that is indepen dent from th e personnel that conducted the training course;**
Delete: ~~(2) The issuance of cabin crew attestations.~~

Comment: (1) While kapers supports (a) and (b) we find it a bit inconsistent with AR.CC.100 that an operator or training organisation is permitted to conduct the examination. Here as in AR.CC 100 the personnel should be independent.

Comment: (2) kapers is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

comment *311* comment by: *TAP Portugal*

Relevant Text:
AR.CC.200 Procedure for issue of cabin crew attestations
c) If permitted under natio nal law and subject to a specific approval , the competent Aut hority may delegate to an operator or a tr aining organization, provided they have been approved for cabin crew training
Comment:
This goes beyond the requirements for EU-OPS. This is unacceptable since there is no safety jusitification for doing this. The attestation for cabin crew training should remain limited to an attestation for initial safety training.
In line with EU-OPS. the Competent Authority may delegate to its operators (AOC holder) the task to issue the attestation for initial safety training without a need for a specific approval (which would only add further cost and bureauctracy). The need for specific approval should therefore be deleted and it should be left to the discretion of the Competent Authority to give a generic approval to all its AOC holders to issue the attestations
Proposal:
Replace 'attestation' with '**attestation for initial safety training'**..
Delete 'and subject to a specific approval' and replace it with '**'AOC holder or an approved training organization'**

comment *324* comment by: *Austro Control GmbH*

Justification:
Add the reason for the attestation, to attest that the initial safety training only is completed.
(a) (a) Upon receipt of an applica tion for t he issue of a c abin crew a ttestation and of any supporting documentat ion, the com petent authority ***or the approved organisation*** *shall verif y wh ether t he applicant meets the applicable requirements* ***and the initial training was completed.***
Justification:
Attestation does not grant any privileges and can be issued by an approved organisation too.
(b) *(b) If satisfied t hat the applic ant meets the requirem ents, the competent*

*authority **or an approved organisation** shall issue the cabin crew attestation.*

Just Justication:
Attestation does not grant any privileges and can be issued by an approved organisation too.

(c) *(c) If permitted under national law and subject to a specific approval, the competent authority may delegate to an operator or a training organisation, provided they have been approved for **the initial training of** cabin crew ~~training, one or more of the following tasks that shall be undertaken~~ in accordance with Part CC:*

Justification:
It is only required that the organisation is approved to provide the initial safety training.

*(1) The conduct of the examination after completion of the initial safety training course **and if approved.***
(2) The issuance of cabin crew attestations.

Justification:
Rewording

comment *328* comment by: *Elaine Allan Monarch*

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Ref No.
NPA 2009 - 2d AR.CC.200

Summary of EASA Proposed Requirement:
The rule implies that not all operators may be permitted to examine and issue attestations for initial training unless approved by the authority.

Comment:

Justification:
Clarification required as to who will be permitted to examine Cabin Crew and issue attestations within the UK.
Proposed Text (if applicable)

comment *341* comment by: *KLM*

Relevant Text:
AR.CC.200 Procedure for issue of cabin crew attestations
c) If permitted under national law and <u>subject to a specific approval</u>, the competent Authority may delegate to an operator or a training organization, provided they have been approved for cabin crew training
Comment:
This goes beyond the requirements for EU-OPS. This is unacceptable since there is no safety jusitification for doing this. The attestation for cabin crew training should remain limited to an attestation for initial safety training.

In line with EU-OPS. the Competent Authority may delegate to its operators (AOC holder) the task to issue the attestation for initial safety training without a need for a specific approval (which would only add further cost and

bureauctracy). The need for specific approval should therefore be deleted and it should be left to the discretion of the Competent Authority to give a generic approval to all its AOC holders to issue the attestations

Proposal:
Replace 'attestation' with '**attestation for initial safety training'**..

Delete 'and subject to a specific approval' and replace it with '**'AOC holder or an approved training organization'**

comment *383* comment by: *Deutsche Lufthansa AG*

Relevant Text:
AR.CC.200 Procedure for issue of cabin crew attestations
c) If permitted under national law and subject to a specific approval, the competent Authority may delegate to an operator or a training organization, provided they have been approved for cabin crew training
Comment:
This goes beyond the requirements for EU-OPS. This is unacceptable since there is no safety justification for doing this. The attestation for cabin crew training should remain limited to an attestation for initial safety training.

In line with EU-OPS. the Competent Authority may delegate to its operators (AOC holder) the task to issue the attestation for initial safety training without a need for a specific approval (which would only add further cost and bureaucracy). The need for specific approval should therefore be deleted and it should be left to the discretion of the Competent Authority to give a generic approval to all its AOC holders to issue the attestations

Proposal:
Replace 'attestation' with '**attestation for initial safety training'**..

Delete 'and subject to a specific approval' and replace it with '**'AOC holder or an approved training organization'**

comment *403* comment by: *AUSTRIAN Airlines*

Relevant Text:
AR.CC.200 Procedure for issue of cabin crew attestations
c) If permitted under national law and subject to a specific approval, the competent Authority may delegate to an operator or a training organization, provided they have been approved for cabin crew training
Comment:
This goes beyond the requirements for EU-OPS. This is unacceptable since there is no safety jusitification for doing this. The attestation for cabin crew training should remain limited to an attestation for initial safety training.

In line with EU-OPS. the Competent Authority may delegate to its operators (AOC holder) the task to issue the attestation for initial safety training without a need for a specific approval (which would only add further cost and bureaucracy). The need for specific approval should therefore be deleted and it should be left to the discretion of the Competent Authority to give a generic approval to all its AOC holders to issue the attestations

Proposal:

Replace 'attestation' with '**attestation for initial safety training'**..

Delete 'and subject to a specific approval' and replace it with '**'AOC holder or an approved training organization'**

comment *430* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AR.CC.200 Procedure for issue of cabin crew attestations
c) If permitted under national law and subject to a specific approval, the competent Authority may delegate to an operator or a training organization, provided they have been approved for cabin crew training
Comment:
This goes beyond the requirements for EU-OPS. This is unacceptable since there is no safety jusitification for doing this. The attestation for cabin crew training should remain limited to an attestation for initial safety training.

In line with EU-OPS. the Competent Authority may delegate to its operators (AOC holder) the task to issue the attestation for initial safety training without a need for a specific approval (which would only add further cost and bureauctracy). The need for specific approval should therefore be deleted and it should be left to the discretion of the Competent Authority to give a generic approval to all its AOC holders to issue the attestations

Proposal:
Replace 'attestation' with '**attestation for initial safety training'**..

Delete 'and subject to a specific approval' and replace it with '**'AOC holder or an approved training organization'**

comment *445* comment by: *Ryanair*

Comment

The development of the Attestation from its existing staus and function is an attempt to escalate this document to the status of a Licence. In all these matters where agendas are being pursued by interests the question must be asked is: what will this do to improve safety?

This requirement will impose another layer of costly administration to an Operator. Small changes have beens suggested to the training syllabi (which would/could have been introduced anyway) but the development of attestation as proposed the will not change the day to day function of a cabin crew member one bit.

Proposal

Existing Cabin Crew Attestation status and function is not changed.

comment *455* comment by: *UCC SLO*

(a) & (b) Supported. An appeal procedure should be established if an application is rejected and the applicant wishes to appeal.

(c)(1):

Add: **AR.CC.200** (c) (1) The conduct of the examination after completion of the initial safety training course by personnel **that is independent from the personnel that conducted the training course;**

Reason: As in **AR.CC.100 (d)** the personnel conducting the examinations should be independent from the personnel that conducted the training.

comment *484* comment by: *cfdt france*

AR.CC.100
General comment: ETF & the CFDT France ask that missing criteria for training organisation, training devices and instructor's qualifications be developed. ETF & CFDT France assume that the requirements applicable in the Member State refers to standards such as GM 5 AR.GEN.430(b)(2). Common principles for standards should be explained in AMC material.

Replace:
(c) the trainers and instructors conducting the training sessions are ~~suitably experienced and qualified in the training subject covered;~~ **authorised cabin crew instructors**.

Comment: ETF & the CFDT FRANCE ask that missing qualifications standards for cabin crew instructors be developed.

(d)
Comment: GM material should explain what "independent" is in this relation.

comment *492* comment by: *AIR FRANCE*

Comment :
Proposal 1
As there is no requirement to approve operators holding an AOC to provide cabin crew training other than cabin crew initial safety training, the text should be modified as proposed in proposal 1.
Proposal 2
If the Attestation for initial safety training is delivered by another entity than the Competent Authority, it may be interesting that the Competent Authority be provided with a copy of the attestation allowing the cabin crew, in the case of loss of the attestation, to obtain one copy from the Competent Authority (especially if the approved training organisation or the operator having delivered the attestation does not exist any more). it is then proposed to add a paragraph 220 refer to proposal 2
Proposal 1:
(c) If permitted under national law and subject to a specific approval, the competent
authority may delegate to an ADD "AOC holder" DELETE "operator" or DELETE "a" ADD "an approved" training organisation, DELETE "provided they have
been approved for cabin crew training," one or more of the following tasks that shall be undertaken in accordance with PartCC:
(1) The conduct of the examination after completion of the initial safety training
course;
(2) The issuance of cabin crew attestations.

Proposal 2 :

The operator or the approved training organisation which, by delegation of the Competent Authority, has delivered the cabin crew attestation, shall provide the Competent Authority with a copy of the attestation.

comment *672* comment by: *CUD*

(a) & (b) Supported. An appeal procedure should be established if an application is rejected and the applicant wishes to appeal.

(c)(1):
Add: **AR.CC.200** (c) (1) The conduct of the examination after completion of the initial safety training course by personnel **that is independent from the personnel that conducted the training course;**

Reason: As in **AR.CC.100 (d)** the personnel conducting the examinations should be independent from the personnel that conducted the training.

D. VI. Draft Opinion Part-AR - Subpart CC - Section II - AR.CC.205 Format and specifications for cabin crew attestations p. 15

comment *160* comment by: *ETF*

Add: **(a)** Cabin crew attestations shall be issued using the form and specifications established in Appendix V to this Part
(b) carry the seal of the competent authority

Comment: new (b) An official seal will make it more difficult to forge the attestation.
Without even a reference to the aircraft group information, such as turbojet, propeller or helicopter on the cabin crew attestation there is a risk that the attestation itself will remain a training record. As mentioned before the attestation must be considerably upgraded in order to work as certification.

comment *175* comment by: *Austro Control GmbH*

Recommendation:
Only the content of the attestation should be regulated. Size and format should be at the discretion of the operator.

comment *225* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment *232* comment by: *Jill Pelan*

AR CC 205

Please see comments on Appendix V

The CFDT France does not wish to see Type training or Variants included in the initial training or Attestation as this may lead to
discrimination - a Cabin crew member who holds an Attestation with variants A B & C may not hope to be considered for employment with an operator who operated aircraft X, Y & Z. THE CFDT FRANCE would like the type training to be contained in Annexes to the Attestation

All operators must provide training for crew on their individual aircraft as location and emergency equipment varies from one operator to another and this leads to specific type training on the ATTESTATION being superfluous ..

comment *296* comment by: *FSC - CCOO*

Add: Cabin crew attestations shall be issued using the form and specifications established in Appendix V to this Part **and carry the seal of the competent authority**.

Comment: An official seal will make it more difficult to forge the attestation.

comment *300* comment by: *kapers Cabin Crew Union*

Add: **(a)** Cabin crew attestations shall be issued using the form and specifications established in Appendix V to this Part
(b) carry the seal of the competent authority
(c) contain the aircraft group that the attestation is issued for

Comment: new (b) An official seal will make it more difficult to forge the attestation.
New (c) Without the aircraft group information, such as turbojet or propeller on the cabin crew attestation there is a risk that the attestation itself will remain a training record.

comment *329* comment by: *Elaine Allan Monarch*

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Ref No.
NPA 2009 - 2d Appendix V to Annex 1

Summary of EASA Proposed Requirement:
New format of cabin crew attestation.

Comment:

This Format does not follow the EU-Ops requirement for attestation detailing the dates and duration of training. Will there be a requirement to re-issue the new format to all holders of attestations. Currently the holders do not sign copies and it will be difficult logistically for them to do so.
Justification:
The attestation template does not include details of when the Initial training was completed

Proposed Text (if applicable)
Continue to follow the original format issued for EU-Ops attestation and remove the requirement for the crew member to sign it.

comment *456* comment by: *UCC SLO*

Add: Cabin crew attestations shall be issued using the form and specifications established in Appendix V to this Part **and carry the seal of the competent authority**.

Comment: An official seal will make it more difficult to forge the attestation

comment *468* comment by: *DGAC*

In addition to the format of the cabin crew attestation itself, the Part AR should also define a format for the list of aircraft type(s) a cabin crew member is proficient to operate on (i.e. the list required by CC.CCA.100 (c)). The format of the above mentioned list could be defined in Appendix V to Part AR.
Justification : a standardized format within EU would facilitate oversight and inspection activity by national authorities and mobility of cabin crew from one air operators to another.

comment *485* comment by: *cfdt france*

AR CC 205

Please see comments on Appendix V

The CFDT France does not wish to see Type training or Variants included in the initial training or Attestation as this may lead to
discrimination - a Cabin crew member who holds an Attestation with variants A B & C may not hope to be considered for employment with an operator who operated aircraft X, Y & Z. THE CFDT FRANCE would like the type training to be contained in Annexes to the Attestation

All operators must provide training for crew on their individual aircraft as location and emergency equipment varies from one operator to another and this leads to specific type training on the ATTESTATION being superfluous ..

comment *673* comment by: *CUD*

Add: Cabin crew attestations shall be issued using the form and specifications established in Appendix V to this Part **and carry the seal of the competent authority**.

Comment: An official seal will make it more difficult to forge the attestation.

D. VI. Draft Opinion Part-AR - Subpart CC - Section II - AR.CC.215 Limitation, suspension or revocation of cabin crew attestations p. 15-16

comment *1* comment by: *Virgin Atlantic Airways Ltd*

Comment and justification (b) Notwithstanding other comments relating to the merits or otherwise of routine medical examinations and blanket medical standards, the lack of a mechanism for an AME to notify the Competent Authority that an applicant **meets** the medical standards is impractical.

Proposal If routine medicals are to be undertaken, there needs to be a formal means of for the AME to notify the outcome to the competent authority and for the crew member to demonstrate they have "passed" such as a medical certificate.

comment *71* comment by: *CAA-NL*

Comment regarding
The whole article.

Comment I CAA-NL
Responsibilities should remain with the operator and not with the local authorities.

Comment II CAA-NL
The Agency should explain how an authority can suspend or revoke an attestation when the issuing is delegated as mentioned in AR CC 200 c

Comment III regarding part b:
Does this mean that all cabin crew members must undergo a medical examination via an AME or AeMC. If yes does the Agency understand that this is impossible because of capacity? Cabin crew health is not a flying safety issue so this should not be the case!

comment *85* comment by: *Quality Assurance, Denim Air*

The cabin crew attestation must be able to be removed, suspended et al by the operator. The current proposal – operator / ATO issues and the NAA revokes is overly complicated. Either treat the document as a licence and have the NAA do the work or, preferred option, make it an operator document.

comment *108* comment by: *FSC - CCOO*

This does not provide legal certainty. What could be **other** reasons to limit, suspend or revoke a cabin crew attestation?

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal or the Ombudsman.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal or the Ombudsman is important for cabin crew.

comment 172 comment by: *ETF*

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal or the Ombudsman.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal or the Ombudsman is important for cabin crew.

comment 212 comment by: *Virgin Atlantic Airways*

Comment and justification (b) Notwithstanding other comments relating to the merits or otherwise of routine medical examinations and blanket medical standards, the lack of a mechanism for an AME to notify the Competent Authority that an applicant **meets** the medical standards is impractical.

Proposal If routine medicals are to be undertaken, there needs to be a formal means of for the AME to notify the outcome to the competent authority and for the crew member to demonstrate they have "passed" such as a medical certificate.

comment 225 □ comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment 227 comment by: *Jill Pelan*

AR CC 215 : Limit ation , s uspension or re vocation of c abin cre w attestations

CFDT France & ETF crew members demand :

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal is vital for cabin crew.

Limitation, suspension or revocation of cabin crew attestations
(a) T he co mpetent a uthority sh all li mit, s uspend or revoke a c abin cre w

attestation,
including, ~~but not limited to~~, the following cases:

- *(1) Obtaining the cabin crew attestation by falsification of submitted documentary evidence*;
- *~~(2) Non-compliance with the requirements of PartCC or the applicable requirements of PartOR,where a safety issue has been identified~~;*
- *(3) ~~Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs~~*;
- *(4) Evidence of fraudulent use of the cabin crew attestation;*
- *(5) Upon the written request of the holder*, without any pressure from the employer and or and NA.

The CFDT France feels that (a) (2) "Non-compliance ..... where a safety issue has been identified" is very vague and needs clarifying. This may lead to operators asking managers on-line to report any possible "non-compliance" cases of cabin crew in an indiscriminate manner.
(a) (3) "WHen adversely affected by alcohol or drugs" needs to be clarified. A crew member may be on prescription drugs where "adverse affects" are not known/felt by the crew member in advance or clearly notified by the medical body or medical doctor who has prescribed the medication.

The CFDT requests:
b)(NEW) The competent authority shall **limit or suspend** In the following cases :
(2) non compliance with the requirements of Part CC & applicable parts of PART OR in a repeated manner over several months or failure of annual examinations .An opportunity of reinforced training and checks will be offered to the CC member in the latter case. Only proven repeated "non-compliance" whilst on duty may lead to limitation or suspension.
(2) Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs, in the identified case of drugs causing adverse affects, the holder will have to consult an authority approved AME or AeMC who will advise on limitation or temorary suspension of the attestation.

comment *239* comment by: *fédération des transports CGT, membre de ETF*

CGT proposition:

AR.CC.215 Limitation, suspension or revocation of cabin crew attestations
(a) The competent authority shall limit, suspend or revoke a cabin crew attestation,
including, ~~but not limited to~~, the following cases:

- *(1) Obtaining the cabin crew attestation by falsification of submitted documentary evidence*;
- *~~(2) Non-compliance with the requirements of PartCC or the applicable requirements of PartOR,where a safety issue has been identified~~;*
- *(3) ~~Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs~~*;

- *(4) Evide nce of frau dulent use of the c abin crew attestation;*
- *(5) Upon the writte n request of the holder*, without any pressure from the employer and or and NA.

b)(NEW) The competent authority shall **limit or s uspend** In the following cases :

(1) non compliance with the requirements of Part CC in case of security /safety failure during annual examinations , an opportunity of reinforced trainings and controls will be offered to the CC member , human ressources management rules must be develloped to increase each cabin crew members safety /security competency all along its carrier
(2) Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs, in that case holder will have to consult a AME or AeMC

(c)(NEW): for the decision of suspension or revocation of attestation National Authorities should settle down a committee of defense of workers with equal representation of all sides (workers, employers and Authorities)

(d) same text as in NPA AR CC215 (b)

CGT Comments:

Paragraphs (a) and 2 are unclear and not acceptable , it means clearly that cabin crew can have revocation of its attestation in case of failure during annual trainings and checks or while working on board ! it may lead to abuses from employers using this in the aim of redundancies for example (revocation of attestation would automatically lead to unemployment of the holder); in consequence this will lead to useless costs on trainings to replace Cabin crew members whose attestation has been revoked;

Revoking attestation due to non compliance with part CC or the applicable part OR means failures during recurrent trainings (revoke an attestation during initial trainings is impossible since it has not been yet delivered!) or while applying procedures on board. Stress, bad quality of trainings, non adapted management and procedures might lead to failures, it is important to allow more chances for holders, as well as to entitle company or training center to revise their programs or methods on trainings and on the applicable procedures in order to prevent failures, this will contribute to the highest level of safety /security on aviation.
Also Cabin crew whose attestation has been revoked is a worker who leaves knowing all the security procedures and in formations, so confidentiality can not be respected!

In order to have equals treatments for holders of attestation we propose to separate cases of revocation from cases of limitation and suspension at this level of regulation (part AR) and ask to eliminate the possibility of revocations for non compliance with part CC or the applicable part OR .

Alcohol and drug : these cases might be illnesses or addictions and this must also treated trough medical part **MED.E.050 Psychiatry.** An interview with a doctor will determine if this is illness or occasional and in that case it will give opportunity to remind to the holder its obligations as a cabin crew member

comment *254* comment by: *AEA*

Relevant Text:
(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.
Comment:
There is no safety justification for EASA to impose a detailed medical examination for cabin crew. There is also no legal basis for EASA to impose such a costly requirement since the EASA basic regulation refers to an 'assessment' and not an'examinitation'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification. The AEA therefore urges EASA to stick to its safety role and to stick to the medical fitness requirements of EU-OPS.
Proposal:
Delete (b) of AR.CC.215

comment *286* comment by: *Walter Gessky*

AR.CC.215 Limitation, suspension or revocation of cabin crew attestations
(a) ~~The competent authority shall limit, suspend or revoke a~~ **The** cabin crew attestation **does not grant any privileges until the required conversion and differences training and the familiarisation is completed** ~~including, but not limited to~~, **and is not valid in** the following cases:
(1) Obtaining the cabin crew attestation by falsification of submitted documentary evidence;
(2) Noncompliance with the requirements of PartCC or the applicable requirements of PartOR,
where a safety issue has been identified; **and the required recurrent and refresher training is not provided;**
(3) Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs;
(4) Evidence of fraudulent use of the cabin crew attestation;
(5) Upon the written request of the holder.
Justification:
The attestation only certifies that initial safety training was completed, but without conversion and differences training and familiarization the cabin crew is not entitled to be on duty.
The attestation will be issued, but no evidence is kept by the authority /organization.
Suspension and revocation of the attestation will be an administrative overkill without any added value. Operators shall keep the records and verify if one of the cases exists.
Add a new (6) when the appropriate medical certificate is not valid.
Justification:

When no medical certificate is available, attestation is not valid.

Delete (b) and transfer to OR.
This shall be an operator's responsibility not to employ an unfit cabin crew member.
Attestation becomes invalid without a medical certificate.

~~(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or of unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary in the interest of safety:~~
~~(1) not to operate as a single cabin crew member;~~
~~(2) reduction of the applicable time period until the subsequent aeromedical examination and assessment specified in PartMED;~~
~~and~~
~~(3) if the assessment confirms the unfitness, the competent authority shall:~~
~~(i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety; and~~
~~(ii) inform in writing the cabin crew member and their AME or AeMC.~~
It should be notified what will be attested with the attestation.

comment *301* comment by: *kapers Cabin Crew Union*

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal or the Ombudsman.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal or the Ombudsman is important for cabin crew.

comment *312* comment by: *TAP Portugal*

Relevant Text:
(b) For the purpose of (a)(2) , when informed by an AME or AeMC on a case of suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.
Comment:
There is no safety justification for EASA to impose a detailed medical examination for cabin crew. There is also no legal basis for EASA to impose such a costly requirement since the EASA basic regulation refers to an 'assessment' and not an'examinitation'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification. The AEA therefore urges EASA to stick to its safety role and to stick to the medical fitness requirements

of EU-OPS.
Proposal:
Delete (b) of AR.CC.215

comment 325 comment by: *Austro Control GmbH*

(a) ~~The competent authority shall limit, suspend or revoke a~~ ***The*** *cabin crew attestation* ***does not grant any privileges until the required conversion and differences training and the familiarization is completed*** *~~including, but not limited to~~,* ***and is not valid in*** *the following cases:*
(1) Obtaining the cabin crew attestation by falsification of submitted documentary evidence;
(2) Noncompliance with the requirements of Part CC or the applicable requirements of Part OR,
where a safety issue has been identified, ***and the required recurrent and refresher training is not provided;***
(3) Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs;
(4) Evidence of fraudulent use of the cabin crew attestation;
(5) Upon the written request of the holder.

