COMMENT RESPONSE DOCUMENT (CRD)
TO NOTICE OF PROPOSED AMENDMENT (NPA) 2009-01

for a draft Opinion of the European Aviation Safety Agency for a Commission Regulation amending Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations

and

for a draft Decision amending Decision No. 2003/1/RM of the Executive Director of the European Aviation Safety Agency of 17 October 2003 on acceptable means of compliance and guidance material for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ("AMC and GM to Part 21")

""Operational Suitability Certificate" and " Safety Directives""

Comments received on NPA 2009-01

CRD table of comments received on NPA 2009-01

(General Comments)	-

comment	*1* comment by: *CAA Belgium* ddd
response	Not a relevant comment.

comment	*2* comment by: *CAA Belgium* qq
response	Not a relevant comment.

comment	*30* comment by: *CAA of the Republic of Macedonia* In accordance with the provisions of Article 52(2) of Regulation (EC) No. 216/2008, after we review the content of the above mentioned Notice of Proposed Amendments (NPA) 2009-01 and 2009-02, we would like to inform you that the content of the above mentioned Notice of Proposed Amendments (NPA) 2009-01 and 2009-02 is acceptable for the CAA of the Republic of Macedonia and we do not have any comments.

comment	*31* comment by: *CAA CZ* The Civil Aviation Authority of the Czech Republic does not have any comments to the NPA in question (including the draft opinion) and supports all proposals.

comment	*50* comment by: *HB-Flugtechnik GmbH* Wir betreuen in erster Linie LFZ der ELA1-Klasse (TC-Holder HB-Serien) und können uns nur vorstellen dass das Operational Suitability Certificate nur für grössere LF und im kommerziellen Bereich zutreffen sollte. Die kleinen LFZ sind ohnehin schon überreguliert, die Ressourcen der kleinen Firmen sind in diesem Bereich zur Gänze ausgeschöpft. Die bisherigen Dokumentationen wie Flughandbuch , Flug- und Betriebshandbücher , nationale LTH´s etc. , die Anforderungen an die Piloten durch die gültigen Lizenzen sollte für diese LFz-Klasse absolut ausreichend sein.

comment	*61* comment by: *EUROCOPTER* Eurocopter is, on the principle, in favour of the OSC Regulation, provided some guarantees are met (defined here below). The reasons are: - it improves flight safety through uniformity within the EU

- it ensures the same level playing field

- it is the continuation of the current JOEB process (except for the maintenance certifying staff training minimum syllabus).

However, concerning the inclusion of the MCS type rating training into the OSC, Eurocopter is wondering whether this inclusion will really provide a substantial safety benefit since it addresses training requirements at certifying staff level and not at maintenance technicians level. In addition those maintenance technicians have currently no requirements for any qualification on the aircraft type but only related to specific disciplines. Consequently Eurocopter consider that this review of the current regulations should be the opportunity to improve the overall maintenance personnel qualification requirements. Therefore Eurocopter is questioning the utility of maintaining what regards maintenance certifying staff in the current OSC concept.

Our position in favour of the OSC is also conditioned by:

- enough transition is ensured to the stakeholders (since the OSC concept is linked to the new Parts OPS, OR, AR in preparation, the objective to have this whole package in force in April 2012 needs to be reconsidered).

- current operations with existing aircraft approved by NAAs are grandfathered

- the JOEB reports are grandfathered

- the OSC concept does not apply to old aircraft types, not anymore in production (Type Certificate issuance date before a TBD date)

- improvement to the project is made through adapted comments on the NPA and on the future associated Certification Specifications that will be developed.

- a second consultation of stake holders is made in the future after the availability of the missing Certification Specifications related to the OSC elements and of some missing AMC/GMs as the GM for the classification major/minor of changes to training syllabi.

comment *64* comment by: *Cirrus Design Corporation*

Attachment #1

Cirrus Design comments on entire document are within the attached letter.

comment *78* comment by: *AEA*

Relevant Text:
Entire NPA 2009-1

Comment:
The whole NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency.

There is a possibility that the training syllabus of the TC-holder is different from the one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence the complete type rating

training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices.