Justification:
The attestation only certifies that initial training was completed, but without conversion and differences training and familiarization the cabin crew is not entitled to be on duty.
The attestation will be issued, but no evidence is kept by the authority /organisation.
Suspension and revocation of the attestation will be an administrative overkill without any added value. Operators shall keep the records and verify if one of the cases exists.

Add a new paragraph:
(6) when the appropriate medical certificate is not valid.
Justification:
When no medical certificate is available, attestation is not valid.

Delete (b) and transfer to OR.
This shall be an operator's responsibility not to employ an unfit cabin crew member.
Attestation becomes invalid without a medical certificate.

~~(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or of unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary in the interest of safety:~~
~~(1) not to operate as a single cabin crew member;~~
~~(2) reduction of the applicable time period until the subsequent aeromedical examination and assessment specified in PartMED;~~
~~and~~
~~(3) if the assessment confirms the unfitness, the competent authority shall:~~
~~(i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety; and~~
~~(ii) inform in writing the cabin crew member and their AME or AeMC.~~
It should be notified what will be attested with the attestation.

comment *342* comment by: *KLM*

Relevant Text:
(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.
Comment:
There is no safety justification for EASA to impose a detailed medical examination for cabin crew. There is also no legal basis for EASA to impose such a costly requirement since the EASA basic regulation refers to an 'assessment' and not an'examinitation'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification. The AEA therefore urges EASA to stick to its safety role and to stick to the medical fitness requirements of EU-OPS.
Proposal:
Delete (b) of AR.CC.215

comment *373* comment by: *British Airways Flight Operations*

Relevant Text:
(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.
Comment:
There is no safety justification for EASA to impose requirements for detailed medical examination of cabin crew. There is also no legal basis upon which EASA can impose such a costly requirement, since the EASA basic regulation refers to an 'assessment' and not an 'examination'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification for doing so. British Airways therefore urges EASA to comply with its safety role and to retain the medical fitness requirements of EU-OPS.
Proposal:
Delete (b) of AR.CC.215
General Comment:
NPA 2009-2 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.

comment *384* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.
Comment:
There is no safety justification for EASA to impose a detailed medical examination for cabin crew. There is also no legal basis for EASA to impose such a costly requirement since the EASA basic regulation refers to an 'assessment' and not an'examinitation'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification. Lufthansa therefore urges EASA to stick to its safety role and to stick to the medical fitness requirements of EU-OPS.
Proposal:
Delete (b) of AR.CC.215

comment *404* comment by: *AUSTRIAN Airlines*

Relevant Text:
(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.
Comment:
There is no safety justification for EASA to impose a detailed medical examination for cabin crew. There is also no legal basis for EASA to impose such a costly requirement since the EASA basic regulation refers to an 'assessment' and not an'examinitation'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification. AUSTRIAN therefore urges EASA to stick to its safety role and to stick to the medical fitness requirements of EU-OPS.
Proposal:
Delete (b) of AR.CC.215

comment *431* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(b) For the purpose of (a)(2), when informed by an AME or AeMC on a case of

suspected unfitness or unfit assessment, the competent authority shall assess whether the cabin crew member is able to perform his/her duties safely with one or more of the following limitations as necessary safety:
1) not to operate as single cabin crew member
2) reduction of the applicable time period until the subsequent aero-medical examination and assessment specified in Part-MED and
3) if the assessment confirms the unfitness, the competent Authority shall (i) limit, suspend or revoke the cabin crew attestation as necessary in the interest of safety and (ii) inform in writing the cabin crew member and their AME or AeMC.

Comment:
There is no safety justification for EASA to impose a detailed medical examination for cabin crew. There is also no legal basis for EASA to impose such a costly requirement since the EASA basic regulation refers to an 'assessment' and not an'examinitation'. The EASA proposal is also against EU anti-discrimination law since it would result in several cabin crew being declared unfit to fly without any safety justification. The AEA therefore urges EASA to stick to its safety role and to stick to the medical fitness requirements of EU-OPS.

Proposal:
Delete (b) of AR.CC.215

comment *457* comment by: *UCC SLO*

This does not provide legal certainty. What could be **other** reasons to limit, suspend or revoke a cabin crew attestation?

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal or the Ombudsman.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal or the Ombudsman is important for cabin crew.

comment *461* comment by: *Civil Aviation Authority of Norway*

Our opinion is that the cabin crew attestation should not be subject to limitation, suspension or revocation process by the competent Authority, as the cabin crew attestation does not constitute any operational privileges. The operator remains ultimately responsible for ensuring that no crew member operate on an aircraft without being qualified to do so, and If any of the cases specified in the paragraph should occur, the competent Authority may take appropriate action towards the individual person, or towards the organisation issuing the attestation. The privileges to act as a cabin crew member should be enforced by limiting or suspending the cabin crew members operating licence, issued by the operator on behalf of the competent Authority. See also our comments on Part CC.CCA.100 regarding the same issue.

comment *486* comment by: *cfdt france*

AR CC 215 : Limitation, suspension or revocation of cabin crew attestations

CFDT France & ETF crew members demand :

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal is vital for cabin crew.

Limitation, suspension or revocation of cabin crew attestations
(a) T he co mpetent a uthority sh all li mit, s uspend or revoke a c abin cre w attestation,
including, ~~but not limited to~~, the following cases:

-
-
-
    -
    - *(1) Obtai ning t he ca bin crew attestation by fal sification of submitted documentary evidence*

;

- *~~(2) No ncompliance with the re quirements of Part CC or the applicable requirements of PartOR,where a safety issue has been identified~~*

;

- *(3) ~~Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs~~*

;

(4) Evidence of fraudulent use of the cabin crew attestation

;

- *(5) Upon the written request of the holder*

, without any pressure from the employer and or and NA.
The CFDT France feels that (a) (2) "Non-compliance ..... where a safety issue has been identified" is very vague and needs clarifying. This may lead to operators asking managers on-line to report any possible "non-compliance" cases of cabin crew in an indiscriminate manner.
(a) (3) "WHen adversely affected by alcohol or drugs" needs to be clarified. A crew member may be on prescription drugs where "adverse affects" are not known/felt by the crew member in advance or clearly notified by the medical body or medical doctor who has prescribed the medication.

<u>The CFDT requests:</u>
b)(NEW) The competent authority shall **<u>limit or s uspend</u>** In the following cases :
(2) non compliance with the requirements of Part CC & applicable parts of PART OR in a repeated manner over several months or failure of annual examinations .An opportunity of reinforced training and checks will be offered to the CC member in the latter case. Only proven repeated "non-compliance" whilst on duty may lead to limitation or suspension.
(2) Exercising the privileges of the cabin crew attestation when adversely affected by alcohol or drugs, in the identified case of drugs causing adverse affects, the holder will have to consult an authority approved AME or AeMC who will advise on limitation or temorary suspension of the attestation.

comment *572* comment by: *IATA*

(b) For the purpose of (a) (2), when informed by a practitioner with aviation expertise on a case……..

(3)
(ii) inform in writing the cabin crew member and their practitioner with medical expertise in aviation.

comment 654 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:
According to this paragraph it is the authority that shall take action regarding the CC attestation, which might have been issued by an operator or a training organisation, also when the reason is non-compliance with the medical requirements. These procedures are more complicated than for pilots, resulting in increased administrative burden and costs.

(a)(2) refers to Part-CC, CC.CCA.105, which also includes compliance with the requirements for medical fitness of CC specified in Part-MED.

Only CC in commercial operations are requested to hold a CC attestation, which means that (b) is only applicable to CC in commercial operations. Nothing is mentioned of the corresponding procedures for CC in non-commercial operations, including secondary review or possibility to appeal to the authority.

The expressions in (b)(2) differ from what is generally used in Part-MED.

(b)(3)(i) gives no guidance on when to choose the different alternatives, which might result in different member states using different legal actions for the same condition. This will neither give a uniform safety level nor a common playing field for the operators. This should be detailed in an AMC to AR.CC.215 or in an AMC to the corresponding section of Part MED.

Proposal:
For CC in both commercial and non-commercial operations EASA should consider the use of a standard medical certificate or similar document and administrative procedures similar to those applicable for pilots.
(b)(3)(i) should be further detailed in an AMC.

comment 674 comment by: *CUD*

This does not provide legal certainty. What could be **other** reasons to limit, suspend or revoke a cabin crew attestation?

New: **AR.CC.220 Complaint**
Complaints of the decisions taken by the competent authority may be presented to a Board of Appeal or the Ombudsman.

Reason: The principle of obtaining a second opinion from a specialised Board of Appeal or the Ombudsman is important for cabin crew.

D. VI. Draft Opinion Part-AR - Subpart CC - Section II - Appendix V to Annex 1 (Part-AR) - Standard EASA format for Cabin crew attestations p. 17

comment 176 comment by: *Austro Control GmbH*

Basicly only the content should be mentioned.

1. Appendix V to Annex 1
2*. CABIN CREW ATTESTATION <u>for the initial training</u>*

Justification:
For clarification add the reference that this is an attestation that the person has completed the training and successfully passed the check.
It shall be granted that the attestation reflects Art 8 (4) of the basic regulation. It shall only attest that the initial training was successfully completed, but this solely does not grant any privilege.

8. Shall exercise the privileges to act as cabin crew member in commercial operations as long as the conditions specified in box 12 are satisfied.

Justification:
When the additional required training is not completed the person cannot act as cabin crew member. Conversion and difference training might be different for each operator due to aircraft configuration and ops procedures.

*12. The privileges of the cabin crew attestation shall be exercised only if the holder has been assessed medically fit in accordance with the applicable requirements of PartMED, ~~and is proficient~~ **the requirements** in accordance with PartCC **are met,** and ~~with~~ the applicable requirements of PartOR ~~for at least the aircraft type or variant~~ to be operated **where the additional required conversion and differences training and familiarization is completed and the recurrent and refresher training is provided.***

Justification:
It shall be made clear that the attestation only verifies that the initial training was completed, but without the medical certificate and the additional required training, which is not included in the training, does not grant any privilege. It shall be noted that even when the person holds an attestation no privilege is granted. This should be made very clear in the requirement to avoid expectations that based on an attestation the person can work for any operator without any additional training.

comment *191* comment by: *UK CAA*

Paragraph No: Appendix V to Annex 1 – Part Authority Requirements. Section 12 of cabin crew attestation.

Comment: PART MED proposals are not appropriate for cabin crew.

Justification: There is no evidence that the medical requirements specified in Part-MED are evidence based or appropriate to cabin crew (see comments on part MED). Excessive standard with no safety benefit.

Proposed Text (if applicable):
Amend to: "The privileges of the cabin crew attestation shall be exercised only if the holder has been assessed fit and is proficient in accordance with Part-CC and with the applicable requirements of Part-OR for at least the aircraft type or variant to be operated".

comment *225* ☐ comment by: *The TUI Airlines group represented by Thomson*

Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment *229* comment by: *Jill Pelan*

Appendix V to Annex I - Standard EASA FORMAT for CC Attestations

Block 12 refers to proficiency in "at least the aircraft type or variant to be operated"
Block 8 refers to Block 12 .....

The CFDT France does not wish initial training to include type or variant training to be included in the **initial** training or in the Attestation as this signifies that Cabin crew do not have harmonised training except in the GENERAL training - Cabin crew may have type training on aricraft A, B & C and hold a valid ATTESTATION but may NOT be eligible for employment with operators who have aircraft D,F & G.
ATTESTATIONS (& Initial training) that includes variants or type training may prove to be **discriminatory** rather than harmonising standards and leading to a level playing field where each crew member may be able to find employment with any operator in the EU.

Every operator h as different emergency e quipment and l ocations i n their cabins and they must provide cabin crew members with appropriate traini ng on their cabin e quipment - thus ren dering any type /variant training mentionned on the ATTESTATION superfluous .

In France, the equivalent of the "Attestation" is only for general training (EU OPS..) and medical fitness - the type training is included afterward and provided once employment is found.

comment *238* comment by: *ETF*

General comment: Other formats than the prescribed should be permitted as long as the content is the same. For example, in the future, if card with a chip or magnetic stripe system is used it could even hold information on when recurrent training and medical examination was passed.

comment *245* comment by: *Thomas Cook Airlines*

Justification:
The attestation template does not include details of when the Initial training

was completed as per current pro-forma.

Proposal:
Suggest following the original format issued for EU-Ops attestation and remove the requirement for the crew member to sign it

comment *287* comment by: *Walter Gessky*

1. Appendix V to Annex 1
2. CABIN CREW ATTESTATION *for the initial safety training*
Justification:
For clarification add the reference that this is an attestation that the person has completed the safety training and successfully passed the check.
It shall be granted that the attestation reflects Art 8/4 of the basic regulation. It shall only attest that the initial safety training was successfully completed, but this alone does not grant any privilege.

8. ~~Shall~~ **Can** exercise the privileges to act as cabin crew member in commercial operations as long
as the conditions specified in box 12 are satisfied.
Justification:
When the additional required training is not completed the person cannot act as cabin crew member. Conversion and difference training might be different for each operator due too aircraft configuration and ops procedures.

12. The privileges of the cabin crew attestation ~~shall~~ **can** be exercised only if the holder has been
assessed medically fit in accordance with the applicable requirements of PartMED, ~~and is~~
~~proficient~~ **the requirements** in accordance with PartCC **are met,** and ~~with~~ the applicable requirements of PartOR ~~for at least the aircraft type or variant to be operated~~ **where th e additional requi red con version and differences training and famili arization is completed an d the recurrent an d refresher training is provided.**
Justification:
It shall be made clear that the attestation only verifies that the initial safety training was completed, but without the medical certificate and the additional required training, which is not included in the safety training, does not grant any privilege. It shall be noted that even when the person holds an attestation no privilege is granted. This should be made very clear in the requirement to avoid expectations that based on an attestation the person can work for any operator with any additional training.

comment *302* comment by: *kapers Cabin Crew Union*

General comment: Other formats than the prescribed should be permitted as long as the content is the same. For example in the future if card with a chip or magnetic stripe system is used it could even hold information on when recurrent training and medical examination was passed.

comment *372* comment by: *Virgin Atlantic Airways*

Comments:
The format does follow the EU Ops requirement for attestation detailing the dates and duration of training. Are these all to be re-issued?

Is the operator no longer required to keep a copy of the Attestation on the crew members record?

How can operators logistically be expected to achieve a crew members signature and the return of the attestation before commencement of operational duties and maintain these requirements?

comment *469* comment by: *DGAC*

The EASA should maintain and make available to the public a centralized register of approved training organisations with the reference number of the relevant approval by the competent authority.
Justification : current experience with EU OPS attestations shows the need for such a register:
- for the benefit of trainees: there should be a means for a person to check that a training organisation holds an approval to conduct initial training before contracting a course. Some training organizations provide "attestations of training" which are not valid as per EU OPS 1.1005 and the trainees were not aware of it.
- for the benefit of authorities: authorities would have a means to check the validity an attestation in the frame of their inspection program
- for the benefit of air operators: they would have a means to check the validity of attestations provided by candidate cabin crew members coming from other Member States they intend to recruit.

comment *487* comment by: *cfdt france*

Appendix V to Annex I - Standard EASA FORMAT for CC Attestations

Block 12 refers to proficiency in "at least the aircraft type or variant to be operated"
Block 8 refers to Block 12 .....

The CFDT France does not wish initial training to include type or variant training to be included in the **initial** training or in the Attestation as this signifies that Cabin crew do not have harmonised training except in the GENERAL training - Cabin crew may have type training on aricraft A, B & C and hold a valid ATTESTATION but may NOT be eligible for employment with operators who have aircraft D,F & G.
ATTESTATIONS (& Initial training) that includes variants or type training may prove to be **discriminatory** rather than harmonising standards and leading to a level playing field where each crew member may be able to find employment with any operator in the EU.

Every operator h as different emergency e quipment and l ocations i n their cabins and they must provide cabin crew members with appropriate traini ng on their cabin e quipment - thus ren dering any type /variant training mentionned on the ATTESTATION superfluous .

In France, the equivalent of the "Attestation" is only for general training (EU OPS..) and medical fitness - the type training is included afterward and provided once employment is found.

comment *675* comment by: *CUD*

Delete: ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Reason: The attestation should only be issued directly by the national authorities.

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable~~., and:~~
~~(a) in the case of an operator, the AOC number and detailed reference to~~
~~the authorisation/approval by the competent authority to provide cabin crew training and to issue attestations; and~~
~~(b)~~
~~in the case of an approved training organisation, the reference number of the relevant approval by the competent authority.~~

Reason: See above.

D. VI. Draft Opinion Part-AR - Subpart CC - Section II - Appendix V to Annex 1 (Part-AR) - Standard EASA format for Cabin crew attestations - Instructions p. 18-19

comment *225* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

Section II -Cabin crew attestations

Comment:

It has not been satisfied that Cabin Crew attestations as defined under EASA serve any purpose other than increasing a further bureaucratic level of responsibility. They do not enhance safety in any way and neither would they improve or permit transfer of CC from one Operator to another as each new Operator is required to complete an OCC and to satisfy itself of the level of competence of each CC employee.

Proposal:
These sections should be removed as they serve no useful purpose.

comment *234* comment by: *Jill Pelan*

Block 3
The CFDT France & ETF are totally against any other body issuing the Attestation other than the MS authority.

Delete: Block 3 ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of~~

~~the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~ ~~(a) in the case of an operator, the AOC number and detailed reference to the authorisation/approval by the competent authority to provide cabin crew training and to issue attestations; and~~
~~(b)~~
~~in the case of an approved training organisation, the reference number of the relevant approval by the competent authority.~~

Reason: The CFDT France & ETF are not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

New:

comment *235* comment by: *Jill Pelan*

Delete: ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Reason: ETF & the CFDT France is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~
~~(a) in the case of an operator, the AOC number and detailed reference to~~
~~the authorisation/approval by the competent authority to provide cabin crew training and to issue attestations; and~~
~~(b)~~
~~in the case of an approved training organisation, the reference number of the relevant approval by the competent authority.~~

Reason: ETF is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

comment *297* comment by: *FSC - CCOO*

Delete: ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Reason: The attestation should only be issued directly by the national authorities.

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~

~~(a) in the case of an operator, the AOC number and detailed reference to the authorisation/approval by the competent authority to provide cabin crew training and to issue attestations; and~~

(b) ~~(b) in the case of an approved training organisation, the reference number of the relevant approval by the competent authority.~~

Reason: See above.

comment *303* comment by: *kapers Cabin Crew Union*

Delete: Block 3 ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Reason: kapers is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~

~~(a) in the case of an operator, the AOC number and detailed reference to~~

~~the authorisation/approval by the competent authority to provide cabin crew training and to issue attestations; and~~

~~(b)~~

~~in the case of an approved training organisation, the reference number of the relevant approval by the competent authority.~~

Reason: kapers is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

New:

Block 13: The aircraft group that the attestation is issued for

Comment: This should contain the aircraft group information, such as turbojet or propeller.

comment *458* comment by: *UCC SLO*

Delete: ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Reason: The attestation should only be issued directly by the national authorities.

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~
~~(a) in the case of an operator, the AOC number and detailed reference to the~~

comment *489* comment by: *cfdt france*

Block 3
The CFDT France & ETF are totally against any other body issuing the Attestation other than the MS authority.

Delete: Block 3 ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~
~~(a) in the case of an operator, the AOC number and detailed reference to the authorisation/approval by the competent authority to provide cabin crew training and to issue attestations; and~~
~~(b) in the case of an approved training organisation, the reference number of t he relevant approval by the competent authority.~~

Reason: The CFDT France & ETF are not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

comment *490* comment by: *cfdt france*

Delete: ~~(b) Where the competent authority delegates through an approval procedure to another issuing body (see Block 11) the task of issuing the attestation, clear reference to that authority as the competent authority of the Member Sate where the attestation was issued shall be entered. Details to be entered shall be at least the acronym, full name and mail address.~~

Reason: ETF & the CFDT France is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

Delete: Block 09: Identification details of the issuing authority~~/issuing body as relevant~~ shall be entered and shall at least provide the full name of the organisation, postal address, official seal, stamp or logo, as applicable**.**~~, and:~~
~~(a) in the case of an operator, the AOC number and detailed reference to the authorisation/approval by the competent authority to provide cabin crew trainin g and to issue attestations; and~~

~~(b) in the case of an approved training organisation, the reference number of the relevant approval by the competent authority.~~

Reason: ETF is not satisfied that the attestation may be issued by the operator; it should be issued directly by the national authorities.

D. VI. Draft Opinion Part-AR - Subpart OPS - Section I - AR.OPS.020 Record-keeping-Register of operator certificates and declarations p. 20

comment *39* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.020: Transfer to AR.GEN.310, extend to all organisations.

Justification:
All organisations shall be subject to this register, and not only operators.

comment *100* comment by: *CAA-NL*

Comment CAA-NL:
The CAA-NL requests to clarify "declarations received" for reasons of clarity/ uniform interpretation.

D. VI. Draft Opinion Part-AR - Subpart OPS - Section II - AR.OPS.210 Issue of the air operator certificate p. 20

comment *101* comment by: *CAA-NL*

Question CAA-NL:
The CAA-NL requests EASA to clarify into which detail the "operations specifications" should be included.

comment *192* comment by: *UK CAA*

Paragraph No: AR.OPS.210

Comment: This provides for the issue of an air operator's certificate to include "general conditions". There is no other reference to this term in the NPA so its meaning needs to be clarified.

comment *472* comment by: *DGAC*

Attachment #3

Though we have already had the opportunity to comment on the template of the air operator certificate during the process of NPA 2008-22 (comments # 1482 and 892 below)

(see pict2.jpg)

We would like to add the following additional comments, now that AESA has provided us with the NPA for IR OPS :

"The operations specifications document does not include a dedicated part for the aircraft registration marks. If a specific system, as permitted in e) of Appendix 1 to OPS 1.175, has been approved by the registration authority, it should be noted in this part.

comment *652* comment by: *Civil Aviation Authority Finland*

Comment:
In AR.OPS.210 there is no requirement on rule level to do an initial inspection to organization, facilities, operational arrangements, training, records, aircraft or to do operational demonstration flights on operations or presentative routes (new raoutes) of the AOC applicant (ref. corresponding requirements in AR.OPS.300(a), AR.GEN.310, AR.AeMC.010 and Reg. (EC) No 2042/2003).
AMC to AR.GEN.310(a) (of NPA No 2008-22b or NPA 2009-2d) is at too low level and the requirement should be written at rule level. More exact requirements how to do the inspection can be given in AMC.

Justification:
The operational arrangements of a new operator must be inspected at the operating airport, in the facilities of the operator and on presentative routes/areas to be flown before granting an AOC. The application and verifying the OM is not giving all the knowledge to satisfy the Authority.
Even if the applicant of AOC may have been earlier an approved organisation on other area (Part 145 or FTO/ATO), beginning as a new Commercial Air Operator specially with complex aircraft is so big step that the operator must be inspected before approval.

D. VI. Draft Opinion Part-AR - Subpart OPS - Section II - AR.OPS.230 Changes p. 20

comment *22* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.230: change as follows:

(a) In the case of minor amendments to the operations manual not affecting the terms of the certificate, the competent authority shall ensure that it has an adequate control over the approval of all manual amendments.

(b) The competent authority ~~**shall**~~ prescribe**s** the conditions under which an operator may operate during such changes.

(c) Personnel affec ted by minor chan ges, must be imm ediately informed by the op erator of those ch anges alt hough thos e chang es have not been included in Operation Manual.

Justification:
Personnel affected by changes in the operation must be permanently informed of all changes affecting their functions or responsibilities in relation to the operation, even though these changes have not been included in the Ops Manual as a measure to guarantee the safety of operations.

comment *40* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.230: Transfer to AR.GEN.310, extend to all

organisations.

Justification:
These statements are valid for any organisation, not only operators.

comment *76* comment by: *CAA-NL*

Comment CAA-NL regarding part a:
The Agency should make it more clear what is mean by 'minor amendments' It is also not clear if a approval is necessary for these changes.

Comment CAA-NL regarding part b:
The Agency should make it more clear what it means by this statement.

comment *138* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Proposal:
AR.OPS.230 (b)
delete "such".

comment *255* comment by: *AEA*

Relevant Text:
(a) In the case of minor amendments to the operations manual not affecting the terms of the certificate, the competent Authority shall ensure that it has adequate control over the approval of all manual amendments
Comment:
This goes beyond the requirements of Subpart P of EU-OPS and will lead to additional bureaucracy and associated costs for no safety benefit. There is no justification for EASA to alter EU-OPS which does not require an approval of all manual amendments.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *313* comment by: *TAP Portugal*

Relevant Text:
(a) In the case of minor amendments to the operations manual not affecting the terms of the certificate, the competent Authority shall ensure that it has adequate control over the approval of all manual amendments
Comment:
This goes beyond the requirements of Subpart P of EU-OPS and will lead to additional bureaucracy and associated costs for no safety benefit. There is no justification for EASA to alter EU-OPS which does not require an approval of all manual amendments.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *343* comment by: *KLM*

Relevant Text:
(a) In the case of minor amendments to the operations manual not affecting

the terms of the certificate, the competent Authority shall ensure that it has adequate control over the approval of all manual amendments
Comment:
This goes beyond the requirements of Subpart P of EU-OPS and will lead to additional bureaucracy and associated costs for no safety benefit. There is no justification for EASA to alter EU-OPS which does not require an approval of all manual amendments.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *386* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(a) In the case of minor amendments to the operations manual not affecting the terms of the certificate, the competent Authority shall ensure that it has adequate control over the approval of all manual amendments
Comment:
This goes beyond the requirements of Subpart P of EU-OPS and will lead to additional bureaucracy and associated costs for no safety benefit. There is no justification for EASA to alter EU-OPS which does not require an approval of all manual amendments.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual, and to realign it with EU-OPS

comment *405* comment by: *AUSTRIAN Airlines*

Relevant Text:
(a) In the case of minor amendments to the operations manual not affecting the terms of the certificate, the competent Authority shall ensure that it has adequate control over the approval of all manual amendments
Comment:
This goes beyond the requirements of Subpart P of EU-OPS and will lead to additional bureaucracy and associated costs for no safety benefit. There is no justification for EASA to alter EU-OPS which does not require an approval of all manual amendments.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *432* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(a) In the case of minor amendments to the operations manual not affecting the terms of the certificate, the competent Authority shall ensure that it has adequate control over the approval of all manual amendments
Comment:
This goes beyond the requirements of Subpart P of EU-OPS and will lead to additional bureaucracy and associated costs for no safety benefit. There is no justification for EASA to alter EU-OPS which does not require an approval of all manual amendments.
Proposal:
We request to delete this paragraph and the need to approve the whole Ops Manual. and to realign it with EU-OPS

comment *493* comment by: *AIR FRANCE*

Comment :
There is no requirement within EU OPS nor within the Basic Regulation for the approval of the whole Operations Manual (OM). The approval of the whole OM would increase the burden on the operators and the competent authority. The OM may contain at the discretion of the operator material that are not regulatory ones. We propose to keep the EU OPS system of approved and non approved parts of the OM. The competent authority continues to exercise its oversight on all the OM parts.
Proposal :
Delete this paragraph and replace it with one dealing with approved and non approved parts of the OM.

D. VI. Draft Opinion Part-AR - Subpart OPS - Section II - AR.OPS.235 Code share arrangements p. 20

comment *41* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.235 (a) (1): Missing reference : Part TCO is not available for comment.

Justification:
Opinion is deferred to the reading of the referred provisions.

comment *77* comment by: *CAA-NL*

Comment CAA-NL regarding part a:
(general) A lot of operators have already code share agreements. Will there be grandfather rights? (a) (2) what will be the frequency on which an audit must be done by the operator?

Comment CAA-NL regarding part b:
(b)(1) How will the Agency inform the local authorities if she suspended or revaked a TCO? (b)(2)same as (a)(2) above

comment *116* comment by: *Luftfahrt-Bundesamt*

The approval of code share arrangements is purely a matter of traffic-rights and thus not subject of the legislative competences of Regulation 216/2008. It is also in breach of a number of bilateral and multilateral air service agreements like the Aviation Agreement of the European Community, the Member States and the Kingdom of Marocco and like the ECAA-Agreement. Thus this paragraph has to be deleted from the NPA.

Beside this the requirements laid down in this paragraph generate a disadvantage for European air carriers as they require an authorisation in accordance with Part-TCO even in cases of code shares of European air carriers with third-country-carriers for connection-flights in third-countries and for code share arrangements in which the third-country operator only acts as marketing partner of an European air carrier. In the latter case the third-country operator would have to be approved in accordance with Part-TCO if he intends to start a code share arrangement with a European air Carrier but would not have to be

approved if he intends to start a code share arrangement with other third-country operators!

comment 139 comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
The TCO-Part is not known yet, therefor it is rather difficult to comment on AR.OPS.235 (a) (1) and AR.OPS.236.

comment 193 comment by: *UK CAA*

Paragraph No: AR.OPS.235

Comment: UK CAA does not understand why code-share arrangements which are essentially marketing arrangements, and which according to this definition may cover arrangements with operators that never visit the Community, should be covered by these OPS requirements.

Justification: 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 216/2008, the UK CAA presumes that code-sharing arrangements are included because it is thought necessary for 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 used on the flight is used by the first operator.

The proposals in PART-OR, together with these proposals in PART-AR impose an unnecessary burden on both operators and competent authorities, not required under Regulation 216/2008 or 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 216/2008; as such they will be subject to an authorisation issued in accordance with Part-TCO.

See also UK CAA comments on OR.OPS.010.GEN (a) and OR.OPS.035.AOC.

Proposed Text (if applicable):
Delete all AR.OPS.235

comment 194 comment by: *UK CAA*

Paragraph No: AR.OPS 235

Comment: The CAA does not agree that the IRs should cover code-sharing (see other UK CAA comment on this paragraph.) However, AR.OPS 235 and OR.OPS 035 seem to conflict:

AR.OPS.235 Code share arrangements
(a) Before authorising any code share arrangement involving a third country operator, the competent authority shall:
… (3) assess that **all findings** on the third country operator **are closed**;

OR.OPS.035.AOC Code share arrangements

(c) The audits, including any findings shall be recorded. Level 1 findings shall be closed
before entering in or continuing a code share agreement, **level 2 findi ngs within 12**
months of the audit. The Community operator shall submit the audit report including
findings and their closure to the competent authority. All audit reports shall be kept for
at least 5 years.

Justification: Consistency

Proposed Text (if applicable): (3) assess that all **Lev el 1** findings on the third country operator are closed

comment *256* comment by: *AEA*

Relevant Text:
(a) *(a) Before authorising a ny c ode sh are arrangement involving a third country operator, the competent Authority shall:*
(1) Verify that the third country operator holds an authorization in accordance with Part-TCO
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. This requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive administrative burden which cannot be justified on safety grounds. We suspect this new requirement mainly to be driven by a desire from EASA to raise fees for its own budget which is a conflict of interest,

In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).
Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.

comment *257* comment by: *AEA*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) (a) Before authorising a ny c ode share arrangement invol ving a thir d country operator, the competent Authority shall
2) Revie w the aud it r eport provi ded by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator as considered necessary
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto

impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

comment *258* comment by: *AEA*

Relevant Text:

b) The authorizatio n of a code share arrangem ent shall be suspended or revoked whenever 1) the autho rization of the t hird coun try o perator is suspended or revoked 2) an audit prov ided by the t hird cou ntry operator reveals that the third country operator was fa iling to maintain compliance with Annex IV of the Basic Regulation or its standards.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks. Finally there should be no requirement for TCO approval of code-share partners.

Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

Delete the reference to the third country operator authorization

comment *288* comment by: *Walter Gessky*

1. AR.OPS.235 Code share arrangements
Shall be deleted.
Justification:
Art 4.1(c) was agreed on the assumption that this cover "leasing agreements" and not "code sharing agreements". No mandate for the COM in the basic regulation to regulate code share in this IR, because this is also not regulated

in EU-OPS.

comment *314* comment by: *TAP Portugal*

Relevant Text:
(a) *(a) Before authorising a ny c ode sh are arrangement involving a third country operator, the competent Authority shall:*
(1) Verify that the third country operator holds an a uthorization in a ccordance with Part-TCO
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. This requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive administrative burden which cannot be justified on safety grounds. We suspect this new requirement mainly to be driven by a desire from EASA to raise fees for its own budget which is a conflict of interest,
In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).
Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.

comment *315* comment by: *TAP Portugal*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) (a) Before authorising a ny c ode share arrangement invol ving a thir d country operator, the competent Authority shall
2) Revie w the aud it r eport provi ded by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator as considered necessary
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.
In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

comment *316* comment by: *TAP Portugal*

Relevant Text:
b) The authorizatio n of a code share arrangem ent shall be suspended or revoked whenever 1) the autho rization of the t hird coun try o perator is suspended or revoked 2) an audit prov ided by the t hird cou ntry operator reveals that the third country operator was fa iling to maintain compliance with Annex IV of the Basic Regulation or its standards.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.
In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks. Finally there should be no requirement for TCO approval of code-share partners.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.
Add a statement that no audits are required if the third country operator is IOSA approved

Delete the reference to the third country operator authorization

comment *330* comment by: *Austro Control GmbH*

Comment:
Final comment to this point is for the moment not possible because Part TCO is not available.
(a) Before authorizing any code share arrangement involving a t hird country operator, the com petent authority ***of the MS issuing the Air Operator Certificate*** *shall:*

Justification:
Add for clarification, because the competences are not known because Part TCO is not available.

(1) *(2) review the audit report provided by the Community operator showing compliance of the third country oper ator with Annex IV of the Basic Regulation and the standards maintained by that operator in con ducting its operations* ***and make any additional inspections when it seems to be required after review of the audit report****;*

Justification:
When evidence of any shortcoming or problems exists, the competent authority shall have the right to carry out additional inspections or audits.

(b)
Add a new **(3)**
the competent authority of the MS issuing the Air Operator Certificate identifies any problems that the operator maintain compliance with Annex IV of the Basic Regulation or its standards.

Justification:
When the competent authority identifies any problems, the arrangement shall be suspended by the competent authority.

comment *344* comment by: *KLM*

Relevant Text:
(a) *(a) Before authorising any code share arrangement involving a third country operator, the competent Authority shall:*
(1) Verify that the third country operator holds an authorization in accordance with Part-TCO
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. This requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive administrative burden which cannot be justified on safety grounds. We suspect this new requirement mainly to be driven by a desire from EASA to raise fees for its own budget which is a conflict of interest,

In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).
Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.

comment *345* comment by: *KLM*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) (a) Before authorising any code share arrangement involving a third country operator, the competent Authority shall
2) Review the audit report provided by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator as considered necessary
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO

standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

comment *346* comment by: *KLM*

Relevant Text:

b) The authorizatio n of a code share arrangem ent shall be suspended or revoked whenever 1) the autho rization of the t hird coun try o perator is suspended or revoked 2) an audit prov ided by the t hird cou ntry operator reveals that the third country operator was fa iling to maintain compliance with Annex IV of the Basic Regulation or its standards.

Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks. Finally there should be no requirement for TCO approval of code-share partners.

Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

Delete the reference to the third country operator authorization

comment *375* comment by: *British Airways Flight Operations*

Relevant Text:

(a) *(a) Before authorising any code share arrangement involving a third country operator, the competent Authority shall:*

(1) Verify that the third country operator holds an a uthorization in a ccordance with Part-TCO

Comment:
This proposal goes beyond EU-OPS and the mandate given to EASA by the EU legislator. The requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive administrative burden which cannot be justified on safety grounds.

In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).

Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.
General Comment:
NPA 2009-2 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.

comment *379* comment by: *British Airways Flight Operations*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) (a) Before authorising a ny c ode share arrangement invol ving a thir d country operator, the competent Authority shall
2) Revie w the aud it r eport provi ded by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator as considered necessary
Comment:
This proposal goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (for example, US airlines) a *de facto* impossibility owing to the different regulatory environments in different states. The proposal is completely unacceptable to British Airways since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an increase in the number of audits, which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

General Comment:
NPA 2009-2 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.

comment *387* comment by: *Deutsche Lufthansa AG*

Relevant Text:
(a) Before authoris ing any code s hare arrang ement i nvolving a th ird country operator, the competent Authority shall:
(1) Verify that the third country operator holds an a uthorization in a ccordance with Part-TCO
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. This requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive

administrative burden which cannot be justified on safety grounds. We suspect this new requirement mainly to be driven by a desire from EASA to raise fees for its own budget which is a conflict of interest,

In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).
Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.

comment *388* comment by: *Deutsche Lufthansa AG*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) Before authoris ing any code s hare arrang ement i nvolving a th ird countr y operator, the competent Authority shall
2) Revie w the aud it r eport provi ded by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator as considered necessary
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to Lufthansa since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

comment *389* comment by: *Deutsche Lufthansa AG*

Relevant Text:

b) The authorizatio n of a code share arrangem ent shall be suspended or revoked whenever 1) the autho rization of the t hird coun try o perator is suspended or revoked 2) an audit prov ided by the t hird cou ntry operator reveals that the third country operator was fa iling to maintain compliance with Annex IV of the Basic Regulation or its standards.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation

would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to Lufthansa since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks. Finally there should be no requirement for TCO approval of code-share partners.

Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

Delete the reference to the third country operator authorization

comment *406* comment by: *AUSTRIAN Airlines*

Relevant Text:
(a) *(a) Before authorising a ny c ode sh are arrangement involving a third country operator, the competent Authority shall:*
(1) Verify that the third country operator holds an authorization in accordance with Part-TCO
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. This requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive administrative burden which cannot be justified on safety grounds. We suspect this new requirement mainly to be driven by a desire from EASA to raise fees for its own budget which is a conflict of interest,

In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).
Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.

comment *407* comment by: *AUSTRIAN Airlines*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) (a) Before authorising a ny c ode share arrangement invol ving a thir d country operator, the competent Authority shall
2) Revie w the aud it r eport provi ded by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator

as considered necessary
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AUSTRIAN since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

comment *408* comment by: *AUSTRIAN Airlines*

Relevant Text:

b) The authorizatio n of a code share arrangem ent shall be suspended or revoked whenever 1) the autho rization of the t hird coun try o perator is suspended or revoked 2) an audit prov ided by the t hird cou ntry operator reveals that the third country operator was fa iling to maintain compliance with Annex IV of the Basic Regulation or its standards.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AUSTRIAN since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks. Finally there should be no requirement for TCO approval of code-share partners.

Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

Delete the reference to the third country operator authorization

comment *433* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:

(a) *(a) Before authorising a ny c ode sh are arrangement involving a third country operator, the competent Authority shall:*
(1) Verify that the third country operator holds an a uthorization in a ccordance with Part-TCO
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. This requirement does not take into account the fact that many code-share partners of EU airlines might never fly to the EU and therefore requiring them to be approved by EASA under the Part-TCO would be an excessive administrative burden which cannot be justified on safety grounds. We suspect this new requirement mainly to be driven by a desire from EASA to raise fees for its own budget which is a conflict of interest,

In addition this requirements would also cause problems in case of one-way code-share arrangements where a black-listed non-EU airline wish to put its own code on the flight of an EU airline (e.g. blacklisted airlines cannot be approved under the EASA TCO).
Proposal:
Delete the requirement for third country operator code share partners to be approved under the EASA TCO.

comment *434* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AR.OPS.235 Code Share Arrangements
(a) (a) Before authorising a ny c ode share arrangement invol ving a thir d country operator, the competent Authority shall
2) Revie w the aud it r eport provi ded by the community operator showing compliance of the third country operator with Annex IV of the basic Regulation and the standards maintained by the operator conducting its operations
3) Assess that all findings on the third country operator are closed
4) liase with the competent authority of the State of the third country operator as considered necessary
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks.
Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

comment *435* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:

b) The authorizatio n of a code share arrangem ent shall be suspended or revoked whenever 1) the autho rization of the t hird coun try o perator is suspended or revoked 2) an audit prov ided by the t hird cou ntry operator reveals that the third country operator was fa iling to maintain compliance with Annex IV of the Basic Regulation or its standards.

Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator. Requiring code-share partners to comply with Annex IV of the basic regulation would make code-sharing with most non-EU airlines (f.e. US airlines) de-facto impossible due to the different regulatory environment. This is completely unacceptable to AEA since it has no safety justification. ICAO standards or equivalent should be sufficient to authorize code-sharing.

In addition there should be no requirement for EU airlines to audit their code-share partners if there are IATA IOSA approved. This is essential to avoid an inflation of audits which would be costly and which would distract airline resources from more important safety tasks. Finally there should be no requirement for TCO approval of code-share partners.

Proposal:
Delete reference to Annex IV of the basic regulation and replace it with 'ICAO standards or equivalent'.

Add a statement that no audits are required if the third country operator is IOSA approved

Delete the reference to the third country operator authorization

comment *494* comment by: *AIR FRANCE*

Comment :
The NPA about TCO is still missing, it is therefore impossible to comment about the impacts of this TCO approval. The strict compliance with the Annex IV of the basic Regulation (BR) will preclude the code share with a great number of non european countries (including major ones) as it is the case today. ICAO standards or equivalent should be considered.
As adressed in NPA 2009-02 C comments, the case to be considered is when a community operator puts its code on a third country operator flight.
IOSA audits should be recognised as complying with the audit requirements for the code sharing.
Proposal :
Replace reference to Annexe IV of the BR and replace it with ICAO standards or equivalent. Add that IOSA is a recognised audit standard for the purpose of this paragraph.
For § a) modify as follows :
(a) Before authorising any code share arrangement involving a thirdcountry operator ADD "where a community operator puts its code on a third country operator flights", the
competent authority shall:

D. VI. Draft Opinion Part-AR - Subpart OPS - Section II - AR.OPS.236 Leasing p. 20

comment *139* ☐ comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
The TCO-Part is not known yet, therefor it is rather difficult to comment on AR.OPS.235 (a) (1) and AR.OPS.236.

comment *259* comment by: *AEA*

Relevant Text:
AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR.OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs,, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).

In addition, the EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This is also in contradiction the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for those additional restrictions imposed by EASA whereas it will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:

The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met.

comment *317* comment by: *TAP Portugal*

Relevant Text:
AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR.OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.

Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs,, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).
In addition, the EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This is also in contradiction the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for those additional restrictions imposed by EASA whereas it will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.
Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:
The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met.

comment *347* comment by: *KLM*

Relevant Text:
AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR .OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs,, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).

In addition, the EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This is also in contradiction the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for those additional restrictions imposed by EASA whereas it will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording

of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:

The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met

comment *385* comment by: *British Airways Flight Operations*

Relevant Text:
AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR.OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.
Comment:
This proposal goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line with the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).

In addition, the EASA rulemaking proposal - imposing the full implementing rules provisions on wet-lease - will make wet-leasing from non-EU airlines (for example, US airlines) a *de facto* impossibility (owing to different regulatory environment etc). This provision is also in contradiction with the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for additional restrictions to be imposed by EASA, on the contrary, they will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as follows:

The competent Authority may authorise a lease-in agre ement of an aircraft registered in a third co untry a nd used by an operator which it has certified if the C ommunity operator dem onstrates to th e satisfact ion of the com petent authority that all safety standards equivalent to tho se impose d by the Community are met.

General Comment:
NPA 2009-2 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.

comment *390* comment by: *Deutsche Lufthansa AG*

Relevant Text:

AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR.OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs,, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).

In addition, the EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This is also in contradiction the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for those additional restrictions imposed by EASA whereas it will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:

The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met.

comment *409* comment by: *AUSTRIAN Airlines*

Relevant Text:
AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR.OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs,, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).

In addition, the EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This

is also in contradiction the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for those additional restrictions imposed by EASA whereas it will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:

The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met.

comment *436* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AR.OPS.236 Leasing
The competent Authority shall not auth orise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified unless the conditions specified in OR .OPS.030.AOC are de monstrated by the operator and verified by the Competent Authority.
Comment:
This goes beyond EU-OPS and the mandate given to EASA by the EU legislator.

The requirement for TCO approval is not in line the EU Third Package Legislation (Regulation (EC) 1008/2008), as recently adopted by the EU Legislator,, which refers to approval by the National Aviaton Authority (not EASA). Taking into account the fact that wet-leasing is mostly required at short notice to cover for short-term needs,, approval by NAAs is more practical (EASA is not equipped to deal with short-term needs/ operational approvals).

In addition, the EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This is also in contradiction the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules). There is no safety justification for those additional restrictions imposed by EASA whereas it will reduce the access of EU airlines to wet-lease capacity. This is unacceptable.

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:

The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met.

comment *495* comment by: *AIR FRANCE*

Comment :

The EASA rulemaking proposal imposing the full implementing rules provisions on wet—lease will make wet-leasing from non-EU airlines (f.e. US airlines) de-facto impossible (due to different regulatory environment etc). This seems to be in contradiction with the EU Third Package Legislation (Regulation (EC) 1008/2008), which refers to equivalent level of safety (not identical safety rules).

Proposal:
Delete the entire paragraph and realign the paragraph with the exact wording of the third package legislation which was recently adopted by the EU legislator (Regulation (EC) 1008/2008) to read as:

The competent Authority may authorise a lease-in agreement of an aircraft registered in a third country and used by an operator which it has certified if the Community operator demonstrates to the satisfaction of the competent authority that all safety standards equivalent to those imposed by the Community are met.

D. VI. Draft Opinion Part-AR - Subpart OPS - Section III - AR.OPS.300 Certification procedure p. 21

comment *86* comment by: *Quality Assurance, Denim Air*

EASA has offered no credit to operators for relief on national oversight by use of third party quality systems; IATA's IOSA system or ISO 9000-series certification. In addition, the NAAs are not offered any guidance on this issue.
Some credit must be offered to approved organizations who take the trouble to achieve such certification and the AR part of the requirements seems a suitable place to address this.

comment *140* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Comment:
AR.OPS.300 is a rather unclear statement.