Training programmes need - for safety and efficiency reasons – be adaptable to individual operations and organisations . Therefore sufficient flexibility should be kept to allow for different (type) training programmes from those developed by the TC holders, without imposing complicated processes and an administrative burden, which would also require EASA to hire a lot of administrative staff to deal with unnecessary paperwork.

The aim of the EU legislator was to have a simple transfer of the JOEB into European law, not to create an administrative monster

Proposal:
Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and the AEA therefore urges EASA not to proceed with this flawed rulemaking. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *79* comment by: *AEA*

Relevant Text:
Entire NPA 2009-1
Comment:
From the NPA it is unclear which particular processes will be applied in case of changes to training programmes. Training programmes need to be linked to the operations concerned and should therefore not be subject to complicated dual approval procedures involving EASA (for type related training) and the Competent Authority (for the non-type related part). Such a regulatory environment will result in a huge administrative burden requiring EASA to hire a lot of staff. EASA will never have the resources to deal with this task. The possible administrative delays at EASA could disrupt operations for no safety benefit. The minimum syllabus develop by the TC holder should be considered as an acceptable means of compliance but should not be referred to in hard-law, as suggested by EASA. This is essential in order to keep the necessary flexibility for airlines or MROs to develop their own company-tailored type training programmes. This would be in line with the intentions of the EU legislator to have a simple transfer of the JOEB (JOEB reports are today only guidance – not mandatory law as un-flexible and rigid requirements as suggested by EASA!)

Proposal:
Reconsider the entire NPA. EASA should not get involved in approval of changes to an individual operator's or MRO's type related training programme, which should remain under control of the Competent Authority. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraphs to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *80* comment by: *AEA*

Relevant Text:
complete NPA 2009-01

Comment:
We believe that through this NPA, EASA is moving away from international harmonization and at least the spirit of the ICAO Chicago Convention.

European operators will have to comply with OSC, Non EU operators will not be supposed to comply even if they are transporting European passenger and flying within the European airspace. The additional bureaucracy related to the OSC is unacceptable to AEA taking into account the lack of safety justification.

Proposal:

Reconsider the entire NPA; Our alternative proposal to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA would meet EASA's standardization objectives without burdening the industry with the rigid requirements of NPA 2009-1,. In addition, the ops data package could even be used by non EU operators

comment *81* comment by: *AEA*

Relevant Text:
General comment on full NPA 2009-01
Comment:
We believe there is no legal basis to have a rigid reference to the O-SC in the implementing rules applicable to operators, MROs and training organizations.

The EASA proposal to establish a compulsory Operational

Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations.

The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which cannot be justified.

The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility is provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a huge administrative burden). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB one and at least NPAs should be published before adopting an OSC or upgrading it.

Proposal:

Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly . The AEA proposal to delete the OSC and replace it with the OEB approved Ops data package as an acceptable means of compliance for the approval of the training would ensure EASA' standardization objective while retaining the flexibility for alternative means of compliance with meet the same safety objectives.. If this AEA proposal is accepted then the need for a consultation process would become less crucial.

comment *82* comment by: *AEA*

Relevant Text:
General comment on NPA 2009-01
Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available.
Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment *83* comment by: *AEA*

Section
General Comment on Catch Up Process
Relevant Text:
NPA 2009-1 (Catch Up Processes)
The OSC may be established either by :
- The aircraft manufacturer based on JOEB

recommendations if existing, or

- An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing.

Comment:

The AEA questions the added value to require any catch up. Grandfathering rights should be considered for all existing aircraft types including all modifications to existing aircraft types.

The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This is unacceptable to AEA since it raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer!

This approach does not seems realistic. It is also not in line with the basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC.

Proposal:

Reconsider the catch up process.

We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval..

In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.

comment *84* comment by: *AEA*

Section:

NPA 2009-01 (General Comment on Catch Up Process)

Relevant Text:

NPA 2009-01

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. If the OPS regulation is not realigned with the existing practices than it will be essential that EASA introduces a mandatory catch up process for TC holders to update the

preamble of their MMEL ref RIE.