Proposal:
The paragraph should be reviewed in accordance with AR.OPS.230 und OR.OPS.015.MLR (g) (h).

comment *473* comment by: *DGAC*

(b) :
This paragraph needs some clarification on which part of Appendix I to Part AR is supposed to be used by the competent authority according to the type of operation when issuing a Specific operations approval ?
We understand the following :
CAT & COM : :
o p. 24 (***APPROVAL CERTIFICATE "as a Part OR approved organisation"***)
o p.27 (***AIR OPERATOR CERTIFICATE*****)**
o p.28 (***OPERATIONS SPECIFICATIONS***)

Non commercial operation of CMPA :
o p.28 (***OPERATIONS SPECIFICATIONS***)
Non commercial of Non-CMPA :
o p.28 (***OPERATIONS SPECIFICATIONS***)

Comment on NPA/2008-22 :
The section OPERATIONS SPECIFICATIONS (page 28) of the certificate template (Appendix I to Part AR) should be amended to include a field requiring the mention of the registration of the aircraft authorised for each SPA.
Justification : Some specific operations require that the aircraft used is certified accordingly or carry specific equipments. It must be made clear which aircraft in the operator's fleet list are concerned by each SPA

D. VI. Draft Opinion Part-AR - Subpart OPS - Section III - AR.OPS.305 Minimum equipment list p. 21

comment *23* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.305 (a): change as follows:

(a) Upon receiving an application for the issue of a MEL approval for an operator, the competent authority shall verify the operator's compliance with the applicable requirements, and conduct~~**, where relevant,**~~ an inspection of the organisation before issuing the approval.

Justification:
We recommend to delete the sentence "where relevant", as this is a subjective assessment. Before obtaining an MEL approval, all operators without exception must be inspected by the Competent Authority to demonstrate their compliance with the necessary requirements to obtain that approval.

comment *177* comment by: *Austro Control GmbH*

Given that the current draft OR.OPS.020 does not require the organisation to have a process to manage the MEL, what is the intent of the "inspection of the Organisation" as mentioned in (a)?

Define the authority's responsibilities, as:
- Initial, recurrent and scope expansion audit of the MEL procedures required by OR.OPS.020,
- Approving expansions to the scope of MEL indirect approval allow.
- Approving MEL's for those organisations without indirect approval privilege.

comment *260* comment by: *AEA*

Relevant Text:
AR.OPS.305 Minimum Equipment List
(b) The competent authority shall not approve a procedure for the extension of the applica ble Rectific ation Inter vals notified by an operator unless the conditions specified in OR.OPS.020.MLR are demonstrated by the operator and verified by the competent authority.

Comment:
Although MMELs have been designed with the Rectification Interval Extension (RIE) in mind, not all MMEL have yet been updated to include a statement in the preamble.

EU lawyers have given a legal interpretation to the EU-OPS legislation which only allows EU airlines to use the RIE based on such statement in the MMEL preamble. Although this was never the intention of the EU legislator that has adopted the EU-OPS legislation, this legal interpretation has put EU airlines at a serious competitive disadvantage vis-à-vis non-EU airlines resulting in additional costs which have no safety justification.

EASA should rectify the legal mistake in EU-OPS rather than creating more troubles which have no safety justification and lead to extra cost for the airlines for those aircraft types where the manufacturer has yet to add a statement to the MMEL preamble.

Proposal:
Delete para b) from AR.OPS.305 and add a statement that Rectification Intervals can be extended

comment *318* comment by: *TAP Portugal*

Relevant Text:
AR.OPS.305 Minimum Equipment List
(b) The competent authority shall not approve a procedure for the extension of the applica ble Rectific ation Inter vals notified by an operator unless the conditions specified in OR.OPS.020.MLR are demonstrated by the operator and verified by the competent authority.
Comment:
Although MMELs have been designed with the Rectification Interval Extension (RIE) in mind, not all MMEL have yet been updated to include a statement in the preamble.
EU lawyers have given a legal interpretation to the EU-OPS legislation which only allows EU airlines to use the RIE based on such statement in the MMEL preamble. Although this was never the intention of the EU legislator that has adopted the EU-OPS legislation, this legal interpretation has put EU airlines at a serious competitive disadvantage vis-à-vis non-EU airlines resulting in additional costs which have no safety justification.
EASA should rectify the legal mistake in EU-OPS rather than creating more troubles which have no safety justification and lead to extra cost for the airlines for those aircraft types where the manufacturer has yet to add a statement to the MMEL preamble.
Proposal:
Delete para b) from AR.OPS.305 and add a statement that Rectification Intervals can be extended

comment *348* comment by: *KLM*

Relevant Text:
AR.OPS.305 Minimum Equipment List
(b) The competent authority shall not approve a procedure for the extension of the applica ble Rectific ation Inter vals notified by an operator unless the conditions specified in OR.OPS.020.MLR are demonstrated by the operator and verified by the competent authority.

Comment:
Although MMELs have been designed with the Rectification Interval Extension (RIE) in mind, not all MMEL have yet been updated to include a statement in the preamble.

EU lawyers have given a legal interpretation to the EU-OPS legislation which only allows EU airlines to use the RIE based on such statement in the MMEL preamble. Although this was never the intention of the EU legislator that has adopted the EU-OPS legislation, this legal interpretation has put EU airlines at a serious competitive disadvantage vis-à-vis non-EU airlines resulting in additional costs which have no safety justification.

EASA should rectify the legal mistake in EU-OPS rather than creating more troubles which have no safety justification and lead to extra cost for the airlines for those aircraft types where the manufacturer has yet to add a statement to the MMEL preamble.

Proposal:
Delete para b) from AR.OPS.305 and add a statement that Rectification Intervals can be extended

comment *392* comment by: *Deutsche Lufthansa AG*

Relevant Text:
AR.OPS.305 Minimum Equipment List
(b) The competent authority shall not approve a procedure for the extension of the applica ble Rectific ation Inter vals notified by an operator unless the conditions specified in OR.OPS.020.MLR are demonstrated by the operator and verified by the competent authority.

Comment:
Although MMELs have been designed with the Rectification Interval Extension (RIE) in mind, not all MMEL have yet been updated to include a statement in the preamble.

EU lawyers have given a legal interpretation to the EU-OPS legislation which only allows EU airlines to use the RIE based on such statement in the MMEL preamble. Although this was never the intention of the EU legislator that has adopted the EU-OPS legislation, this legal interpretation has put EU airlines at a serious competitive disadvantage vis-à-vis non-EU airlines resulting in additional costs which have no safety justification.

EASA should rectify the legal mistake in EU-OPS rather than creating more troubles which have no safety justification and lead to extra cost for the airlines for those aircraft types where the manufacturer has yet to add a statement to the MMEL preamble.

Proposal:
Delete para b) from AR.OPS.305 and add a statement that Rectification Intervals can be extended

comment *410* comment by: *AUSTRIAN Airlines*

Relevant Text:

AR.OPS.305 Minimum Equipment List
(b) The competent authority shall not approve a procedure for the extension of the applicable Rectification Intervals notified by an operator unless the conditions specified in OR.OPS.020.MLR are demonstrated by the operator and verified by the competent authority.

Comment:
Although MMELs have been designed with the Rectification Interval Extension (RIE) in mind, not all MMEL have yet been updated to include a statement in the preamble.

EU lawyers have given a legal interpretation to the EU-OPS legislation which only allows EU airlines to use the RIE based on such statement in the MMEL preamble. Although this was never the intention of the EU legislator that has adopted the EU-OPS legislation, this legal interpretation has put EU airlines at a serious competitive disadvantage vis-à-vis non-EU airlines resulting in additional costs which have no safety justification.

EASA should rectify the legal mistake in EU-OPS rather than creating more troubles which have no safety justification and lead to extra cost for the airlines for those aircraft types where the manufacturer has yet to add a statement to the MMEL preamble.

Proposal:
Delete para b) from AR.OPS.305 and add a statement that Rectification Intervals can be extended

comment *437* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AR.OPS.305 Minimum Equipment List
(b) The competent authority shall not approve a procedure for the extension of the applicable Rectification Intervals notified by an operator unless the conditions specified in OR.OPS.020.MLR are demonstrated by the operator and verified by the competent authority.

Comment:
Although MMELs have been designed with the Rectification Interval Extension (RIE) in mind, not all MMEL have yet been updated to include a statement in the preamble.

EU lawyers have given a legal interpretation to the EU-OPS legislation which only allows EU airlines to use the RIE based on such statement in the MMEL preamble. Although this was never the intention of the EU legislator that has adopted the EU-OPS legislation, this legal interpretation has put EU airlines at a serious competitive disadvantage vis-à-vis non-EU airlines resulting in additional costs which have no safety justification.

EASA should rectify the legal mistake in EU-OPS rather than creating more troubles which have no safety justification and lead to extra cost for the airlines for those aircraft types where the manufacturer has yet to add a statement to the MMEL preamble.

Proposal:
Delete para b) from AR.OPS.305 and add a statement that Rectification Intervals can be extended

D. VI. Draft Opinion Part-AR - Subpart OPS - Section III - AR.OPS.310 Certification Specifications (CS) and individual flight time specification p. 21

comment *43* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.310: Reference missing : AR.GEN.045 (2)

Justification:
Provision referred to doesn't exist !

comment *129* comment by: *Civil Aviation Authority of Norway*

Comment to paragraph b:
For clarity it should be added that the reference to article 22.2 (d) is a reference to the Basic Regulation. Proposed text: *"..in accordance with Article 22.2(d) of the Basic Regulation,.."*

We furthermore assume that the reference to AR.GEN.045 (2) should instead read: AR.GEN.045 (c) (2).

comment *133* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.310: change as follows:

(a) The competent authority shall:
(1) evaluate individual flight time specification schemes in order to determine whether these
- are managing the risk of fatigue with an adequate hazard identification, risk assessment and mitigation measures,
- are in compliance with the safety objectives and applicable requirements of the Basic Regulation.
- are in compliance with the associated implementing rules, to ensure an equivalent level of safety protection compared the schemes referred to in OR.OPS.330.FTL (b)(1) above. This evaluation shall be done in consultation with all relevant stakeholders, including crew member representatives.

Justification:
ECA considers the current Authority Requirements (and some of the related OR) as completely insufficient. Apart from the comments to NPA-2009_2d, ECA proposes major redraft of the AR related to individual FTL schemes. Recent experience with EU-OPS/ Subpart Q derogations has shown that many (if not most) NAAs will struggle to properly assess operators' individual schemes, mostly because they lack resources and expertise. It is therefore imperative to set clear prerequisites as to what they have to carry out when receiving an application. This is also necessary, to ensure the documentation EASA receives is complete and of good quality to enable the Agency to properly assess the request. The BR gives EASA only one month (1) to assess an application, hence most of the content work must have been done (by the NAA) before the Agency receives the application. Justification for "managing the risk of fatigue": This addition is to ensure the NAAs are evaluating the right thing. See also comment on OR.OPS.330.FTL (c) (4).

Justification for "equivalent level of safety": see corresponding comment on

OR.OPS.330.FTL (c) (1st para.).

Justification for "stakeholder consultation":

Consultation of "interested parties" is required under Subpart Q 1.1090, 5.1.1. This is a legally binding requirement under Subpart Q. BR Art. 22(2)a) states that the FTL-related EASA implementing rules "shall include all substantive provisions of Subpart Q". Hence, this substantial requirement needs to be reflected both in OR.OPS.330.FTL (c) (6) and in AR.OPS.310.

See also corresponding comment on OR.OPS.330.FTL (c) (6).

comment *169* comment by: *ECA - European Cockpit Association*

Comment on AR.OPS.310: add the text:

(a) The competent authority shall:
(1) evaluate individual flight time specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the Basic Regulation.

(2) submit to the Agency the individual flight time specification scheme to be approved, accompanied with all relevant documentation **by the operator as outlined in OR.OPS.330.FTL, as well a report from the competent authority giving the reasons demonstrating the need for the specific flight time specification scheme, - justifying and documenting the conclusions of its evaluation, and- specifying the conditions laid down to ensure an equivalent level of safety protection is achieved.**

Justification:

To ensure the NAA carries out a proper evaluation and bases its conclusions on a sound assessment, it is not sufficient to simply ask the NAAs to provide "relevant documentation". Instead a full report must be provided, subject to minimum requirements as to what the report should contain.

In addition, it is crucial that the report includes the reasons as to why it is necessary to have such a specific scheme, as well as the conditions set by the NAA to ensure an equivalent level of safety. The proposed language is borrowed BR Art. 14(6). While BR Art. 22(2) is less specific on the "burden of proof" that the NAA has to provide to the Agency, the variation procedure foreseen for individual schemes of AR.OPS.310 should not be less specific / less stringent than the general Art. 14(6) procedure.

comment *261* comment by: *AEA*

Relevant Text:
AR.OPS.310

- *(a) The Competent Authority shall (1) evaluate individual flight time specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the basic regulation*
- *(b) Submit to the Agency the individual flight time specifications scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which is against the EASA basic regulation 216/2008 (article 21.2.b). This proposal is therefore against EU law and illegal. The role of EASA is not to approve each and every individual FTL scheme (which is the role of the Competent Authority that certifies the operator) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited amount of deviations which have already been assessed and approved in the context of EU-OPS. The AEA notes that the EASA Management Board has expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.

Proposal:
Delete para (a) (2) of AR.OPS.310

comment *289* comment by: *Walter Gessky*

1. AR.OPS.310 Certification Specifications (CS) and individual flight time specification schemes
(a) (2) submit to the Agency the individual flight time specification scheme to be approved, **when deviating from the Certification specifications issued by the Agency**, accompanied with all relevant documentation.
Justification:
According Art 22/2 of the basic regulation only when deviating from the CS issued by the Agency according Art 22(2)a) notification of EASA is required. In any other cases or when no CS is available, no EASA notification and approval is required.

comment *319* comment by: *TAP Portugal*

Relevant Text:
AR.OPS.310

- *(a) The Competent Authority shall (1) evaluate individual flight time specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the basic regulation*
- *(b) Submit to the Agency the individual flight time specifications scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which is against the EASA basic regulation 216/2008 (article 21.2.b). This proposal is therefore against EU law and illegal. The role of EASA is not to approve each and every individual FTL scheme (which is the role of the Competent Authority that certifies the operator) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited amount of deviations which have already been assessed and approved in the context of EU-OPS. The AEA notes that the EASA Management Board has

expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.
Proposal:
Delete para (a) (2) of AR.OPS.310

comment *331* comment by: *Austro Control GmbH*

(a) (2) *(a) (2) sub mit to the Ag ency t he in dividual f light ti me sp ecification scheme to be appro ved,* ***when deviating from the Certification specifications issued by the Agency****, accompanied with all relevant documentation.*
Justification:
According to Art 22(2) of the Basic Regulation only when deviating from the CS issued by the Agency according Art 22(2)a) notification of EASA is required. In any other cases or when no CS is available, no EASA notification and approval is required.

comment *349* comment by: *KLM*

Relevant Text:
AR.OPS.310

- *(a) The Competent A uthority sh all (1) eval uate indi vidual fli ght t ime specification sche mes in order to determ ine whether these are in compliance wi th the s afety objec tives a nd a pplicable re quirements of the basic regulation*
- *(b) Su bmit to the A gency the indi vidual flig ht t ime specificat ions scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which is against the EASA basic regulation 216/2008 (article 21.2.b). This proposal is therefore against EU law and illegal. The role of EASA is not to approve each and every individual FTL scheme (which is the role of the Competent Authority that certifies the operator) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited amount of deviations which have already been assessed and approved in the context of EU-OPS. The AEA notes that the EASA Management Board has expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.

Proposal:
Delete para (a) (2) of AR.OPS.310

comment *391* comment by: *British Airways Flight Operations*

Relevant Text:
AR.OPS.310

- *(a) The Competent A uthority sh all (1) eval uate indi vidual fli ght t ime*

specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the basic regulation
- *(b) Submit to the Agency the individual flight time specifications scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which appears to be in contravention of the EASA Basic Regulation 216/2008 (article 21.2.b). The role of EASA is not to approve each and every individual FTL scheme (which is the role of the individual NAAs) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS, and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited number of deviations, all of which have already been assessed and approved in the context of EU-OPS. British Airways notes that the EASA Management Board has expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.

Proposal:
Delete para (a) (2) of AR.OPS.310

General Comment:
NPA 2009-2 in its entirety is unfit for the purpose for which it is intended and must be withdrawn and reconsidered.

comment *393* comment by: *Deutsche Lufthansa AG*

Relevant Text:
AR.OPS.310

- *(a) The Competent Authority shall (1) evaluate individual flight time specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the basic regulation*
- *(b) Submit to the Agency the individual flight time specifications scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which is against the EASA basic regulation 216/2008 (article 21.2.b). This proposal is therefore against EU law and illegal. The role of EASA is not to approve each and every individual FTL scheme (which is the role of the Competent Authority that certifies the operator) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited amount of deviations which have already been assessed and approved in the context of EU-OPS. Lufthansa notes that the EASA Management Board has expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.

Proposal:

Delete para (a) (2) of AR.OPS.310

comment *411* comment by: *AUSTRIAN Airlines*

Relevant Text:
AR.OPS.310

- *(a) The Competent Authority shall (1) evaluate individual flight time specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the basic regulation*
- *(b) Submit to the Agency the individual flight time specifications scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which is against the EASA basic regulation 216/2008 (article 21.2.b). This proposal is therefore against EU law and illegal. The role of EASA is not to approve each and every individual FTL scheme (which is the role of the Competent Authority that certifies the operator) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited amount of deviations which have already been assessed and approved in the context of EU-OPS. AUSTRIAN notes that the EASA Management Board has expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.

Proposal:
Delete para (a) (2) of AR.OPS.310

comment *438* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AR.OPS.310

- *(a) The Competent Authority shall (1) evaluate individual flight time specification schemes in order to determine whether these are in compliance with the safety objectives and applicable requirements of the basic regulation*
- *(b) Submit to the Agency the individual flight time specifications scheme to be approved, accompagnied with all relevant documentation.*

Comment:
The requirement of paragraph b) is a complete overkill which is against the EASA basic regulation 216/2008 (article 21.2.b). This proposal is therefore against EU law and illegal. The role of EASA is not to approve each and every individual FTL scheme (which is the role of the Competent Authority that certifies the operator) but only to approve those limited cases where there are individual FTL schemes which deviate from the applicable FTL requirements. Since the EU airlines have implemented Subpart Q of EU-OPS and since there are no safety justifications for EASA to alter Subpart Q, there will only be a limited amount of deviations which have already been assessed and approved in the context of EU-OPS. The AEA notes that the EASA Management Board has

expressed similar views/concern when EASA requested additional resources for these tasks which go beyond the mandate which was given to EASA by the EU legislator.

Proposal:
Delete para (a) (2) of AR.OPS.310

comment *470* comment by: *BALPA*

We are concerned that the pan-European NAA's will not have the resource to administer and oversee their roles in this area. We feel even the more established NAA's will find it extremely difficult to control such requirements. The workload will be huge.
We need assurances that hasty reactions to Certification Specification, and individual flight time specification schemes, won't be made in order to achieve the timescales set.

comment *496* comment by: *AIR FRANCE*

Comment :
Editorial comment in order to avoid misunderstanding, modify §a) (2) to say that the individual schemes are to be approved by the competent authority.
Proposal :
(2) submit to the Agency the individual flight time specification scheme to be approved ADD "by the competent authority", accompanied with all relevant documentation.

D. VII. Draft Decision AMC and GM to Part-AR p. 22

comment *290* comment by: *Walter Gessky*

AMC material
General comment:
AMC material can only be reviewed and commented when the IR are available. For the moment the review covers only, when AMC material shall be transferred to the IR because due to regulative character.

comment *332* comment by: *Austro Control GmbH*

AMC material
General comment:
AMC material can only be reviewed and commented when the IR are available. For the moment the review covers only when AMC material shall be transferred to the IR because due to regulative character.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section II - AMC AR.GEN.220 p. 22

comment *57* comment by: *CAA-NL*

Comment
No need for this AMC. AR.GEN.220 is clear enough.

Text proposal
Delete AMC to AR.GEN.220

comment *566* comment by: *DGAC*

Add a title for the paragraph

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC 1 AR.GEN.300 Continuing oversight - OPS p. 22

comment *58* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for continuing oversight with respect to OPS to subpart OPS.

Text proposal
None

comment *195* comment by: *UK CAA*

Paragraph No: GM1 AR.GEN.300

Comment: This refers to the role of the accountable manager. Given the fundamental importance of this role the qualifications, competences, experience and training required of an accountable manager should be addressed. The absence of any such contrasts markedly with the very detailed requirements for a ramp inspector for example.

comment *588* comment by: *Ryanair*

This requires further clarification. All references to the 'competent authority must be amended as follows:

The competent authority designated by the Member State where the operator has its principle place of business

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - GM 1 AR.GEN.300 Continuing oversight - OPS p. 22

comment *59* comment by: *CAA-NL*

Comment
It is suggested to transfer specific GM for continuing oversight with respect to OPS to subpart OPS.

Text proposal
None

comment *590* comment by: *Ryanair*

All references to the competent authority must be changed to:

The competent authority designated by the Member State where the operator has its principle place of business

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC 2 AR.GEN.300 Continuing oversight - OPS p. 23-24

comment *24* comment by: *ECA - European Cockpit Association*

Comment on AMC 2 AR.GEN.300(1): change as follows:

1. Each operator to which a certificate has been issued should have an inspector specifically assigned to it. **The Authority should implement a rotatory system to designate a different inspector to the operator at least every two years.** Several inspectors should be required for the larger companies with widespread or varied types of operation. This does not prevent a single inspector being assigned to several companies. Where more than one inspector is assigned to an operator, one of them should be nominated as having overall responsibility for supervision of, and liaison with the operator's management, and be responsible for reporting on compliance with the requirements for its operations as a whole.

Justification:
The designation of a specific inspector for each company may have the advantage of the inspector becoming familiar with the specific procedures and structure of the airline. However, the establishment of a rotatory system to design a different inspector to a company at least each two years avoids inspections subjectivities, which is essential to ensure the objectivity of inspections.

comment *25* comment by: *ECA - European Cockpit Association*

Comment on AMC 2 AR.GEN.300(6): change as follows:

6. Inspections may be conducted separately or in combination. Inspections may, at the discretion of the competent authority, be conducted with or without prior notice to the operator. **Nevertheless, the Authority must grant that each operator is inspected at least once a year without prior notice.**
Where it is apparent to an inspector that an operator has permitted a breach of the applicable requirements, with the result that air safety has been, or might have been compromised, the inspector should ensure that the department manager is informed without delay.

Justification:
This is crucial to ensure the objectivity of inspections.

comment *45* comment by: *ECA - European Cockpit Association*

Comment on AMC2 AR.GEN.300 6: Change wording "department manager" into "accountable manager".

6. Inspections may be conducted separately or in combination. Inspections

may, at the discretion of the competent authority, be conducted with or without prior notice to the operator.
Where it is apparent to an inspector that an operator has permitted a breach of the applicable requirements, with the result that air safety has been, or might have been compromised, the inspector should ensure that the **~~department manager~~** **accountable manager** is informed without delay.

Justification:
The notion of "department manager" doesn't exist.

comment *46* comment by: *ECA - European Cockpit Association*

Comment on AMC2 AR.GEN.300 7: Change wording "financial condition" into "financial management":

7. In the first few months of a new operation, inspectors should be particularly alert to any irregular procedures, evidence of inadequate facilities or equipment, or indications that management control of the operation may be ineffective. They should also carefully examine any conditions that may indicate a significant deterioration in the operator's **~~financial conditi on~~** **financial management**. Examples of trends which may indicate problems in a new operator's **~~financial condition~~** **financial management** are:
a) Significant layoffs or turnover of personnel;
b) Delays in meeting payroll;
c) Reduction of safe operating standards;
d) Decreasing standards of training;
e) Withdrawal of credit by suppliers;
f) Inadequate maintenance of aircraft;
g) Shortage of supplies and spare parts;
h) Curtailment or reduced frequency of revenue flights; and
i) Sale or repossession of aircraft or other major equipment items.
When any financial difficulties are identified, inspectors should increase technical surveillance of the operation with particular emphasis on the upholding of safety standards.

Justification:
All trends mentioned may be caused either by voluntary or unwilling deterioration.

comment *60* comment by: *CAA-NL*

Comment
The operator only should identify the root cause of each confirmed finding. It is again suggested to transfer specific AMC for continuing oversight with respect to OPS to subpart OPS.

Text proposal
"4. The inspection should be a 'deep cut' through the items selected and all findings should be recorded."

comment *87* comment by: *CAA-NL*

Comment CAA-NL:
The word 'should' is used in this article many times. By this it seems not necessary to do so. The Agency must make this more clear.

comment *208* comment by: *Royal Aeronautical Society*

Paragraph 3 lists 'flight inspection, navigation (ground) inspection, and ramp inspection' as necessary inspection and monitoring activities.

Elsewhere in Part-AR, detailed guidance is specified as to the purpose and conduct of **ramp inspections** and the training and qualifications of inspectors who will carry out this activity, but comparable guidance as to the purpose and conduct of **flight inspections** has been omitted. Indeed, the expectations of results to be delivered from ramp inspections is hugely overrated given that the time available 'on a turn-round' will scarcely be sufficient for 'in-depth' assessments: the detailed check-lists seem largely aspirational. Furthermore, it may prove all but impossible to recruit and retain pilots that have sufficient and recent experience in related flight operations, especially in commercial air transport, to be credible in the eyes of those subject to inspections, if these inspectors are only to be engaged upon ramp inspections. Flight inspectors need very careful recruitment and training in order that they may function effectively, be credible in the eyes of flight and cabin crew members with whom they will be in close proximity, and possess a sufficient grounding in all current regulations and reporting protocols. Only through the conduct of flight inspections where the proficiency of all who are involved, the serviceability of the aircraft, and the completeness of preparations that necessarily must be made are all subject to inspection by persons credible in the eyes of the company's managers and crew can the competency of an operator to produce a safe operation be fairly assessed.

Finally, it is suggested that the term 'navigation (ground) inspection' be amended to 'ground (documents and records) inspection' to describe properly what such inspections will address (eg operator SMS findings and remedial actions, spot checks of FTL and training records, fuel logs, etc.) The importance of document inspections to detect abuses of rostering, inadequate fuel reserves, overweight take-offs/landings, non compliances with MEL conditions, etc should not be under-rated.

Operational flight safety oversight is most effectively carried out by **flight** and **ground inspections**, as described above, *not* from **ramp inspections** which may do little more than skim the surface of an operation.

In summary, therefore**, it is suggested that:**

Part-AR should include specific guidance on the recruitment, training and task allocation of inspectors assigned to carry out flight inspections;

All texts in Part-AR relating to the recruitment, training and task allocation of inspectors assigned to carry out ramp inspections should be revised so as to ensure that none require competency and skill levels beyond what may reasonably be expected of inspectors who have no recent piloting experience, re-allocating such tasks to flight inspectors instead;

Subparagraph 3 should be amended to replace 'navigation (ground) inspections' with 'ground (documents and records) inspections'.

comment *291* comment by: *Walter Gessky*

1. AMC 2 AR.GEN.300 Continuing oversight OPS
Item 3 is a typical requirement and shall be transferred to AR.GEN.300
The following types of inspections should be envisaged, as part of the oversight programme:
Flight inspection
Navigation (ground) inspection
Ramp inspection
Random inspections
Justification:
The kind of inspections to be carried out by the competent authority shall be mentioned in the IR. In addition according ICAO SARPs "random inspections" shall be required.

comment *462* comment by: *Civil Aviation Authority of Norway*

The list of inspection areas and types seems to be outdated. Maintenance will not be a natural area of inspections for an operations inspector, as this is subject to a specific approval in accordance with Part M and Part 145.
We suggest that the following operational areas should be audited regularly by the competent Authority;

- Organisation and facilities
- Documents and records
- Safety management system
- Compliance monitoring system
- Operational control and supervision system
- Crew and operations personnel training system
- Aircraft equipment and MEL-system (ramp inspections)
- Standard operating procedures (flight inspections)

comment *509* comment by: *ECA - European Cockpit Association*

Comment on AMC 2 AR.GEN.300, 4. and 5.: change as follows:

4. The inspection should be a 'deep cut' through the items selected and all findings should be recorded. Inspectors in conjunction with the owners/operators should identify the root cause**s** of each confirmed finding.
5. Inspectors should be satisfied that the root cause**s** found and the corrective actions taken are adequate to correct the deficiency and to prevent reoccurrence.

Justification:
Editorial.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC 3 AR.GEN.305 Monitoring of activities - OPS p. 24

comment *61* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for monitoring of activities with respect to OPS to subpart OPS.

Text proposal
None

comment *88* comment by: *CAA-NL*

Comment CAA-NL:
The word 'should' is used in this article several times. By this it seems not necessary to do so. The Agency must make this more clear.

comment *292* comment by: *Walter Gessky*

1. AMC 3 AR.GEN.305:
Comment:
Guidance on key risk elements might be helpful

comment *333* comment by: *Austro Control GmbH*

General comment:
Guidance on key risk elements might be helpful.

comment *548* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Paragraph text:
1. The competent authority should establish a schedule of inspections appropriate to each operator's business. The planning of inspections should take into account the results of the hazard identification and risk assessment conducted and maintained by the operator as part of the operator's management system. Inspectors should work in accordance with the schedule provided to them.

Comment:
There should be a maximum time between inspections/audits

Proposal:
Implement a maximum time between audits.

comment *591* comment by: *Ryanair*

All references to the "competent authority" to be ameded as follows:

The competent authority designated by the Member State where the operator has its principle place of business"

comment *597* comment by: *BMW AG*

AR.GEN.305 Monitoring of activities in paragraph (a) calls for "an oversight programme taking into among other aspects possible certification according to industry standards". In (b) it is stated under (2) that "the oversight programme shall include for each organisation, at least once every 24 months (i) regular audits at intervals determined by the results of past surveillance activities".

In order to relieve competent authorities from being overburdened by the oversight of non-commercial operators of complex motor-powered aircraft is suggested to make IS-BAO audits acceptable as a method of authority

oversight alternatively every 24 months. This way it is ensured that at latest every 48 months or earlier if deemed appropriate by the competent authority, the competent authority will audit the operator by own personnel. In case that the scope of the IS-BAO audit may not fully encompass all aspects that the competent authority deems necessary, the IS-BAO auditors could add inspections to the basic scope of the industry standard audit.

Therefore it is suggested to add after point 3:

4. When defining the oversight programme for operators who are required to submit a declaration, the competent authority may accept audit documentation of audits conducted by independent auditors of an industry standard provided that this industry standard ensures that the certification of an operator against this industry standard has to be regularly renewed at intervals of not more than 24 months (example IS-BAO). In case that the submitted audit documentation does not satisfy all aspects of oversight the competent authority may call for or conduct additional inspections. Nevertheless the competent authority should ensure that an operator's performance will be evaluated by the authority's own inspections and audits at least once within a 48 month period.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC AR.GEN.310(a) - Certification procedure -OPS p. 24-25

comment *62* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for certification procedure – organisations with respect to OPS to subpart OPS.

Text proposal
None

comment *89* comment by: *CAA-NL*

Comment CAA-NL:
The word 'should' is used in this article several times. By this it seems not necessary to do so. The Agency must make this more clear.

The Agency should clarify the specifications of the qualifications of the nominated postholders or at leased mentioned in which part they can be found.

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

Concern detail:
The competent authority shall inform the applicant of its decision concerning the application within 60 days of receipt of all supporting documentation. Such documentation includes the whole operations manual amended, where necessary.

Comment / Proposal:
Delete "Such documentation includes the whole operations manual amended, where necessary." as submitted documentation is described under (1)

comment *178* comment by: *Austro Control GmbH*

General comment:
the description of the certification procedure shall be in compliance with ICAO recommendations and former JAA-JIPs. Pre application phase, Formal application phase, Documentation evaluation phase and Certification phase therefore should be regulated.

comment *499* comment by: *ECA - European Cockpit Association*

Comment on AMC AR.GEN.310 (a):
ECA requests clarification:
Where is the respective rule AR.GEN.310?

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC 2 AR.GEN.330 Changes - OPS p. 25

comment *63* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for changes – organisations with respect to OPS to subpart OPS.

Text proposal
None

comment *143* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Proposal:
Delete "AMC 2 AR.GEN.330 Changes -OPS" entirely.

comment *463* comment by: *Civil Aviation Authority of Norway*

It seems inappropriate to issue an AMC with the sole purpose of explaining the intention of another AMC.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC 3 AR.GEN.330 Changes p. 25

comment *64* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for changes – organisations with respect to OPS to subpart OPS.

Text proposal
None

comment *130* comment by: *Civil Aviation Authority of Norway*

The provision in subsection 2 seems to assume that the nominated postholder (NP) should be accepted by the Competent Authority. However, Part-OR

(OR.OPS.210.AOC) and Part-AR does not longer seem require NPs to be accepted by the Competent Authority. The provision is therefore inconsistent.

We would strongly suggest to maintain the requirement for NPs to be accepted by the Competent Authority, as in EU-OPS 1.175 (h) and JAR-OPS 3.175 (h).

comment *209* comment by: *Royal Aeronautical Society*

If the proposed amendment to Part–OR, OR.OPS.015.MLR Operations Manual (that competent authorities should 'accept' rather than 'approve' Operations Manuals in their entirety), is accepted by EASA, this will require that a small change should be made to AMC 2 AR.GEN.330 Changes – OPS thus:

The ch anges m entioned in A MC to OR .OPS.015.MLR (h) should be notified to the competent authority for acceptance or for approval, as appropriate, before being implemented.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - GM AR.GEN.345 Findings and corrective actions - organisations p. 25

comment *47* comment by: *ECA - European Cockpit Association*

Comment on GM AR.GEN.345 2.: delete paragraph:

Justification:
It is absolutely untrue that an isolated event is benign. A finding on a single aircraft may be the symptom for a major deficiency, at the size of the operator.

comment *65* comment by: *CAA-NL*

Comment
It is suggested to transfer specific GM for findings and corrective actions – organisations with respect to OPS to subpart OPS.

Text proposal
None

comment *90* comment by: *CAA-NL*

Comment CAA-NL:
The Agency should clarify the specifications of a level 1 finding or at leased mentioned in which part this can be found.

comment *179* comment by: *Austro Control GmbH*

finding levels not harmonised with SAFA (3 levels) Regulations

comment *592* comment by: *Ryanair*

All references to the "competent authority" must be amended as follows:

The competent authority designated by the Member State where the operator

has its principle place of business"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section III - AMC AR.GEN.345 Findings and corrective actions - organisations p. 25

comment *66* comment by: *CAA-NL*

Comment
It is suggested to transfer specific AMC for findings and corrective actions – organisations with respect to OPS to subpart OPS.

Text proposal
None

comment *91* comment by: *CAA-NL*

Comment CAA-NL:
This artikel is in contradiction with NPA 2008 22 D AR GEN 345

comment *593* comment by: *Ryanair*

All references to the "competent authority" must be amended as follows:

The competent authority designated by the Member State where the operator has its principle place of business"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV p. 26

comment *505* comment by: *DGAC*

General comment

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

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.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - p. 26

AMC AR.GEN.415

comment *48* comment by: *ECA - European Cockpit Association*

Comment on AMC AR.GEN.415 2:

After 2. : Add 3. to consider requirement to take into account operator's maintenance standards, including MEL.

comment *73* comment by: *CAA-NL*

Comment regarding:
AMC AR.GEN.415 (c)(1), under number 2:

Comment I CAA-NL:
2. The CAA-NL recommends to EASA the following change (new text): The inspecting authority should establish the minimum annual quota of points for the next year before the end of each year applying riskassessment and taking into account the number of foreign operators landing at the aerodromes of the Member State in the previous year.

Comment II CAA NL:
Numbering:
There is an **AMC** AR.GEN.415 (a)(1)(ii) but there is no AR.GEN.415 (a)(1)(ii) .

comment *365* comment by: *Austro Control GmbH*

(1) add: "*and Annex 1, 6 and 8*"
Justification:
These ICAO-Annexes should be added; the new text is not in compliance with the actual EASA SAFA material.

comment *464* comment by: *Civil Aviation Authority of Norway*

To check an aircraft to be in compliance with the manufacturer's standard during a turn-around inspection requires a deep knowledge about that standard, and the time available for such verification is not sufficient. Furthermore, this may leave the impression that the ramp inspection is a verification of airworthiness, which certainly not should be the case.

comment *567* comment by: *DGAC*

Add "**General**" as a title for the paragraph (same title as in AR.GEN.415)

comment *568* comment by: *DGAC*

Comment: 1.) "A ramp inspection should **normally** be performed during a turn-around". If is not the case in the reality, as ramp inspections can be performed on one single leg of flight only (inbound or outbound flight). It is specially the case when the aircraft is staying at the airport for several days (business or cargo aircraft may for instance). Therefore the wording of this sentence should reflect with more accuracy the reality of the field.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM AR.GEN.415 p. 26

comment *11* comment by: *LE PUIL, Frederic*

Annex 18 should be added , being the basis for D2 item inspection (dangerous goods)

comment *49* comment by: *ECA - European Cockpit Association*

Comment on GM AR.GEN.415: Transfer to AMC AR.GEN.415, and include provision to include Operator's Manual.

comment *156* comment by: *Airbus S.A.S.*

The sub-paragraph GM AR.GEN.415 (2) reads:
"Aircraft, [...] should be inspected against the requirements in Part-TCO and the applicable Standards contained in Annex 1 [...]".

For completeness and to avoid possible misunderstanding, reference to ICAO should be provided, to read:
"Aircraft, [...] should be inspected against the requirements in Part-TCO and the applicable ICAO Standards contained in Annex 1 [...]".

comment *196* comment by: *UK CAA*

Paragraph No: GM AR.GEN.415 1

Comment: The guidance, like the requirement to which it refers, incorrectly assumes that a Member State's "inspecting authority" is the same body as its "competent authority" for the oversight of operators under AR.GEN.300. It does not seem appropriate to include in this requirement inspections that a competent authority would carry out as part of its AOC certification and oversight activities.

Justification: See UK CAA comment on AR.GEN.415(b).

Proposed Text (if applicable):
Delete.

comment *569* comment by: *DGAC*

Add "**General**" as a title for the paragraph (same title as in AR.GEN.415)

comment *570* comment by: *DGAC*

Comment: 2.) The wording on the different referentials applicable while inspecting a TCO are not accurate and should be completed by the following :
- Annex 18 and the Technical instructions 9284 for the transport of dangerous goods,
- Annex 16 for the requirements linked with the Noise certificate,
- Annex 7 for the requirements linked with the safety markings,
- Annex 10 for the check of the ELT,

- The ICAO regional supplementary procedures (DOC 7030),

comment *571* comment by: *DGAC*

The phraseology used in the Guidance Material for SAFA Ramp inspections procedures of the EASA § 3.4 *Standards* was more appropriate and relevant to the exercise of inspecting TCO: "… the compliance with international standards (i.e. Chicago convention, its Annexes and ICAO regional standards) which are the minimum standards to be observed by any aircraft engaged in international navigation. In addition, when inspecting the technical condition of an aircraft, it should be checked against the aircraft certification and manufacturer's standards. Furthermore,
compliance with national standards that are declared applicable to all operators flying to that state may be checked."

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC AR.GEN.415(a)(1)(ii) p. 26

comment *121* comment by: *Luftfahrt-Bundesamt*

The AMC material should clearly define if the standards published in the AMC **shall** or **should** be complied with.
It should be clearly defined whether the AMC material is binding or not.

comment *157* comment by: *Airbus S.A.S.*

Subparagraph (a)(1)(ii) does not exist.
The AMC addresses AR.GEN.415(a)(1).
In the title, "(ii)" should be deleted.

comment *573* comment by: *DGAC*

Add "**General**" as a title for the paragraph (same title as in AR.GEN.415)

comment *594* comment by: *Ryanair*

Please refer to comments in relation to AR.GEN.415. This level of subjective analysis cannot be permitted for Community operators and could be misinterpreted by inspectorates.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC AR.GEN.415(a)(2) p. 26

comment *574* comment by: *DGAC*

Add "**General**" as a title for the paragraph (same title as in AR.GEN.415)

"Spot check procedure" being a sub-title for "AMC AR.GEN.415(a)(2)" it should be in capital letters (sub-title) for consistency in the lay-out.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - p. 26-27

AMC AR.GEN.415 (c)(1)

comment *50* comment by: *ECA - European Cockpit Association*

Comment on AMC AR.GEN.415. (c) (1) 2.: delete "foreign":

2. The inspecting authority should calculate the minimum annual quota of points for the next year before the end of each year using the following formula: Q=(0,5*Opr) + (0.001*Lnd), whereby "Q" = annual quota, "Opr" is the number of ~~**foreign**~~ operators landing at the aerodromes of the Member State in the previous year and "Lnd" is the number of landings performed by those operators at aerodromes in the Member State in the previous year.

Justification:
There is no reason to restrict quota, and thus corresponding resources, to the sole foreign aircrafts.

comment *56* comment by: *Belgium CAA (inspection Directorate)*

This formula is only based on the number of foreign operators landing at the aerodromes of the Member State in the previous year and the number of landings performed by those operators in the previous year and is not based on a risk analysis. It does not take into account the result of the previous SAFA inspections performed on the operators involved. If there are very few findings stated (this can happen for example if most of the flights are performed by EU-operators), a lower annual quota of inspection should be applied.

This formula supposes that human resources allocated by a Sate to SAFA inspections is related to the annual number of foreign operators landing and to the annual landings performed by those operators. This is not true. The number of qualified SAFA inspectors is usually determined by the risk analysis performed by a State. Human resources have to be first allocated to inspection areas where the incidents are the most numerous and first of all, qualified inspectors have to be allocated to check the national operators (the first mission of a State is the supervision of his own national operators).

This formula does not take into account some specific situations like this one :
Some foreign (but EU-) operators are performing more than 40 flights a day to/from a particular airport. Due to the "Lnd" factor in the formula, this leads to an unnecessary high number of SAFA to perform, even if the previous SAFA inspections have showed no findings for this operator. This is also in contradiction with the AMC AR.GEN.415(a)(2) : "repeated inspections should be avoided on those operators, on which previous inspections have not revealed safety deficiencies".

Some small aerodromes are located far away from the CAA premises. By imposing a very high number of SAFA inspections, the aircrafts landing on these distant aerodromes will never be checked anymore because it takes too much time for the inspector to reach these aerodromes and the number of SAFA inspections to perform there is too small (not enough take off and landings). The productivity of the SAFA inspectors will become a key element.

Imposing a very high number of SAFA inspections on qualified SAFA inspectors (human resources are not unlimited!), could lead to a lower quality of the inspections (less time to check the findings correctly, less time dedicated to

hear the explanations given by the operator, a risk to focus on the items demanding less time to be checked, less time to improve the knowledge of the qualified inspectors, less time to check the quality of the information encoded in the SAFA database,…).

comment *197* comment by: *UK CAA*

Paragraph No: AMC AR.GEN.415(c)(1) 2

Comment: With regard to the minimum annual quota, the calculation requires use of the "number of foreign operators landing at the aerodromes of the Member State" and "the number of landings performed by those operators". What source has been decided upon for this data, given the requirement for a level playing field in Europe?

comment *218* comment by: *The TUI Airlines group represented by Thomson Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly*

AMC AR.GEN.415 (c)(1) Minimum annual quota

Comment:

Specifying quota is prescriptive and not performance based rulemaking.

comment *262* comment by: *AEA*

Relevant Text:
AMC AR.GEN 415 (c)(1) Minimum annual quote.
Comment:
The proposal requiring each and every EU country to reach a minimum annual quota for SAFA inspections has not been well thought through. It will lead to even more nuisance to the airline community due to an inflation of SAFA inspections (delayed flights etc) conducted by unqualified inspectors asking for non-safety relevant information. Such a requirement could even reduce flight safety if it forces smaller EU countries (which today already lack resources for safety oversight) to do safety inspections on foreign airlines rather than their core safety oversight functions.

The AEA supports ramp inspections as one element of safety oversight provided they are risk based and provided there are conducted by properly qualified inspectors than target the right airlines with a dubious safety culture. In this context increasing the quality of inspections is important rather than increasing the amount of inspections conducted which would be countra-productive.

Proposal:
Delete AMC.AR.GEN.415 (c) (1) Minumum Annual Quota

comment *320* comment by: *TAP Portugal*

Relevant Text:
AMC AR.GEN 415 (c)(1) Minimum annual quote.
Comment:
The proposal requiring each and every EU country to reach a minimum annual

quota for SAFA inspections has not been well thought through. It will lead to even more nuisance to the airline community due to an inflation of SAFA inspections (delayed flights etc) conducted by unqualified inspectors asking for non-safety relevant information. Such a requirement could even reduce flight safety if it forces smaller EU countries (which today already lack resources for safety oversight) to do safety inspections on foreign airlines rather than their core safety oversight functions.

The AEA supports ramp inspections as one element of safety oversight provided they are risk based and provided there are conducted by properly qualified inspectors than target the right airlines with a dubious safety culture. In this context increasing the quality of inspections is important rather than increasing the amount of inspections conducted which would be countra-productive.

Proposal:
Delete AMC.AR.GEN.415 (c) (1) Minimum Annual Quota

comment *350* comment by: *KLM*

Relevant Text:
AMC AR.GEN 415 (c)(1) Minimum annual quote.
Comment:
The proposal requiring each and every EU country to reach a minimum annual quota for SAFA inspections has not been well thought through. It will lead to even more nuisance to the airline community due to an inflation of SAFA inspections (delayed flights etc) conducted by unqualified inspectors asking for non-safety relevant information. Such a requirement could even reduce flight safety if it forces smaller EU countries (which today already lack resources for safety oversight) to do safety inspections on foreign airlines rather than their core safety oversight functions.

The AEA supports ramp inspections as one element of safety oversight provided they are risk based and provided there are conducted by properly qualified inspectors than target the right airlines with a dubious safety culture. In this context increasing the quality of inspections is important rather than increasing the amount of inspections conducted which would be countra-productive.

Proposal:
Delete AMC.AR.GEN.415 (c) (1) Minumum Annual Quota

comment *394* comment by: *Deutsche Lufthansa AG*

Relevant Text:
AMC AR.GEN 415 (c)(1) Minimum annual quota.
Comment:
The proposal requiring each and every EU country to reach a minimum annual quota for SAFA inspections has not been well thought through. It will lead to even more nuisance to the airline community due to an inflation of SAFA inspections (delayed flights etc) conducted by unqualified inspectors asking for non-safety relevant information. Such a requirement could even reduce flight safety if it forces smaller EU countries (which today already lack resources for safety oversight) to do safety inspections on foreign airlines rather than their core safety oversight functions.