Proposal:

The best way forward is to amend the existing EU-OPS regulation (to allow an extension of the Rectification Intervals even if there is no statement in the MMEL) and to realign it with JAR-OPS and the practices used by all worldwide safety Authorities. If the current OPS regulations are not changed than there is a need to introduce a mandatory catch up for TC holders to update all their MMEL to include a statement on Rectification Interval Extensions in the preamble.

comment *85* comment by: *AEA*

Relevant Text:
General Comment NPA 2009-01

Comment:
The AEA preferred option is for the OSC concept to be deleted and to be replaced by an approved training data package to be used as acceptable means of compliance. However, iIf an OSC becomes a mandatory requirement for EU airlines to put the aircraft into operation, than it should become an integral part of the TC and no EASA TC should be issued before the OSC is available. The EASA decision not to link the OSC to the TC is unacceptable to AEA since it will burden EU airlines in case the relevant information is not available in time. In addition, it is against article 5.5.e of the basic regulation which refers to the OSC as a condition to issue an EASA TC. This NPA is therefore against EU law. It has been written to take into account the requirements of some TC holders with no due consideration to the impact on the EU airline industry.

Proposal:

If it is decided to make the OSC mandatory for EU airlines (which is not the AEA's preferred option) than there is a need to link the OSC to the TC and there should be no EASA TC issued before the OSC is available.

comment *122* comment by: *AEA*

Relevant Text:

Full NPA 2009-02

Comment:

The (S)OSC concept is only applicable to EASA operators. As mentioned in the NPA, there is a possibility that the TC-holder can be held liable. To cover this liability, the TC holder will raise a fee that has to be paid by the operator. As a consequence, the price of aircraft for EASA operators will be higher in comparison with non-EASA operators. Therefore no level playing field.

comment *160* comment by: *UK CAA*

The UK CAA's General Comments on the NPA 2009-01

Introduction

1. The UK Civil Aviation Authority welcomes the opportunity to comment on the European Aviation Safety Agency's Notice of Proposed Amendment (NPA) No 2009-01.

2. CAA recognises the considerable effort that the Agency has made in producing these proposals. The introductory commentary below draws attention to some of the proposals to which the CAA gives particular welcome, but also some where the impacts do not seem to have been adequately assessed. CAA notes, in particular, that further NPAs will be produced covering the Certification Specifications and that the Regulatory Impact Assessment is incomplete because no assessment has been made of the likely fees and charges regime for the Operational Suitability Certificate. The CAA suggests that a further consultation on the concepts may be necessary when all of the information is available.

Scope

3. The CAA notes that the proposals appear to cover all EASA aircraft types in all kinds of operations, including private operation. The CAA is concerned that currently designers, manufacturers and users of non-complex motor powered aircraft, balloons and gliders and so on may have very little appreciation of the potential impact of these proposals on their activities. The potential costs on these sectors of industry does not seem to be fully examined nor the safety benefits. The Agency should consider responses from this sector carefully to assure itself that they sufficiently represent the full range of affected stakeholders.

Legal basis

4. CAA notes that Article 5(5)(e) of the Basic EASA Regulation enables an Implementing Rule to set out conditions for issuing type certificates, restricted type certificates, approval of changes to type certificates, individual certificates of airworthiness, restricted certificates of airworthiness, permits to fly and certificates for products, parts or appliances. This does not specifically enable the issue of something called an operational suitability certificate. UK CAA would welcome the Agency's legal view on this.

5. The proposed amendment to Article 1 of 1702/2003 defines an operational suitability certificate as one containing the approval of information necessary for the safe operation of the aircraft type as defined in paragraph 5(e)(iv), (v) and (vi) of Article 5 of the Basic Regulation. These cover the minimum syllabus of maintenance certifying staff, type rating training, the minimum syllabus of pilot type rating and qualification of associated simulators and the Master Minimum Equipment List. These provisions are then replicated in new draft 21A.62 describing the scope of the operational suitability certificate. But there is then added a fourth element, the determination of type or variant for cabin crew and type specific data for cabin crew training. CAA considers that the legal basis for this needs to be referenced.

Processes

6. CAA recognises that the intent is to build on the currently voluntary

Joint Operations Evaluation Board (JOEB) processes to ensure standardisation across Europe. CAA notes that Design Organisations will be faced with the task of creating an OSC covering disciplines outside their core expertise and considers it vital that, as in the JOEB process, the full engagement of operational expertise is ensured in the initial development of OSCs. Further clarity on how that will be achieved is desirable. The CAA also understands that NAAs will continue to have sufficient involvement and flexibility in the approval of individual training programmes.