Lufthansa supports ramp inspections as one element of safety oversight provided they are risk based and provided there are conducted by properly qualified inspectors than target the right airlines with a dubious safety culture. In this context increasing the quality of inspections is important rather than increasing the amount of inspections conducted which would be countra-productive.

Proposal:
Delete AMC.AR.GEN.415 (c) (1) Minimum Annual Quota

comment *412* comment by: *AUSTRIAN Airlines*

Relevant Text:
AMC AR.GEN 415 (c)(1) Minimum annual quote.
Comment:
The proposal requiring each and every EU country to reach a minimum annual quota for SAFA inspections has not been well thought through. It will lead to even more nuisance to the airline community due to an inflation of SAFA inspections (delayed flights etc) conducted by unqualified inspectors asking for non-safety relevant information. Such a requirement could even reduce flight safety if it forces smaller EU countries (which today already lack resources for safety oversight) to do safety inspections on foreign airlines rather than their core safety oversight functions.

AUSTRIAN supports ramp inspections as one element of safety oversight provided they are risk based and provided there are conducted by properly qualified inspectors than target the right airlines with a dubious safety culture. In this context increasing the quality of inspections is important rather than increasing the amount of inspections conducted which would be countra-productive.

Proposal:
Delete AMC.AR.GEN.415 (c) (1) Minumum Annual Quota

comment *439* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
AMC AR.GEN 415 (c)(1) Minimum annual quote.
Comment:
The proposal requiring each and every EU country to reach a minimum annual quota for SAFA inspections has not been well thought through. It will lead to even more nuisance to the airline community due to an inflation of SAFA inspections (delayed flights etc) conducted by unqualified inspectors asking for non-safety relevant information. Such a requirement could even reduce flight safety if it forces smaller EU countries (which today already lack resources for safety oversight) to do safety inspections on foreign airlines rather than their core safety oversight functions.

The AEA supports ramp inspections as one element of safety oversight provided they are risk based and provided there are conducted by properly qualified inspectors than target the right airlines with a dubious safety culture. In this context increasing the quality of inspections is important rather than increasing the amount of inspections conducted which would be countra-productive.

Proposal:
Delete AMC.AR.GEN.415 (c) (1) Minumum Annual Quota

comment *551* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Comment:
The whole paragraph about Minimum annual quota should be completely deleted in order for NAA to base ramp inspections on flight safety

Proposal:
Delete AMC AR.GEN.415 (c)(1) 1.a Minimum annual quota

comment *552* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Paragraph text:
a. prioritised ramp inspections have a value of 1.5 points

Comment:
Change the value number for prioritized ramp inspections from 1.5 to a minimum of 3.0
Justification: Geographical distance in some MS and also a low number of prioritized ramp inspections in some MS motivate an increase of the value.

Proposal (including ***new text***):
Change the text to:
a. prioritised ramp inspections have a value of ~~1.5~~ ***3.0*** points

comment *575* comment by: *DGAC*

Add "**General**" as a title for the paragraph (same title as in AR.GEN.415)

"Minimum annual quota" being a sub-title for "AMC AR.GEN.415 (c)(1)" it should be in capital letters (sub-title) for consistency in the lay-out.

comment *660* comment by: *IACA International Air Carrier Association*

Specifying quota is prescriptive and not performance based rulemaking.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC AR.GEN.425 (a) p. 27

comment *122* comment by: *Luftfahrt-Bundesamt*

Under No. (3) „follow-up information concerning the operator, such as:" as further item should be added:
(c) information from the Safa-Database

comment *293* comment by: *Walter Gessky*

1. AMC AR.GEN.425 (a)
Collection of information
(b) maintenance organisation report;
(c) incident reports;
(d) reports from other organisations, independent from the inspection authorities;
(e) complaints.
(2) information on action(s) taken subsequent to a ramp inspection, such as:
(a) aircraft grounded;
(b) aircraft or operator banned from a Member State pursuant to Article 6 of Regulation (EC) No 2111/2005 or the European Community;
(c) corrective action required;
(d) contacts with the operator's competent authority;
(e) restrictions on flight operations.
(3) followup
information concerning the operator, such as:
(a) implementation of corrective action(s);
(b) recurrence of discrepancy.

Comment:
This information shall be transferred to the rule section.

comment *577* comment by: *DGAC*

"Collection of information » belongs to the title of AMC AR.GEN.425 (a) (same title as in AR.GEN.425).

Therefore "Collection of information » should be in bold text and on the same line, for consistency in the lay-out.

comment *579* comment by: *DGAC*

Comment: As mentioned in AMC AR.GEN.425 (a)(1), it looks like those information have to be linked or included in the ramp inspection program database. Is it the aim of the proposal ?

comment *595* comment by: *Ryanair*

(e) Reference to "complaints" in this context is entirely inappropriate and unacceptable. Complaints, by their nature, may not be supported by fact. This must be removed.

Proposal
Remove

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM AR.GEN 430 (a) Qualification of inspectors p. 27

comment *580* comment by: *DGAC*

If ever this section was meant to be applicable to the ramp inspect ions performed on operators under the regu latory oversight of the inspection Member State ('SANA'), then the following comment would apply:

Comment: The qualification of the inspectors considered in the NPA is a copy/paste of the dispositions of the Guidance Material of the EASA related to the qualification of SAFA ramp inspectors. While lots of the criteria hold are applicable and relevant to the ramp inspection of national aircraft (SANA = ramp inspections on aircraft under the regulatory oversight of the Inspecting state), some are absolutely not applicable and should be updated to reflect the particularities of this task :
- a good practice of the English language for instance is not required for ramp inspections on operators under the regulatory oversight of the Inspecting Member State (Ramp inspections performed by German inspectors on German operators for instance),
- the Checklists On-the-job training of Inspectors are only applicable to SAFA ramp inspectors and not for ramp inspectors intending to conduct ramp check of National operators as the scope of the inspected items will not be the same,
- the recency requirements (GM2.AR.GEN.430.(b)(3)) is indicating "This number could be reduced with the number of inspections on aircraft operated by **domestic operators** (while the regulator is including these operators in the scope of the NPA) if the inspector is also a qualified flight operations, ramp or airworthiness inspector of an inspecting authority and is regularly engaged in the oversight of such operators".
- All the training materials presented in the AMC1 and AMC2 AR.GEN 430(b)(2)(i) are based on the ramp inspections on TCO only and should be tailored to the scope of the requirements (AR.GEN.405).

Therefore it confirms that the aim of the regulator was not to include the SANA ramp inspection programme within the scope of this NPA. It is the utmost importance for the consistency on the scope of application of the requirements of this NPA to be enhanced to reflect that only aircraft subjected to the scope of Article 4 of the 216/2008 §1.(b), (c) and (d), except those under the regulatory oversight of the Inspecting Member States, are included in the Scope established in the AR.GEN.405.

comment *581* comment by: *DGAC*

Comment: The qualification of the inspectors considered in the NPA is a copy/paste of the dispositions of the Guidance Material of the EASA related to the qualification of SAFA ramp inspectors. While lots of the criteria hold are applicable and relevant to the ramp inspection of european aircraft, some are absolutely not applicable and should be updated to reflect the particularities of this task :
- the Checklists On-the-job training of Inspectors are only applicable to SAFA ramp inspectors and not for ramp inspectors intending to conduct ramp check of European operators as the scope of the inspected items will not be the same,
- All the training materials presented in the AMC1 and AMC2 AR.GEN 430(b)(2)(i) are based on the ramp inspections on TCO only and should be tailored to the scope of the requirements (AR.GEN.405).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM AR.GEN.430(b)(1) Qualification of inspectors p. 27-28

comment *110* comment by: *CAA-NL*

Comment CAA-NL:

Text suggests that a person should preferably have at least 2 years experience in the field of dangerous goods before being able to carry out ramp checks. It is suggested this is too onerous.

Justification: 2 years experience may be relevant for persons specialising in other types of ramp check (e.g. pilot sand engineers) but the training period for a dangerous goods inspector is considerably less and so less experience is needed before dangerous goods ramp checks can be carried out. It is suggested a period of 6 months would be more appropriate.

Proposed Text (if applicable):
"vi. has successfully completed professional training in the field of dangerous goods and preferably after that at least 6 months experience in this field; or"

comment *144* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Concern:
GM AR.GEN.430(b)(1) 1. vi.

Comment:
Text suggests that a person should preferably have at least 2 years experience in the field of dangerous goods before being able to carry out ramp checks. It is suggested this is too onerous. 2 years experience may be relevant for persons specialising in other types of ramp check (e.g. pilot sand engineers) but the training period for a dangerous goods inspector is considerably less and so less experience is needed before dangerous goods ramp checks can be carried out.

Proposal:
It is suggested a period of 6 months would be appropriate.

comment *198* comment by: *UK CAA*

Paragraph No: GM AR.GEN.430(b)(1) 1. vi.

Comment: Text suggests that a person should preferably have at least 2 years experience in the field of dangerous goods before being able to carry out ramp checks. This is too onerous.

Justification: 2 years experience may be relevant for persons specialising in other types of ramp check (e.g. pilots and engineers) but the training period for a dangerous goods inspector is considerably less and so less experience is needed before dangerous goods ramp checks can be carried out. It is suggested a period of 6 months would be more appropriate.

Proposed Text (if applicable):
"vi. has successfully completed professional training in the field of dangerous goods and preferably after that at least ~~2 years~~ 6 months experience in this field; or"

comment *294* comment by: *Walter Gessky*

1. GM AR.GEN.430(b)(1) Qualification of inspectors
Comment:

This information shall be transferred to the rule.

comment *367* comment by: *Austro Control GmbH*

Comment:
The points (a) and (b), but (b) without the under-points, shall be transferred to the rule for an uniform application.
The under-points in (b) may stay in AMC.

comment *465* comment by: *Civil Aviation Authority of Norway*

This guidance material is focused on the training requirements for SAFA inspectors, which is appropriate, but some additional guidance should be addressed to the training of ordinary operations inspectors.
Performing a ramp check is a straight forward inspection by the use of standardised and detailed checklists, while a systematic audit of an operator's management system requires a comprehensive knowledge of audit techniques and system performance criteria. This requires some basic qualification, training and assessment of the individual inspector, and such requirements should be subject to an additional AMC to AR.GEN.430

Especially, the qualification and training requirements for personnel carrying out in-flight inspections should be provided, as this issue is subject to an ongoing debate among member states.

comment *582* comment by: *DGAC*

"Eligibility Criteria" being a sub-title for "GM AR.GEN.430 (b)(1)" it should be in capital letters (sub-title) for consistency in the lay-out

comment *600* comment by: *Finnish CAA*

Paragraph No: GM AR.GEN.430(b)(1) 1. vi.

Comment: Text suggests that a person should preferably have at least 2 years experience in the field of dangerous goods before being able to carry out ramp checks. It is suggested this is too onerous.

Justification: 2 years experience may be relevant for persons specialising in other types of ramp check (e.g. pilot sand engineers) but the training period for a dangerous goods inspector is considerably less and so less experience is needed before dangerous goods ramp checks can be carried out. It is suggested a period of 6 months would be more appropriate.

Proposed Text (if applicable):
"vi. has successfully completed professional training in the field of dangerous goods and preferably after that at least ~~2 years~~ 6 months experience in this field; or"

comment *609* comment by: *DGAC*

Comment: "*Has good knowledge of the English language* " in the eligibility criteria can be understood as only theoretical knowledge, whereas a good practice is required to be able to perform a ramp inspection (as the first criteria

required to perform ramp inspections on TCO as well as an European air carriers).

Proposal: Change to : "Has a good practice of English"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 to AR.GEN.430(b)(2) p. 28

comment *583* comment by: *DGAC*

Add "**Qualification of inspectors**" as a title for the paragraph (same title as in AR.GEN.430)

"Senior inspectors" being a sub-title for "AMC 1 to AR.GEN.430(b)(2)" it should be in capital letters (sub-title) for consistency in the lay-out.

comment *610* comment by: *DGAC*

Comment: 1(b): The required 36 ramp inspections during the last three years prior to be appointed as a senior inspector does not appear to be sufficient a criterion to ensure that this inspector has a continuous and sufficient experience and expertise. A minimum number of 36 per year (3 a month) would be preferable to ensure that the senior inspector is competent, especially when considering that he will gain the privileges to train ramp inspector and assess their competence in view of their future qualification.

Proposal: Suggest changing to: "The appointee has performed a minimum of 36 ramp inspections a year for the last three years prior to the appointment."

comment *611* comment by: *DGAC*

Comment: 1 (c): For the same purpose, 36 inspections a year (3 a month) seems to be a minimum to keep valid a qualification of senior inspector,

Proposal: Suggest changing to: "After appointment a senior inspector will maintain this qualification only if performing a minimum number of 36 ramp inspections a year."

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 1 AR.GEN.430(b)(2) p. 28

comment *584* comment by: *DGAC*

Add "**Qualification of inspectors**" as a title for the paragraph (same title as in AR.GEN.430)
A subtitle for this paragraph could also be added : "SENIOR INSPECTORS"

comment *612* comment by: *DGAC*

Comment: 2.) 2 inspections appears not to be enough to re-qualify somebody, at least 6 should be required.

Proposal: 2.) If an inspector lost his/her qualification as a result of not reaching the minimum number of inspections mentioned in (1), he/she may be re-qualified by the inspecting authority by performing at least 6 inspections under the supervision of a senior inspector.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 2 AR.GEN.430(b)(2) INITIAL TRAINING REQUIREMENTS p. 28-31

comment *295* comment by: *Walter Gessky*

1. GM 2 AR.GEN.430(b)(2) INITIAL TRAINING REQUIREMENTS
SCOPE AND DURATION OF INITIAL TRAINING
Initial training should encompass:
1. Initial theoretical training; and
2. Practical training; and
3. On-the-Job Training
Comment:
Minimum trainings content shall be transferred to the rule.

On-the-job training
12. Ramp inspection:
a. introduction to the pilot-in-command,
flight crew, cabin crew, ground crew;
b. inspection items: according to the area of expertise of the trainee;
c. findings (identification, categorisation, reporting, evidencing);
d. corrective actions – class 2;
e. corrective actions – class 3:
1. Class 3a) enforcement of restriction(s) on aircraft flight operations (cooperation
with other services/authorities to enforce a restriction)
2. Class 3b) request of an immediate corrective action(s), satisfactory completion of a immediate corrective action
3. Class 3c) grounding of an aircraft: notification of the grounding decision to the aircraft commander; national procedures to prevent the departure of a grounded aircraft; communication with the State of Operator/Registry
Comment: Corrective action classification shall be transferred to the rule.

comment *368* comment by: *Austro Control GmbH*

SCOPE AND DURATION OF INITIAL TRAINING
Initial training should encompass:
1. Initial theoretical training; and
2. Practical training; and
3. On-the-JobTraining
Comment: Minimum trainings content shall be transferred to the rule.

comment *369* comment by: *Austro Control GmbH*

On- the-job training:

Point 12.e.
add a point 4.:
"Class 3d) operating ban"

Justification:
is an actual need and based on EASA Guidance Material V 1.0 from July 2009

Point 13:
add a point (d):
"Communication techniques and process for decision making"
Justification:
this is an important item as experience shows and therefore should be reflected

comment *586* comment by: *DGAC*

The lay-out of this paragraph should be reviewed. Necessary editorial changes include (but are not restricted to) the following :

- Add "**Qualification of inspectors**" as a title for the paragraph (same title as in AR.GEN.430)
- For consistency in the lay-out "**INITIAL TRAINING REQUI REMENTS**" should not be part of the title, and as a sub-title should not be in bold text

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 3 AR.GEN.430(b)(2) p. 31-32

comment *613* comment by: *DGAC*

"Qualification of the inspector after successful completion of training" after "**GM 3 AR.GEN.430(b)(2) " should be in capit al letters (title) for consistency in the lay-out**

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 4 AR.GEN.430(b)(2) p. 32

comment *55* comment by: *arno liesch*

kajdöfionrejölvr

comment *370* comment by: *Austro Control GmbH*

Delete the example, because it is not adequate and not practical!
Or recheck it by a group of experts.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 2 AR.GEN.430(b)(2) p. 32-33

comment *614* comment by: *DGAC*

"Approval of training organisations providing training to ramp inspectors" in the title **should be in capital letters (title) for consistency in the lay-out**

comment *615* comment by: *DGAC*

Comment : Why the approval of training organisation is not laid down as approval of any approved training organisation (ATO) as FSTD as described in NPA 2008-22b subpart ATO ?

Proposal : create a section 3 – Ramp inspection training organisation to subpart ATO which will include AMC2, GM5 and GM6 of AR.GEN.430(b)(2).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 5 AR.GEN.430(b)(2) p. 33-34

comment *615* ☐ comment by: *DGAC*

Comment : Why the approval of training organisation is not laid down as approval of any approved training organisation (ATO) as FSTD as described in NPA 2008-22b subpart ATO ?

Proposal : create a section 3 – Ramp inspection training organisation to subpart ATO which will include AMC2, GM5 and GM6 of AR.GEN.430(b)(2).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 6 AR.GEN.430(b)(2) p. 34-35

comment *615* ☐ comment by: *DGAC*

Comment : Why the approval of training organisation is not laid down as approval of any approved training organisation (ATO) as FSTD as described in NPA 2008-22b subpart ATO ?

Proposal : create a section 3 – Ramp inspection training organisation to subpart ATO which will include AMC2, GM5 and GM6 of AR.GEN.430(b)(2).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 7 AR.GEN.430(b)(2) p. 35-36

comment *580* ☐ comment by: *DGAC*

If ever this section was meant to be applicable to the ramp inspect ions performed on operators under the regu latory oversight of the inspection Member State ('SANA'), then the following comment would apply:

Comment: The qualification of the inspectors considered in the NPA is a copy/paste of the dispositions of the Guidance Material of the EASA related to the qualification of SAFA ramp inspectors. While lots of the criteria hold are applicable and relevant to the ramp inspection of national aircraft (SANA = ramp inspections on aircraft under the regulatory oversight of the Inspecting state), some are absolutely not applicable and should be updated to reflect the particularities of this task :
- a good practice of the English language for instance is not required for ramp inspections on operators under the regulatory oversight of the Inspecting Member State (Ramp inspections performed by German inspectors on German

operators for instance),
- the Checklists On-the-job training of Inspectors are only applicable to SAFA ramp inspectors and not for ramp inspectors intending to conduct ramp check of National operators as the scope of the inspected items will not be the same,
- the recency requirements (GM2.AR.GEN.430.(b)(3)) is indicating "This number could be reduced with the number of inspections on aircraft operated by **domestic operators** (while the regulator is including these operators in the scope of the NPA) if the inspector is also a qualified flight operations, ramp or airworthiness inspector of an inspecting authority and is regularly engaged in the oversight of such operators".
- All the training materials presented in the AMC1 and AMC2 AR.GEN 430(b)(2)(i) are based on the ramp inspections on TCO only and should be tailored to the scope of the requirements (AR.GEN.405).

Therefore it confirms that the aim of the regulator was not to include the SANA ramp inspection programme within the scope of this NPA. It is the utmost importance for the consistency on the scope of application of the requirements of this NPA to be enhanced to reflect that only aircraft subjected to the scope of Article 4 of the 216/2008 §1.(b), (c) and (d), except those under the regulatory oversight of the Inspecting Member States, are included in the Scope established in the AR.GEN.405.

comment *581* comment by: *DGAC*

Comment: The qualification of the inspectors considered in the NPA is a copy/paste of the dispositions of the Guidance Material of the EASA related to the qualification of SAFA ramp inspectors. While lots of the criteria hold are applicable and relevant to the ramp inspection of european aircraft, some are absolutely not applicable and should be updated to reflect the particularities of this task :
- the Checklists On-the-job training of Inspectors are only applicable to SAFA ramp inspectors and not for ramp inspectors intending to conduct ramp check of European operators as the scope of the inspected items will not be the same,
- All the training materials presented in the AMC1 and AMC2 AR.GEN 430(b)(2)(i) are based on the ramp inspections on TCO only and should be tailored to the scope of the requirements (AR.GEN.405).

comment *616* comment by: *DGAC*

Comment: Being a copy/paste of the draft material used to create the SAFA Qualification for ramp inspectors (GM of the EASA), it should be underlined that the present content of the GM6 AR.GEN.430(b)(2) is not in accordance with the latest procedures of the EASA GM for SAFA ramp inspection procedures of July 2009. Therefore there is no consistency between the dispositions of the GM6 AR.GEN.430(b)(2) and all the applicable AR.GEN.435, AR.GEN.440 and AR.GEN.445 regarding the inspection of TCO.

comment *617* comment by: *DGAC*

Comment: The form is too detailed. The inspecting procedures are expected to evolve regularly to follow the amendments of the regulation and of the best practices in the ramp inspection process. Therefore it will be out of date every time there is a change in the requirements.

Proposal: A proposal would be to only list the items inspected.

comment *662* comment by: *IACA International Air Carrier Association*

A Flight Deck Documentation 4 Manuals:
bottom bullet point [RUKOWODSTWO] is meaningless.
A Flight Deck Documentation 5 Checklists:
delete "Tidiness/Cleanness" and replace with "Stowed and Legible
A Flight Deck Documentation 7 Minimum equipment list:
2nd bullet, add " in accordance with NAA approval".
A Flight Deck Documentation 7 Minimum equipment list:
last bullet point [Rukowodstwo] is meaningless.
B Cabin Safety - 3 First Aid kit/emergency medical kit:
bullet point 6. Remove "adequacy" and replace with " Approved by NAA"
B Cabin Safety -7 Emergency Exit, Lightning Lighting and marking, electric torches: remove: "lightning" and replace with" lighting"
C Aircraft Condition 3 Flight controls:
bullet point 4. Flaps/Track fairings [condition]. Flap tracks can only be inspected if flaps are deployed
C Aircraft Condition 3 Flight controls:
bottom note! 'flap droofing' is meaningless -should be 'flap drooping'
C aircraft condition 5 Undercarriage:
bullet point 9. 'Cleanliness is a very subjective measure. Remove this item
C aircraft condition 5 Undercarriage:
bullet point 13. What are the 'Placards and Markings' checked against?
C Aircraft condition 6 Wheelwell:
bullet point 3. 'cleanliness is a very subjective measure. Remove this item
C Aircraft condition 10 Obvious repairs:
what is the definition of 'badly performed repair?

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 7 AR.GEN.430(b)(2) - A Flight deck - General p. 37

comment *210* comment by: *Royal Aeronautical Society*

In paragraph 3 'Equipment', where 'TCAS/TCAS II' is shown, this should be 'ACAS/TCAS II' to be compliant with similar references elsewhere in Part-AR.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 7 AR.GEN.430(b)(2) - A Flight deck - Documentation p. 38-39

comment *158* comment by: *Airbus S.A.S.*

In GM7 AR.GEN.430(b)(2), last bullet of item 7 reads:
"Rukowodstwo (check when possible)".

The word "Rukowodstwo" should be written between quotation marks, as it refers to a specific document and it is not an English word. This would be consistent with wording adopted in other paragraphs of this NPA (i.e. Module A - A4 Manuals, page 69).

comment *228* comment by: *The TUI Airlines group represented by Thomson*

Airways,TUIfly,TUIfly Nordic,CorsairFly,Arkefly,Jet4U,JetairFly

GM7.ARGEN430(b)(2)
4 Manuals

Editorial:

Bottom bullet point [RUKOWODSTWO] is meaningless.