Safety Directives

7. In general CAA welcomes the introduction of Safety Directives, which it considers to be an effective method of enforcing safety improvements. However, greater clarity is needed as to how the Safety Directives described in this NPA relate both to the Agency's powers in Article 22.1 and to Member States' powers in Article 14.1 of the Basic Regulation. The former empowers the Agency to react to a problem affecting the safety of air operations by determining corrective action and by disseminating related information; the latter empowers Member States to react to safety problems, urgent operational circumstances or operational needs of a limited duration. It is vital that there is no confusion on this matter.

Transitional arrangements

8. The development of effective transitional arrangements will be particularly challenging, as there is not an existing requirement for any such certification or procedure. Moreover for many EASA aircraft the JOEB process has not been used at all. CAA is ready to assist the Agency in drawing up the transitional arrangements as requested.

comment *182* comment by: *UK CAA*

Page No: N/A
Paragraph No: N/A

Comment: CAA recognises that the intent is to build on the currently voluntary Joint Operations Evaluation Board (JOEB) processes to ensure standardisation across Europe. CAA notes that Design Organisations will be faced with the task of creating an OSC covering disciplines outside their core expertise and considers it vital that, as in the JOEB process, the full engagement of operational expertise is ensured in the initial development of OSCs. Further clarity on how that will be achieved is desirable. The CAA also understands that NAAs will continue to have sufficient involvement and flexibility in the approval of individual training programmes.

It is not explained in the NPA how the Agency will undertake investigations for the issue of OSC's. Currently, MMEL's, pilot training requirements, cabin crew training requirements, maintenance training requirements, and simulator evaluations are carried out as entirely independent activities. Under the proposals these activities will all have to be completed in a co-ordinated manner so that an OSC may be issued. How is EASA going to achieve this? Will there be a "PCM" and Team for the OSC?

Justification: Clarification

comment 188 comment by: Icelandair

Relevant Text:
Entire NPA 2009-1

Comment:
The whole NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency.

There is a possibility that the training syllabus of the TC-holder is different from the one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence the complete type rating training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices.

Training programmes need - for safety and efficiency reasons – be adaptable to individual operations and organisations . Therefore sufficient flexibility should be kept to allow for different (type) training programmes from those developed by the TC holders, without imposing complicated processes and an administrative burden, which would also require EASA to hire a lot of administrative staff to deal with unnecessary paperwork.

The aim of the EU legislator was to have a simple transfer of the JOEB into European law, not to create an administrative monster

Proposal:
Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and the AEA therefore urges EASA not to proceed with this flawed rulemaking. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment 189 comment by: Icelandair

Comment:
We believe that through this NPA, EASA is moving away from international harmonization and at least the spirit of the ICAO Chicago Convention.

European operators will have to comply with OSC, Non EU operators will not be supposed to comply even if they are transporting European passenger and

flying within the European airspace. The additional bureaucracy related to the OSC is unacceptable taking into account the lack of safety justification.

Proposal:
Reconsider the entire NPA; Our alternative proposal to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA would meet EASA's standardization objectives without burdening the industry with the rigid requirements of NPA 2009-1,. In addition, the ops data package could even be used by non EU operators

comment *190* comment by: *Icelandair*

General comment on full NPA 2009-01
Comment:
We believe there is no legal basis to have a rigid reference to the O-SC in the implementing rules applicable to operators, MROs and training organizations.

The EASA proposal to establish a compulsory Operational Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations.

The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which cannot be justified.

The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility is provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a huge administrative burden). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB one and at least NPAs should be published before adopting an OSC or upgrading it.
Proposal:
Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly . The AEA proposal to delete the OSC and replace it with the OEB approved Ops data package as an acceptable means of compliance for the approval of the training would ensure EASA' standardization objective while retaining the flexibility for alternative means of compliance with meet the same safety objectives.. If this AEA proposal is accepted then the need for a consultation process would become less crucial.

comment *191* comment by: *Icelandair*

General comment on NPA 2009-01
Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available.

Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment *192* comment by: *Icelandair*

General Comment on Catch Up Process
Relevant Text:
NPA 2009-1 (Catch Up Processes)
The OSC may be established either by :
•The aircraft manufacturer based on JOEB recommendations if existing, or
•An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing.
Comment:
The AEA questions the added value to require any catch up. Grandfathering rights should be considered for all existing aircraft types including all modifications to existing aircraft types.

The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This is unacceptable to AEA since it raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer!

This approach does not seems realistic. It is also not in line with the basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC.

Proposal:
Reconsider the catch up process. We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval..

In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.

comment *193* comment by: *Icelandair*

NPA 2009-01

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. If the OPS regulation is not

realigned with the existing practices than it will be essential that EASA introduces a mandatory catch up process for TC holders to update the preamble of their MMEL ref RIE.

Proposal:
The best way forward is to amend the existing EU-OPS regulation (to allow an extension of the Rectification Intervals even if there is no statement in the MMEL) and to realign it with JAR-OPS and the practices used by all worldwide safety Authorities. If the current OPS regulations are not changed than there is a need to introduce a mandatory catch up for TC holders to update all their MMEL to include a statement on Rectification Interval Extensions in the preamble.

comment *194* comment by: *Icelandair*

General Comment NPA 2009-01

Comment:
The preferred option is for the OSC concept to be deleted and to be replaced by an approved training data package to be used as acceptable means of compliance. However, iIf an OSC becomes a mandatory requirement for EU airlines to put the aircraft into operation, than it should become an integral part of the TC and no EASA TC should be issued before the OSC is available. The EASA decision not to link the OSC to the TC is unacceptable since it will burden EU airlines in case the relevant information is not available in time. In addition, it is against article 5.5.e of the basic regulation which refers to the OSC as a condition to issue an EASA TC. This NPA is therefore against EU law. It has been written to take into account the requirements of some TC holders with no due consideration to the impact on the EU airline industry.

Proposal:
If it is decided to make the OSC mandatory for EU airlines than there is a need to link the OSC to the TC and there should be no EASA TC issued before the OSC is available.

comment *195* comment by: *Icelandair*

Relevant Text:
Full NPA 2009-02

Comment:
The (S)OSC concept is only applicable to EASA operators. As mentioned in the NPA, there is a possibility that the TC-holder can be held liable. To cover this liability, the TC holder will raise a fee that has to be paid by the operator. As a consequence, the price of aircraft for EASA operators will be higher in comparison with non-EASA operators. Therefore no level playing field.

comment *238* comment by: *Association of Asia Pacific Airlines*

Relevant rext: Entire NPA 2009-1

THe AAPA recognises that the competencies teh

comment 239 comment by: *Mission of the Republic of Albania to the EU*

NOTE VERBALE

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

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

comment 240 comment by: *KLM EASA DOA 21J.012*

Relevant Text:
Entire NPA 2009-1

Comment:
The whole NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency.

There is a possibility that the training syllabus of the TC-holder is different from the one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence the complete type rating training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices.

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Proposal:
Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and the AEA therefore urges EASA not to proceed with this flawed rulemaking. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to

make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *241* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
Entire NPA 2009-1
Comment:
From the NPA it is unclear which particular processes will be applied in case of changes to training programmes. Training programmes need to be linked to the operations concerned and should therefore not be subject to complicated dual approval procedures involving EASA (for type related training) and the Competent Authority (for the non-type related part). Such a regulatory environment will result in a huge administrative burden requiring EASA to hire a lot of staff. EASA will never have the resources to deal with this task. The possible administrative delays at EASA could disrupt operations for no safety benefit. The minimum syllabus develop by the TC holder should be considered as an acceptable means of compliance but should not be referred to in hard-law, as suggested by EASA. This is essential in order to keep the necessary flexibility for airlines or MROs to develop their own company-tailored type training programmes. This would be in line with the intentions of the EU legislator to have a simple transfer of the JOEB (JOEB reports are today only guidance – not mandatory law as un-flexible and rigid requirements as suggested by EASA!)
Proposal:
Reconsider the entire NPA. EASA should not get involved in approval of changes to an individual operator's or MRO's type related training programme, which should remain under control of the Competent Authority. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraphs to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *242* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
complete NPA 2009-01

Comment:

We believe that through this NPA, EASA is moving away from international harmonization and at least the spirit of the ICAO Chicago Convention.