GM 7 AR.GEN430(b)(2)
5 Checklists

Editorial/Proposal:

Second bullet point. **Delet e** "Tidiness/Cleanness" and replace with "Stowed and Legible

GM 7 AR.GEN430(b)(2)
7 Minimum equipment list

Editorial/Comment/Proposal:

Second bullet point. add " in accordance with NAA approval".

Last Bullet point [Rukowodstwo] is meaningless.

GM 7 AR.GEN430(b)(2)
B Cabin Safety - 3 First Aid kit/emergency medical kit

Editorial/Proposal:

Bullet point 6. Remove "adequacy" and replace with " Approved by NAA"

GM 7 AR.GEN430(b)(2)
B Cabi n Safety -7 E mergency Exit, ~~Lightning~~ Lighting and m arking, electric torches

Editorial/Proposal:

Remove: "lightning" and replace with" lighting"

GM 7 AR.GEN430(b)(2)
C Aircraft Condition
3 Flight controls

Editorial/Proposal:

Bullet point 4. Flaps/Track fairings [condition]. Flaptracks can only be inpsected if flaps are deployed

Bottom note! 'flap droofing' is meaningless -should be 'flap drooping'

GM 7 AR.GEN430(b)(2)
C aircraft condition
5 Undercarriage

Comment:
Bullet point 9. 'Cleanliness is a very subjective measure.

Proposal:
Remove this item
Comment:
Bullet point 13**.** What are the 'Placards and Markings' checked against?

GM 7 AR.GEN430(b)(2)
C Aircraft condition
6 Wheelwell

Comment: Bullet point 3. 'cleanliness is a very subjective measure.
Proposal:
Remove this item

GM 7 AR.GEN430(b)(2)
C Aircraft condition
10 Obvious repairs

Comment: What is the definition of 'badly performed repair?

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 7 AR.GEN.430(b)(2) - B Cabin Safety p. 43-46

comment *199* comment by: *UK CAA*

Paragraph No: Checklist on the job training of inspectors. B Cabin Safety, 3 First aid kit / emergency medical kit.

Comment:
The term "adequacy**"** needs to be clarified. An inspector will not be able to know whether a FAK/EMK is adequate, just whether it complies with the relevant checklists of contents of the kits.

Justification: To enhance clarity.

Proposed Text (if applicable):
Substitute 'adequacy' with: "Confirmation that contents match the relevant checklist".

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 7 AR.GEN.430(b)(2) - D Cargo p. 52-53

comment *111* comment by: *CAA-NL*

1. Comment 1 regarding 2 Dangerous goods
It is inappropriate for "labelling" to be checked as part of a ramp check.

Justification: The application of labels on a package is a shipper's responsibility and to check them would not be a check of the operator.

Proposed Text (if applicable):
Delete "Labelling" from paragraph 2.

2. Comment 2 regarding:
OPS manual/information required by ICAO Annex 18" is inappropriate.

Justification: An nex 18 does not spec ify what shoul d be in an operations manual.

Proposed Text (if applicable):
Delete "OPS manual/information required by ICAO Annex 18" from para 2.

3. C omment 3: A check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar) should be effected.

Justification: The ICAO ERG or similar is required to be aboard the aircraft when dangerous goods are carried as cargo.

Proposed Text (if applicable):
Add the following bullet point to para 2 after the heading "If dangerous goods on-board":
"Check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar)"

4. Comment nr 4. Regarding:
Paragraph No: D2

Comment: Ramp inspection items do not reflect items to be checked on page 53 of NPA.

Justification: Items should align and should also include the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods

Proposed Text (if applicable):
Align items with those specified on page 53 of NPA.

comment *123* comment by: *Luftfahrt-Bundesamt*

- Annex 18 does not contain any regulation with regard to contents. All specifications and relevant information are to be found in the ICAO Technical instructions. Therefore the bullet „OPS manual / information required by ICAO Annex 18" should be deleted or adjusted, respectively.

- Among the technical instructions there are some other papers (e.g. OPS manual, IATA DGR) admitted as a handout as well. The respective bullet should be amended as follows
- „Technical Instructions (ICAO Doc. 9284) are applied or any other applicable paper in a current version (such as Special I nformation in the OPS Manual and/or IATA DGR)."

- It is not possible to check the correct „labelling" during a ramp check. The only reasonable possibility is doing a cross-check with the NOTOC in order to approve that the specifications on it comply with the labels. Therefore the bullet „labelling" in paragraph 2 „Dangerous goods" should either be deleted or changed to the following:
„- Labelling (cross check with the NOTOC)"

- Since the „Emergency Response Guide" has to be carried on board as well when carrying Dangerous goods, a new bullet should be added under the headline „If dangerous goods on-board":
„- a copy of a current version of the ERG"

comment *145* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

- **Concern detail:**
  It is inappropriate for "labelling" to be checked as part of a ramp check.
- **Comment:**
- The application of labels on a package is a shipper's responsibility and to check them would not be a check of the operator.
  Proposal:
- Delete "Labelling" from paragraph 2.
- **Concern detail:**
  "OPS manual/information required by ICAO Annex 18" is inappropriate.

Comment:
Annex 18 does not specify what should be in an operations manual.
Proposal:
Delete "OPS manual/information required by ICAO Annex 18" from para 2.

- **Concern detail:**
  A check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar) should be effected.

Comment:
The ICAO ERG or similar is required to be aboard the aircraft when dangerous goods are carried as cargo.
Proposal:
Add the following bullet point to para 2 after the heading "If dangerous goods on-board":
"Check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar)"

comment *146* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Concern:
Ramp inspection items do not reflect items to be checked on page 53 of NPA.

Comment:
Items should align and should also include the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods.

Proposal:
Aling items with those specified on page 53 of NPA.

comment *200* comment by: *UK CAA*

Page No. 53, Paragraph No: D2

Comment: "OPS manual/information required by ICAO Annex 18" is inappropriate.

Justification: Annex 18 does not specify what should be in an operations manual.

Proposed Text (if applicable):
Delete "OPS manual/information required by ICAO Annex 18" from para 2.

comment *201* comment by: *UK CAA*

Page No. 53, Paragraph No: D2

Comment: It is inappropriate for "labelling" to be checked as part of a ramp check.

Justification: The application of labels on a package is a shipper's responsibility and to check them would not be a check of the operator.

Proposed Text (if applicable):
Delete "Labelling" from paragraph 2.

comment *202* comment by: *UK CAA*

Page No. 53, Paragraph No: D2

Comment: A check for the presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar) should be effected.

Justification: The ICAO ERG or similar is required to be aboard the aircraft when dangerous goods are carried as cargo.

Proposed Text (if applicable):
Add the following bullet point to para 2 after the heading "If dangerous goods on-board":
"Check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar)"

comment *213* comment by: *Pietro Barbagallo ENAC*

GM7 AR.GEN.430 (b) 2 pag. 53 item D2
Comment: A check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar) should be effected.
Justiifcation: The ICAO ERG or similar is required to be aboard the aircraft when dangerous goods are carried as cargo.
Proposal: Add the following bullet point to para D2 after the heading "If dangerous goods on-board": "Check for presence of a copy of the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar)"

comment *601* comment by: *Finnish CAA*

Paragraph No: GM 7 AR.GEN.430(b)(2) - D 2

Comment: It is inappropriate for "labelling" to be checked as part of a ramp check.

Justification: The application of labels on a package is a shipper's responsibility

and to check them would not be a check of the operator.

Proposed Text (if applicable):
Delete "Labelling" from paragraph D 2.

comment *602* comment by: *Finnish CAA*

Paragraph No: GM 7 AR.GEN.430(b)(2) D 2

Comment: "OPS manual/information required by ICAO Annex 18" is inappropriate.

Justification: Annex 18 does not specify what should be in an operations manual. Part 7;4.2 of the Technical Instructions appears to be a more correct reference.

Proposed Text (if applicable):
Amend the text as follows: "OPS manual/information required by the Technical Instructions ~~ICAO Annex 18~~".

comment *603* comment by: *Finnish CAA*

Paragraph No: GM 7 AR.GEN.430(b)(2) D 2

Comment: A check for presence of a copy of the ICAO Doc 9481, Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods (or similar), should be effected.

Justification: The ICAO ERG or similar is required to be aboard the aircraft when dangerous goods are carried as cargo (see Part 7;4.8 of the Technical Instructions).

Proposed Text (if applicable):
Add the following bullet point to para 2 after the heading "If dangerous goods on-board":
"Check for presence of a copy of the ICAO Doc 9481 (Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods) or similar".

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) p. 56

comment *618* comment by: *DGAC*

Comment: The form is too detailed. The inspecting procedures are expected to evolve regularly to follow the amendments of the regulation and of the best practices in the ramp inspection process. Therefore it will be out of date every time there is a change in the requirements. It will in particular be the case for equipments required (A 3).

Proposal: A proposal would be to only list the items inspected.

comment *619* comment by: *DGAC*

Comment: All the training materials presented in the AMC1 and AMC2

AR.GEN 430(b)(2)(i) are based on the ramp inspections on TCO only and should be tailored to the scope of the requirements (AR.GEN.405).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - MODULE (GEN) p. 57

comment *371* comment by: *Austro Control GmbH*

It suggest to add to general overview (legal) to the commun rules *"basic national legal requirements".*
Justification:
each MS has different law (especially different competences of authorities, different administrative requirements e. g.for grounding and baning etc), so that inspector should know the basic rules.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - MODULE (GEN) - OVERVIEW OF THE SAFETY ASSESSMENT OF FOREIGN AIRCRAFT p. 57-58

comment *13* comment by: *LE PUIL, Frederic*

Add Annex 18 in ICAO basis

comment *620* comment by: *DGAC*

Comment:
The qualification of the inspectors considered in the NPA is a copy/paste of the dispositions of the Guidance Material of the EASA related to the qualification of SAFA ramp inspectors. Therefore, there is many major inconsistencies with the application of these criteria for ramp inspections on European operators. "Overview of the Safety assessment of foreign aircraft- THE EC RAMP INSPECTION PROGRAMME ICAO BASIC REFERENCES": this should be updated or completed of the type of ramp inspections performed (European operators inspected under the European requirements).

comment *621* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned,
"Overview of the Safety assessment of foreign aircraft - THE EC RAMP INSPECTION PROGRAMME ICAO BASIC REFERENCES": the following references should be added as part of the international standards taken into account while performing a ramp inspection on a TCO : Annex 18, Technical instruction 9284,
ICAO Regional Supplementary Procedures (Doc 7030).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - Module (GEN) - The ICAO Framework p. 61-62

comment *14* comment by: *LE PUIL, Frederic*

For regional procedures DOC 7030 , the NAT part should be considered for

flights en route for trans oceanic flight

comment *112* comment by: *CAA-NL*

Comment regarding:
under heading "RI and ICAO – Annex 18 (The Safe Transport of Dangerous Goods by Air)

Comment: The name of the Technical Instructions is not correctly expressed.

Justification: The proper name for the Technical Instructions is the ICAO "Technical Instructions for the Safe Transport of Dangerous Goods by Air"

Proposed Text (if applicable):
Amend the second bullet point under the above heading as follows:
"Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284)"

comment *124* comment by: *Luftfahrt-Bundesamt*

Ref: „RI and ICAO – Annex 18 (The Safe Transport of Dangerous Goods by air)": the correct description of Doc 9284 is **„Technical Instructions for the Safe Transport of Dangerous Goods"** but NOT „Dangerous goods technical instructions"

comment *167* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Concern detail:
under heading "RI and ICAO-Annex 18 (The Safe Transport of Dangerous Goods by Air).

Comment:
The name of the Technical Instructions is not correctly expressed. The proper name for the Technical Instructions is the ICAO "Technical Instructions for the Safe Transport of Dangerous Goods by Air".

Proposal:
Amend the second bullet point under the above heading as follows: "~~Dangerous goods~~ Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284)"

comment *604* comment by: *Finnish CAA*

Paragraph No: AMC 1 AR.GEN.430(b)(2)(i), under heading "RI and ICAO – Annex 18 (The Safe Transport of Dangerous Goods by Air)

Comment: The name of the Technical Instructions is not correctly expressed.

Justification: The proper name for the Technical Instructions is the ICAO "Technical Instructions for the Safe Transport of Dangerous Goods by Air"

Proposed Text (if applicable):
Amend the second bullet point under the above heading as follows:
"~~Dangerous goods t~~Technical ~~i~~Instructions for the Safe Transport of Dangerous

Goods by Air (Doc 9284)"

comment *622* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned,
" The ICAO framework – RI AND ICAO DOC 7030" : the NAT region must be considered also as many flights from Europe are going through the NAT airspace, as it stands for the only regulation mentioning the basis for MNPS requirements (that stands for a point checked within the items A3 and A10 of a ramp inspection on a TCO).

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - MODULE (GEN) - SAFA Technical Aspects - Overview p. 62-65

comment *180* comment by: *Austro Control GmbH*

finding levels not harmonised with SAFA (3 levels) Regulations

comment *203* comment by: *UK CAA*

Page 62, Paragraph No: under heading "RI and ICAO – Annex 18 (The Safe Transport of Dangerous Goods by Air)

Comment: The name of the Technical Instructions is not correctly expressed.

Justification: The proper name for the Technical Instructions is the ICAO "Technical Instructions for the Safe Transport of Dangerous Goods by Air".

Proposed Text (if applicable):
Amend the second bullet point under the above heading as follows:
"~~Dangerous goods t~~Technical ~~i~~Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284)"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - MODULE (A) p. 67-72

comment *623* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned,
"Module A - Ramp Inpection items (A)" :
A1 GENERAL CONDITION COCKPIT :
- move "minimum crew to A20 " as the minimum crew composition is linked with crew ratings and licences and could only be checked by the ramp inspector when inspecting the licences (in connection with the requirements enacted by the OPS Manual).

comment *624* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned,
"Module A - Ramp Inpection items (A)" :
A1 GENERAL CONDITION COCKPIT :

- replace " stowage of baggage " by "securisation of interior equipment" as there is no standard in ICAO regarding the securisation of luggage items in the cockpit. Indeed the only ICAO standards linked with the securisation of luggage in the cockpit or cabin is Annex 6, part I, §4.8 which is only tackling the cabin part. Moreover, the only international standards m, Part IIIA, 4.1.7.1 and Annex 8, Part IIIB-D.6.1 mentioning the securisation of internal equipment (equipments included in the certification process of the aircraft like fire extinguishers). Therefore, the only valid reference that could be made is the "securisation of interior equipment".

comment *625* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A4 MANUALS :
Operations manual
- Add : " content in relation with flight preparation",

comment *626* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A4 MANUALS :
Operations manual
- Delete "Rokowodstwo" which is not an operations manual and in general in Russian so impossible to check for standard inspector, or other particularities should also be addressed : manuals in Chinese , Arabic etc ….

comment *627* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A4 MANUALS :
Operations manual
- Electronic Flight Bag : delete (build in…..) replace by ("class 1 to 3"), as it stands for the technical specification name of an Electronic Flight bag..

comment *628* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A6 RADIO NAVIGATION CHARTS
The dispositions of the ICAO, Annex 15 have to be taken into account when training is delivered on the item A06. Indeed, the Annex 15 (§6.1.1) is providing the regulatory basis on the mandatory amendments that should be taken into account while revising charts.
add : "AIRAC cycle "

comment *629* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A7 Minimum Equipment List
A7 MEL : Delete "ExSovietbuilt aircraft: Rukowodstwo content",
This document is usually in Russian language so impossible to check for the standard Ramp inspector and is not in compliance with the international standards related to a MEL

comment *630* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A7 Minimum Equipment List
Add : "critical chapters (OPS requirements)"

comment *631* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A10 AOC or equivalent,
To be fully compliant with the news provisions of Annex 6 :
- change to "AOC and operational specifications",
- add :"content of specifications"

comment *632* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A14 Mass and Balance Sheet
- add : "Data available for crew check", to check the compliance of the operations of the airline with the Annex 6, §4.3.1(d)

comment *633* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A19 : Electric Torches
change to : Number and position of required electric torches

comment *634* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A20 : Flight Crew Licenses
add: "age limitations", to check the compliance with ICAO, Annex 1, §2.1.10.1.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - Module (B) p. 73-75

comment *159* comment by: *Airbus S.A.S.*

Typo error in AMC 1 AR.GEN.430(b)(2)(i).
In the first bullet of item B2 "Cabin Crew Stations and Crew Rest Area", close bracket after word "hazard".

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - Module (C) p. 76-78

comment *635* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
C2 Doors and hatches :
- add : "opening assistance systems"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.430(b)(2)(i) - Module (D) p. 79-80

comment *113* comment by: *CAA-NL*

Comment regarding:
Paragraph No: D2 fifth bullet point

Comment: It is not clear what "Limitations/Restrictions (Cargo only aircraft)" means.

Justification: Some things are limited to carriage by cargo aircraft only, but any check should presumably check that such items are not carried on a passenger aircraft.

Proposed Text (if applicable):
Delete "Limitations/Restrictions (Cargo only aircraft)"

comment *125* comment by: *Luftfahrt-Bundesamt*

Under D2 „Dangerous Goods" the 5th point must be renamed. The correct wording is **Cargo Aircraft Only**!

comment *161* comment by: *Airbus S.A.S.*

In AMC 1 AR.GEN.430(b)(2)(i)
In the second bullet of item D1, replace "sys" with "systems".

comment *168* comment by: *Federal Office of Civil Aviation (FOCA), Switzerland*

Concern detail:
D2 fifth bullet point

Comment:
It is not clear what "Limitations/Restrictions (Cargo only aircraft)" means. Some things are limited to carriage by cargo aircraft only, but any check should presumably check that such items are not carried on a passenger aircraft.

Proposal:
Delete "Limitations/Restrictions (Cargo only aircraft)".

comment *204* comment by: *UK CAA*

Page 79, Paragraph No: D2

Comment: Ramp inspection items do not reflect items to be checked on page 53 of NPA.

Justification: Items should align and should also include the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods.

Proposed Text (if applicable):
Align items with those specified on page 53 of NPA.

comment *205* comment by: *UK CAA*

Page 79, Paragraph No: D2 fifth bullet point

Comment: It is not clear what "Limitations/Restrictions (Cargo only aircraft)" means.

Justification: Some things are limited to carriage by cargo aircraft only, but any check should presumably check that such items are not carried on a passenger aircraft.

Proposed Text (if applicable):
Delete "Limitations/Restrictions (Cargo only aircraft)"

comment *605* comment by: *Finnish CAA*

Paragraph No: AMC 1 AR.GEN.430(b)(2)(i) D 2

Comment: Ramp inspection items on page 79 of NPA do not reflect items to be checked on page 53 of NPA.

Justification: Items should align and should also include the ICAO Emergency Response Guidance for Aircraft Incidents Involving Dangerous Goods

Proposed Text (if applicable):
Align items with those specified on page 53 of NPA.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 2 AR.GEN.430(b)(2)(i) - Module A (Flight deck) p. 82-86

comment *162* comment by: *Airbus S.A.S.*

In AMC 2 AR.GEN.430(b)(2)(i),
The third bullet of item A1, reads:
"C/Bs/different locations (recognise pulled/popped)/".

Revise text, since it is not clear.

comment *636* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned,
"Module A - Ramp Inpection items (A)" :
A1 GENERAL CONDITION COCKPIT :
replace " stowage of baggage " by "securisation of interior equipment" as there is no standard in ICAO regarding the securisation of luggage items in the cockpit. Indeed the only ICAO standards linked with the securisation of luggage in the cockpit or cabin is Annex 6, part I, §4.8 which is only tackling the cabin part. Moreover, the only international standards m, Part IIIA, 4.1.7.1 and Annex 8, Part IIIB-D.6.1 mentioning the securisation of internal equipment (equipments included in the certification process of the aircraft like fire extinguishers). Therefore, the only valid reference that could be made is the "securisation of interior equipment".

comment *637* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A2 Emergency Exit (cockpit)
delete "escape through avionic bay", which is not an emergency exit

comment *638* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A4 Manuals
AFM, delete "recognise accuracy". Indeed, the AFM is approved by the type certification state and there is no reference or mandatory requirements for the airline to carry on board evidence that would be checked by an inspector to ensure the accuracy.

comment *639* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A4 Manuals
It should be underlined that most of the time, the AFM does not need to be used as the airline has, in compliance with ICAO standards, to have a Operations Manual that encompasses more data and procedures than the AFM

comment *640* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A7 Minimum Equipment List
A7 MEL : Delete "Rukowodstwo",
This document is usually in Russian language so impossible to check for the standard Ramp inspector and is not in compliance with the international standards related to a MEL

comment *641* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
A20 : Flight Crew Licenses
add: "change last line to more general: age limitations". This wording will not change with the future evolutions of the dispositions of ICAO, Annex 1.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 2 AR.GEN.430(b)(2)(i) - Module B (Cabin Safety) p. 87-90

comment *164* comment by: *Airbus S.A.S.*

The objectives should be included in a box, for consistency with all other Modules detailed in AMC 1 and 2 to AR.GEN.430(b)(2)(i).
Add a line to define a box for 'Objectives".

comment *206* comment by: *UK CAA*

Page 87, Paragraph No: Initial practical training course for ramp inspectors Module B3 First Aid Kit / Emergency Medical Kit

Comment: The term "adequacy**"** needs to be clarified. An inspector will not be able to know whether a FAK/EMK is adequate, just whether it complies with the relevant checklists of contents of the kits.

Justification: To enhance clarity

Proposed Text (if applicable):
Substitute 'adequacy (how to determine)' with "Confirmation that contents match the relevant checklist".

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 2 AR.GEN.430(b)(2)(i) - Module C (Aircraft Condition) p. 91-94

comment *642* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
C1: GENERAL EXTERNAL CONDITION
delete : Corrosion (familiarise and recognise different corrosion types)
This is too much in detail

comment *643* comment by: *DGAC*

As far as the ramp inspections on TCO are concerned
C4 Wheels, tyres and brakes :
- add : familiarize with Maintenance manual limits

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 2 AR.GEN.430(b)(2)(i) - Module D (Cargo) p. 95-96

comment *114* comment by: *CAA-NL*

Comment regarding:
Paragraph No: D2

Comment: "Assessing the scope of the authorisation (different classes)" is inappropriate.

Justification: Authorisations (which should be referred to as "approvals") do not specify different classes i.e. they are granted to permit the carriage of all dangerous goods permitted in normal circumstances.

Proposed Text:
Delete ""Assessing the scope of the authorisation (different classes)"

comment *126* comment by: *Luftfahrt-Bundesamt*

) The authorisation for the transport of dangerous goods is not confined to single classes of dangerous goods. Therefore the following point under D2 „Dangerous Goods" should be deleted:
~~Assessing the scope of the authorisation (different classes)~~

comment *207* comment by: *UK CAA*

Page 95, Paragraph No: D2

Comment: "Assessing the scope of the authorisation (different classes)" is inappropriate.

Justification: Authorisations (which should be referred to as "approvals") do not specify different classes i.e. they are granted to permit the carriage of all dangerous goods permitted in normal circumstances.