European operators will have to comply with OSC, Non EU operators will not be supposed to comply even if they are transporting European passenger and flying within the European airspace. The additional bureaucracy related to the OSC is unacceptable to AEA taking into account the lack of safety justification.

Proposal:
Reconsider the entire NPA; Our alternative proposal to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA would meet EASA's standardization objectives without burdening the industry with the rigid requirements of NPA 2009-1,. In addition, the ops data package could even be used by non EU operators

comment *243* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
General comment on full NPA 2009-01
Comment:
We believe there is no legal basis to have a rigid reference to the O-SC in the implementing rules applicable to operators, MROs and training organizations.

The EASA proposal to establish a compulsory Operational Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations.

The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which cannot be justified.

The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility is provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a huge administrative burden). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB one and at least NPAs should be published before adopting an OSC or upgrading it.
Proposal:
Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly . The AEA proposal to delete the OSC and replace it with the OEB approved Ops data package as an acceptable means of compliance for the approval of the training would ensure EASA' standardization objective while retaining the flexibility for alternative means of compliance with meet the same safety objectives.. If this AEA proposal is accepted then the need for a consultation process would become less crucial.

comment *244* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
General comment on NPA 2009-01

Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available.
Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment *245* comment by: *KLM EASA DOA 21J.012*

Section
General Comment on Catch Up Process
Relevant Text:
NPA 2009-1 (Catch Up Processes)
The OSC may be established either by :
•The aircraft manufacturer based on JOEB recommendations if existing, or
•An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing.
Comment:
The AEA questions the added value to require any catch up. Grandfathering rights should be considered for all existing aircraft types including all modifications to existing aircraft types.

The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This is unacceptable to AEA since it raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer!

This approach does not seems realistic. It is also not in line with the basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC.

Proposal:
Reconsider the catch up process. We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval..

In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.

comment *246* comment by: *KLM EASA DOA 21J.012*

Section:
NPA 2009-01 (General Comment on Catch Up Process)

Relevant Text:

NPA 2009-01

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. If the OPS regulation is not realigned with the existing practices than it will be essential that EASA introduces a mandatory catch up process for TC holders to update the preamble of their MMEL ref RIE.

Proposal:
The best way forward is to amend the existing EU-OPS regulation (to allow an extension of the Rectification Intervals even if there is no statement in the MMEL) and to realign it with JAR-OPS and the practices used by all worldwide safety Authorities. If the current OPS regulations are not changed than there is a need to introduce a mandatory catch up for TC holders to update all their MMEL to include a statement on Rectification Interval Extensions in the preamble.

comment *247* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
General Comment NPA 2009-01

Comment:
The AEA preferred option is for the OSC concept to be deleted and to be replaced by an approved training data package to be used as acceptable means of compliance. However, if an OSC becomes a mandatory requirement for EU airlines to put the aircraft into operation, than it should become an integral part of the TC and no EASA TC should be issued before the OSC is available. The EASA decision not to link the OSC to the TC is unacceptable to AEA since it will burden EU airlines in case the relevant information is not available in time. In addition, it is against article 5.5.e of the basic regulation which refers to the OSC as a condition to issue an EASA TC. This NPA is therefore against EU law. It has been written to take into account the requirements of some TC holders with no due consideration to the impact on the EU airline industry.

Proposal:
If it is decided to make the OSC mandatory for EU airlines (which is not the AEA's preferred option) than there is a need to link the OSC to the TC and there should be no EASA TC issued before the OSC is available.

comment *248* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
Full NPA 2009-02

Comment:
The (S)OSC concept is only applicable to EASA operators. As mentioned in the NPA, there is a possibility that the TC-holder can be held liable. To cover this liability, the TC holder will raise a fee that has to be paid by the operator. As a consequence, the price of aircraft for EASA operators will be higher in comparison with non-EASA operators. Therefore no level playing field.