Proposed Text (if applicable):
Delete ""Assessing the scope of the authorisation (different classes)"

comment *214* comment by: *Pietro Barbagallo ENAC*

AMC1 AR.GEN.430 (b) (2) (i) pag. 95 item D2
Comment: The statement "Assessing the scope of the authorisation (different classes)" is inappropriate.
Justification: Authorisations (which should be referred to as "approvals") do not specify different classes i.e. they are granted to permit the carriage of all dangerous goods permitted in normal circumstances.
Proposal: Delete "Assessing the scope of the authorisation (different classes)"

comment *607* comment by: *Finnish CAA*

Paragraph No: AMC 2 AR.GEN.430(b)(2)(i) D 2

Comment: "Assessing the scope of the authorisation (different classes)" is inappropriate.

Justification: Authorisations (which should be referred to as "approvals") do not specify different classes i.e. they are granted to permit the carriage of all dangerous goods permitted in normal circumstances.

Proposed Text (if applicable):
Delete "Assessing the scope of the authorisation (different classes)"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 1 AR.GEN.430(b)(3) - Recurrant Training p. 97

comment *26* comment by: *ECA - European Cockpit Association*

Comment on GM 1 AR.GEN.430(b)(3)2.: change as follows:

2. An inspecting authority should ensure that all ramp inspectors undergo recurrent training at least once every ~~**three**~~ **two** years after being qualified as ramp inspectors **or whenever the Authority considers it necessary, due to mayor events**.

Justification:
The constant development and evolution of aviation regulations and technical procedures makes necessary the recurrent training each 2 years instead of 3.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - p. 97

GM 2 AR.GEN.430(b)(3) - Recency requirements

comment *644* comment by: *DGAC*

Comment: 3.) "If an inspector lost his/her qualification as a result of not reaching the minimum number of inspections mentioned in (1), he/she may be re-qualified by the inspecting authority by performing at least 2 inspections under the supervision of a senior inspector; the time between these two inspections should be not more than 2 months"

2 inspections are not enough to re-qualify somebody, at least 6 should be required

Proposal:
Suggest to change :
3. If an inspector lost his/her qualification as a result of not reaching the minimum number of inspections mentioned in (1), he/she may be re-qualified by the inspecting authority by performing at least 6 inspections under the supervision of a senior inspector.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM AR.GEN.435(d) - Conduct of ramp inspections p. 97-98

comment *127* comment by: *Luftfahrt-Bundesamt*

No. 10: Wrong reference: AR.GEN.425(f) doesn't exist

comment *512* comment by: *ECA - European Cockpit Association*

Comment on GM AR.GEN.435 (d):
ECA recommends to transfer this provision to AMC.

Justification:
Most of this GM is a must for the conduct of ramp inspections. In particular, the safety risks induced by disturbance into crew normal operations following a misconducted ramp inspection must be addressed properly.

comment *596* comment by: *Ryanair*

3. The inspectors must always identify themselves to the pilot-in-command

comment *645* comment by: *DGAC*

Comment: 6.) : In order to be consistent with the current SAFA procedures well implemented, the dispositions of this paragraph should be completed with the acted dispositions of the Guidance Material published by the EASA on the SAFA ramp inspection procedures, and add the following precisions : "Any unnecessary contact with passengers should be avoided; however, to be able to inspect certain elements in the cabin this may be justified"

comment *646* comment by: *DGAC*

Comment: 8.) the reference to appendix 1 is wrong. The correct reference is appendix 3.

comment *647* comment by: *DGAC*

Comment: §7 In the cabin, for a matter of time allowed to perform the ramp inspection and non consequence on the integrity of the equipment themselves, it appears as acceptable that the inspector opens the doors of compartments containing safety equipment.
Stating the opposite will at least double the time necessary for a cabin check.
Suggest to change to :
Except in the passenger cabin for safety equipment inspection, ramp inspectors should not open any hatches, doors or panels themselves nor will they operate or interfere with any aircraft controls or equipment.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 1 AR.GEN.435(d) p. 98

comment *648* comment by: *DGAC*

Comment: "to be determined" : When ?

comment *649* comment by: *DGAC*

Comment: As far as ramp inspection on TCO are concerned, this AMC should be consistent with dispositions of the §3 of the Guidance Material published by the EASA on the SAFA ramp inspection procedures from July 2009.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - AMC 2 AR.GEN.435(d) p. 98

comment *648* comment by: *DGAC*

Comment: "to be determined" : When ?

comment *649* comment by: *DGAC*

Comment: As far as ramp inspection on TCO are concerned, this AMC should be consistent with dispositions of the §3 of the Guidance Material published by the EASA on the SAFA ramp inspection procedures from July 2009.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM AR.GEN.435(e) p. 98-99

comment *165* comment by: *Airbus S.A.S.*

GM AR.GEN.435(e) refers to AR.GEN.435(c).

Replace "(e)" with "(c)", in the title, to read:
"GM AR.GEN.435(c)"

comment *650* comment by: *DGAC*

Comment: This principle has been updated by a more relevant one, still in compliance with the Article 16 of the Chicago Convention, that is included into the GM for SAFA ramp inspections procedures published by the EASA in July 2009.

Proposal: Complete the proposed text by the following: "However, when an inspector discovers an issue which may have a major effect on flight safety or requires further investigation to clarify the issue, a delay may be justified"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 1 AR.GEN.440 p. 99

comment *651* comment by: *DGAC*

Comment: As far as ramp inspections on TCO are concerned, this AMC should be consistent with dispositions of the Appendix 1 of the Guidance Material published by the EASA on the SAFA ramp inspection procedures from July 2009.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart GEN - Section IV - GM 2 AR.GEN.440 p. 99

comment *651* comment by: *DGAC*

Comment: As far as ramp inspections on TCO are concerned, this AMC should be consistent with dispositions of the Appendix 1 of the Guidance Material published by the EASA on the SAFA ramp inspection procedures from July 2009.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart CC - AMC to AR.CC.100 Approval of organisations providing cabin crew training p. 100

comment *72* comment by: *CAA-NL*

Comment CAA-NL:
The CAA-NL states there is a need for requirements/guidance for the approval of representative training devices.
The CAA-NL states that the standards for approved training organisations should also be set by EASA.

comment *109* comment by: *FSC - CCOO*

Attachment #4

What is a reasonable balance? AMC or GM should provide an orientative scheme on a reasonable balance of different training methods as i.e. the **CIRCULAR DE 4 DE NOVIEMBRE DE 1996, SOBRE EL CURSO BASICO DE TRIPULANTES DE CABINA DE PASAJEROS** by the Spanish DGAC does by proposing a syllabus and the corresponding training hours.

comment *166* comment by: *ETF*

General comment: ETF Cabin Crew Committee (CCC) suggest to develop more detailed standards for cabin crew training organisations, devices and trainers. For reference please see the SFACT and DEDALE study of 1999 on emergency evacuations where they point to the fact that the training conditions for cabin crew are often done under conditions with low realism and relative motivation of the staff. They argue that this does not prepare the cabin crew well enough for emergency evacuations. They conclude that "Without a strong and clearly displayed will to better regard the important role of the cabin staff in matters of safety by related authorities and the management board of airlines, it seems difficult to improve the efficiency of the cabin crew members during emergency evacuations."

Comment: 1 b. Further AMC and Guidance Material should be developed to explain what the balance in training methods should look like.

New: **1 c. The cabin crew training syllabus**

Reason: Details such as a detailed cabin crew training syllabus should be basis for a cabin crew training organisation approval.

comment *236* comment by: *Jill Pelan*

General comment:The CFDT France & ETF suggest developing more detailed standards for cabin crew training organisations, devices and trainers. We refer to the SFACT and DEDALE study of 1999 on emergency evacuations where they point to the fact that the training conditions for cabin crew are often done under conditions with low realism and relative motivation of the staff. They argue that this does not prepare the cabin crew well enough for emergency evacuations. They conclude that "Without a strong and clearly displayed will to better regard the important role of the cabin staff in matters of safety by related authorities and the management board of airlines, it seems difficult to improve the efficiency of the cabin crew members during emergency evacuations."

Comment: b. Further AMC or Guidance Material should be developed to explain what training methods should look like. For example a cabin crew training syllabus.

The CFDT France does not wish to see Type Training or variant training in the initial training or initial Attestation -- Emergency equipment and location differs with each operator and their cabin configuration. Variant or type training must be left up to the operator employing the cabin crew AFTER certification and issuance of ATTESTATION. The Type training should be annexed to the ATTESTATION and annexes delivered by the authority with a seal.

comment *263* comment by: *AEA*

Relevant Text:
2. When assessing the representative training devices used by an organization the Competent Authority should take into account the following a) a representative training device may be used for training of cabin crew as an alternative to the use of the actual aircraft required equipment b) only those

items relevant to training and testing..
Comment:
This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)
Proposal:
Change 'Cabin Crew Training' to '**Cabin Crew Initial safety Training'** and amend the AMC to only reflect initial safety training related issues.

comment *304* comment by: *kapers Cabin Crew Union*

General comment: kapers suggest to develop more detailed standards for cabin crew training organisations, devices and trainers. We show to the SFACT and DEDALE study of 1999 on emergency evacuations where they point to the fact that the training conditions for cabin crew are often done under conditions with low realism and relative motivation of the staff. They argue that this does not prepare the cabin crew well enough for emergency evacuations. They conclude that "Without a strong and clearly displayed will to better regard the important role of the cabin staff in matters of safety by related authorities and the management board of airlines, it seems difficult to improve the efficiency of the cabin crew members during emergency evacuations."

Comment: 1 b. Further AMC and Guidance Material should be developed to explain what the balance in training methods should look like.

New: **1 c. The cabin crew training syllabus**

Reason: Details such as a detailed cabin crew training syllabus should be basis for a cabin crew training organisation approval.

comment *351* comment by: *KLM*

Relevant Text:
2. When assessing the representative trai ning devices used by an organizat ion the Competent Authority should take i nto accou nt the fol lowing a) a representative train ing device ma y be us ed for training of cabin cr ew as an alternative to the use of the actu al ai rcraft required equipment b) onl those items relevant to training and testing..
Comment:
This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)
Proposal:
Change 'Cabin Crew Training' to '**Cabin Crew Initial safety Training'** and amend the AMC to only reflect initial safety training related issues.

comment *395* comment by: *Deutsche Lufthansa AG*

Relevant Text:
2. When assessing the representative trai ning devices used by an organizat ion the Competent Authority should take i nto accou nt the fol lowing a) a representative train ing device ma y be us ed for training of cabin cr ew as an alternative to the use of the actu al ai rcraft required equipment b) onl those items relevant to training and testing..
Comment:

This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)
Proposal:
Change 'Cabin Crew Training' to '**Cabin Crew Initial safety Training'** and amend the AMC to only reflect initial safety training related issues.

comment *413* comment by: *AUSTRIAN Airlines*

Relevant Text:
2. When assessing the representative training devices used by an organization the Competent Authority should take into account the following a) a representative training device may be used for training of cabin crew as an alternative to the use of the actual aircraft required equipment b) onl those items relevant to training and testing..
Comment:
This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)
Proposal:
Change 'Cabin Crew Training' to '**Cabin Crew Initial safety Training'** and amend the AMC to only reflect initial safety training related issues.

comment *440* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
2. When assessing the representative training devices used by an organization the Competent Authority should take into account the following a) a representative training device may be used for training of cabin crew as an alternative to the use of the actual aircraft required equipment b) onl those items relevant to training and testing..
Comment:
This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)
Proposal:
Change 'Cabin Crew Training' to '**Cabin Crew Initial safety Training'** and amend the AMC to only reflect initial safety training related issues.

comment *474* comment by: *DGAC*

Proposal :
For the numbering of AMC & GM in Part AR-subpart CC and Part AR-subpart OPS-section IV, delete "to", to read "AMC ~~to~~ AR.CC.100", "AMC ~~to~~ AR.OPS.300", "AMC 2 ~~to~~ AR.OPS.300" and "GM ~~to~~ AR.OPS.300".

Justification :
The numbering has to be harmonized. The choice in the rest of the NPA seems to have been to delete "to"

comment *491* comment by: *cfdt france*

General comment:The CFDT France & ETF suggest developing more detailed standards for cabin crew training organisations, devices and trainers. We refer to the SFACT and DEDALE study of 1999 on emergency evacuations where

they point to the fact that the training conditions for cabin crew are often done under conditions with low realism and relative motivation of the staff. They argue that this does not prepare the cabin crew well enough for emergency evacuations. They conclude that "Without a strong and clearly displayed will to better regard the important role of the cabin staff in matters of safety by related authorities and the management board of airlines, it seems difficult to improve the efficiency of the cabin crew members during emergency evacuations."

Comment: b. Further AMC or Guidance Material should be developed to explain what training methods should look like. For example a cabin crew training syllabus.

The CFDT France does not wish to see Type Training or variant training in the initial training or initial Attestation -- Emergency equipment and location differs with each operator and their cabin configuration. Variant or type training must be left up to the operator employing the cabin crew AFTER certification and issuance of ATTESTATION. The Type training should be annexed to the ATTESTATION and annexes delivered by the authority with a seal.

comment *497* comment by: *AIR FRANCE*

Comment:
This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)
Proposal:
Change 'Cabin Crew Training' to 'Cabin Crew Initial safety Training' and amend the AMC to only reflect initial safety training related issues.

comment *676* comment by: *CUD*

What is a reasonable balance? AMC or GM should provide an orientative scheme on a reasonable balance of different training methods as i.e. the **CIRCULAR DE 4 DE NOVIEMBRE DE 1996, SOBRE EL CURSO BASICO DE TRIPULANTES DE CABINA DE PASAJEROS** by the Spanish DGAC does by proposing a syllabus and the corresponding training hours.

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comment *475* comment by: *DGAC*

Renumber this section « section III » instead of "section IV",as the related section in the IR is « section III – Specific Operations Approvals »,

D. VII. Draft Decision AMC and GM to Part-AR - Subpart OPS - Section IV - AMC to AR.OPS.300 Certification procedure - OPS p. 101

comment *321* comment by: *TAP Portugal*

Relevant Text:

2. When assessing the representative trai ning devices used by an organizat ion the Competent Authority should take i nto accou nt the fol lowing a) a representative train ing device ma y be us ed for training of cabin cr ew as an alternative to the use of the actu al ai rcraft required equipment b) onl those items relevant to training and testing..

Comment:
This should only refer to initial safety training. Therefore the reference to the actual aircraft and aircraft type related issues should be deleted (since the actual aircraft is related to type related training)

Proposal:
Change 'Cabin Crew Training' to '**Cabin Cre w Initial s afety Tr aining'** and amend the AMC to only reflect initial safety training related issues.

comment *476* comment by: *DGAC*

Proposal :
For the numbering of AMC & GM in Part AR-subpart CC and Part AR-subpart OPS-section IV, delete "to", to read "AMC ~~to~~ AR.CC.100", "AMC ~~to~~ AR.OPS.300", "AMC 2 ~~to~~ AR.OPS.300" and "GM ~~to~~ AR.OPS.300".

Justification :
The numbering has to be harmonized. The choice in the rest of the NPA seems to have been to delete "to"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart OPS - Section IV - AMC 2 to AR.OPS.300 Certification procedure - OPS p. 101-103

comment *467* comment by: *ERA*

European Regions Airline Association Comment

In paragraph 2.h.what is meant by a 'Verification/Monitoring' programme? Is this what Eurocontrol currently does now or are we talking about something different? Please clarify.

comment *477* comment by: *DGAC*

Proposal :
For the numbering of AMC & GM in Part AR-subpart CC and Part AR-subpart OPS-section IV, delete "to", to read "AMC ~~to~~ AR.CC.100", "AMC ~~to~~ AR.OPS.300", "AMC 2 ~~to~~ AR.OPS.300" and "GM ~~to~~ AR.OPS.300".

Justification :
The numbering has to be harmonized. The choice in the rest of the NPA seems to have been to delete "to"

comment *501* comment by: *ANE (Air Nostrum) OPS QM*

In paragraph 2.h.what is meant by a 'Verification/Monitoring' programme? Is this what Eurocontrol currently does now or are we talking about something different? Please clarify.

D. VII. Draft Decision AMC and GM to Part-AR - Subpart OPS - Section IV - GM to AR.OPS.300 Minimum equipment list p. 103

comment *27* comment by: *ECA - European Cockpit Association*

Comment on GM to AR.OPS.300: change as follows:

The competent authority should verify that the operator does not use the extension of rectification intervals as a means to reduce or eliminate the need to rectify MEL defects in accordance with the established category limit. RIEs will only be considered valid and justifiable when events beyond the operator's control have precluded rectification. **In these cases, the operator must apply for an authorization of the Authority to implement a RIE.**

Justification:
Must describe examples of events beyond the operator´s control.

comment *53* comment by: *ECA - European Cockpit Association*

Comment on GM AR.OPS.300:
ECA requests this provision to be transferred to AMC.

comment *237* comment by: *Austro Control GmbH*

Guidance for initial, routine and indirect approval scope expansion audits by authority is requested and **AMC/GM to AR.OPS.305 should be developed.**
If indirect MEL approval is allowed, it would be good to document it on the AOC, as then the evidence is available during a ramp check that the operator has this approval.

comment *478* comment by: *DGAC*

Proposal :
For the numbering of AMC & GM in Part AR-subpart CC and Part AR-subpart OPS-section IV, delete "to", to read "AMC ~~to~~ AR.CC.100", "AMC ~~to~~ AR.OPS.300", "AMC 2 ~~to~~ AR.OPS.300" and "GM ~~to~~ AR.OPS.300".

Justification :
The numbering has to be harmonized. The choice in the rest of the NPA seems to have been to delete "to"

D. VII. Draft Decision AMC and GM to Part-AR - Subpart OPS - Section IV - AMC AR.OPS.310 Certification Specifications (CS) and individual flight time specification schemes p. 103

comment *67* comment by: *Ryanair*

Proposed addition to AMC.AR.OPS.310

Comment

This AMC takes no account of airlines which have made substantial/significant investment in scientific and technical evaluation of FTL Schemes. Alternative monitoring processes should be defined for airlines that have chosen to carry out scientific analysis rather than implement an FRMS.

Proposal

(a) The competent authority shall monitor the appropriateness of the scientific study in the context of:

(i) Proposed changes to the operators approved area of operation (as specified on the Air Operators Certificate),

(ii) Introduction of a new aircraft type,

(iii) Proposed change to the approved FTL specification scheme.

Where the competent authority formally assesses the changes made to (i), (ii) or (iii) above as warranting a review of the scientific study they shall notify the operator of this requirement.

comment *170* comment by: *ECA - European Cockpit Association*

Comment on AMC AR.OPS.310: add the text:

The competent authority should monitor the implementation of the corresponding FRMS, ensure the continuing adequacy of the FRMS, and periodically audit the FRMS to evaluate its overall effectiveness in maintaining the required safety performance**. For individual flight time specification schemes, the first audit should be carried out before the scheme is applied to ensure the FRMS actually works, meets the basic requirements of GM OR. OPS.325.FTL and contains the essential components as provided by GM OR.OPS.025.FTL. The second audit should be done after the scheme has been applied for 12 months, covering this entire 12 months period**. The competent authority should take into account the results of relevant research**, current scientific principles and knowledge,** past experience in administering an FRMS, cultural issues, and the nature/scope of intended operations. Where the review of data from audits or periodic reports shows any adverse performance of safety, the competent authority should, **without delay,** collaborate with the operator to develop processes or changes in the
operator's FRMS to mitigate any safety risks and should amend or revoke any approval of an FRMS as appropriate. **The competent authority should ensure that the Fatigue management steering group (FMSG) is involved in this collaboration.**

Justification:
FRMS are an entirely new concept, which have been applied only by very few operators and overseen by very few NAAs. Experience with and understanding of FRMS is therefore very limited, both at operator level and NAA level. Recent examples of FTL-related derogations from Subpart Q have demonstrated this problem. The monitoring and auditing is therefore a crucial element, should be a legally binding requirement, and - in the case of individual schemes - must be accompanied with requirements on the timing of these audits ("periodically audit" is not sufficient). Crucially, before an individual scheme is applied, the FRMS must be in place and be working properly. Also, to detect potential safety risks quickly, a second audit must be carried out after a full cycle of seasons, i.e. 12 months, and there must be an obligation for the NAA to set up "without delay" a cooperative process with the operator to tackle any safety risks.

As the involvement of all relevant stakeholders incl. flight crew representatives is a good way to identify any safety risks and to develop appropriate mitigating

measures, the NAA should ensure that the FMSG is closely involved in this cooperative process.

This AMC's provisions on the need to monitor and audit FRMS should be part of the Implementing Rules (AR.OPS.310, para. a, 1).

comment *470* ☐ comment by: *BALPA*

We are concerned that the pan-European NAA's will not have the resource to administer and oversee their roles in this area. We feel even the more established NAA's will find it extremely difficult to control such requirements. The workload will be huge.
We need assurances that hasty reactions to Certification Specification, and individual flight time specification schemes, won't be made in order to achieve the timescales set.

comment *479* comment by: *DGAC*

For consistency in the lay-out, the text of the title "Certification Specifications (CS) and individual flight time specification schemes" has to be in **bold format**

D. VII. Draft Decision AMC and GM to Part-AR - Subpart OPS - Section IV - GM AR.OPS.310 Certification Specifications (CS) and individual flight time specification schemes p. 103

comment *68* comment by: *Ryanair*

GM.AR.OPS.310

Comment
There is no basis in safety for the guidance material to include a possibility for a competent authority to consult with relevant stakeholder groups such as crew member representatives or scheduling managers etc. This is an industrial relations matter.

Proposal

When the competent authority is unable to reach a conclusion based on the documentation provided it should audit the applicant.

comment *171* comment by: *ECA - European Cockpit Association*

Comment on GM AR.OPS.310:

If the competent authority is unable to reach a conclusion based on the documentation
provided, it should consult with the relevant stakeholder groups, such as crew member representatives, scheduling managers, etc., and/or audit the applicant.

Justification:
This provision is unacceptable, both the content and its legal standing as GM. Stakeholder consultation can not be allowed to be optional, and be left to situations where the NAAs in doubt. Instead, stakeholder consultation must be

a legally binding requirement (i.e. an Implementing Rule) as currenttly in EU-OPS, SubpartQ 1.1090, 5.1.1. This GM is to be deleted and replaced by appropriate Implementing Rules.
See also comments on AR.OPS.310 (para. a, 1) and OR.OPS.330.FTL (c) (6).

comment *471* comment by: *BALPA*

"..should consult.." needs adjusting to read "..must consult.."

comment *480* comment by: *DGAC*

For consistency in the lay-out, the text of the title "Certification Specifications (CS) and individual flight time specification schemes" has to be in **bold format**

Appendix B

Attachments to comments on NPA 2009-02e

2009 06 23-24_Bodo_Summary Report_FINAL.pdf
Attachment #1 to comment #526

CAA-NL proposal SAFA SANA Ramp Inspection Form.pdf
Attachment #2 to comment #99

1482	B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course (s) - Air Operator Certificate	27	**Appendix 1 Air Operator certificate** On the air operator certificate, it is mentioned an expiry date, which is not consistent with the principle set out in Part OR that all certificates have an unlimited duration.
892	B. Draft Rules - I. Draft Opinion Part-AR - Appendix I - Training Course (s) - Air Operator Certificate - Operations Specifications	28 - 29	**Appendix I to annex I Part AR** **Operations specifications** **The operations specifications document doesn't provide space for the registration of concerned aircraft ; for example : all aircraft have a certain type in an airline may not be ETOPS authorised.** **It may also pose problems following changes in the fleet list.**

Attachment #3 to comment #472

circular dgac curso basico tcp 961104.pdf
Attachment #4 to comment #109