comment *252* comment by: *NHAF Technical committee*

First of all NHF (Norwegian Helicopter Employees Union) thinks that the OSC process and the SD proposed in NPA 2009-01 will be an important lift to aviation safety and European aviation standardisation. The implementation of SD will also increase the quality through mandatory reporting system through the TC and STC holder. If the transition measures are handled correctly, we will also achieve a more equal level playing field within a reasonable time.

comment *254* comment by: *Airbus*

-**General comments: Entire NPA**

Before providing comments to this NPA 2009-01, it is important to recall the very active part that Airbus has taken so as to push for a development for what was known as of the JOEB process, as actions were launched as early as 1991 through its 2nd training symposium, and later on in a conference inviting JAA and ECAC. It is only in the late 1990's that finally JAA responded favorably to the request of manufacturers who all requested that a joint FAA/JAA process be set up, to avoid the duplication of activities, the FAA FSB evaluation process having been established for long. Following extensive coordination between FAA, JAA, TCCA and OEMs over a 4-year period the JOEB came alive, with the so called Common Procedure Document, and Airbus did volunteer so as to test the new procedure at the occasion of its A340-500/600 and A318 projects respectively in 2001 and 2003.

Consequently, Airbus would like to reiterate to EASA its commitment for a harmonized joint process between EASA and FAA and would recommend to reconsider the notion of OSC as a change to TC as it creates many difficulties, and inhibits the will of OEMs to be proactive in "generic operational evaluation" for the benefit of safe entry into service due to the legal constraints imposed by this new legal framework.

Would there be a possibility for a flexible process as was the JOEB, not linked to type Certification, then most of the difficulties highlighted through Airbus comments would disappear.

Comment 1: General

Contrary to what is presented as a transfer of JOEB process into the European law, the NPA goes beyond it and, by the new legal aspects imposed onto the TC holder, the process cannot be simply transferred, as sharing of

responsibilities between TC holder and training organisation MUST be very clear. In addition the proposed scope of the OSC is wider than that of the JOEB, because of the minimum syllabus for maintenance certifying staff, and this is a substantial change with no clear justification.

Comment 2: Maintenance

In addition, the notion of minimum syllabus for maintenance certifying staff has been added into the Basic Regulation, without real consultation with TC holders. This was NOT included in the JOEB process. Part 66 is rather recent compared to (JAR) FCL, and we recognize the need for better uniformity in approval of training programs for maintenance certifying tasks. However this is the domain of training organisation (NOT TC Holders). Standardization should be ensured by EASA standardization inspections for competent authorities, instead of imposing a complex process to TC holders, who are NOT training organisations.

Comment 3: Cabin Crew

There is no mention of cabin crew matters in the Basic Regulation, Article 5, paragraph 5(e), BUT there has been an EASA interpretation so as to mandate cabin crew matters as part of the OSC, to make it similar to the JOEB process. One major difference was that the JOEB process was voluntary and that there was NO requirement imposing any JOEB demonstration for cabin crew issues, unless a TC holder would wish to do so. Consequently Cabin crew issues should NOT be part of OSC.

Comment 4:Incomplete text

This NPA presents the concept of OSC, BUT all associated CS and AMC/GM for each of the OSC elements are missing. This key material should be made available at the same time as the OSC NPA for allowing stakeholders to provide constructive comments. There are many ways to interpret words like for example "minimum syllabus". Unless the detailed definition and complete picture from the CS is provided, stakeholders may misinterpret the intention and comments may be totally out of scope.

Comment 5:

Airbus has always been very supportive of a harmonized FAA/JAA Operational Evaluation process. However Airbus would like to stress that the JOEB process was a voluntary process for providing relevant guidance material to operators and NAAs. Changing the status from voluntary/recommendations to mandatory/compulsory has legal implications that a TC Holder will have to carefully consider. Airbus is still supportive of a process, even if mandatory, provided that the issues to be addressed are carefully identified in respecting the legal constraints of a TC Holder versus the ones of a training organisations that may NOT necessarily belong to the same company as the TC Holder. Moreover, the scope of this compulsory process is wider than the one of the JOEB. In addition Airbus has always claimed that the Basic Regulation was written in a way inducing many difficulties of interpretation.

Proposals:

1) Based on all time spent to find adequate interpretation of what can be achieved with the way the basic rule is written, Airbus recommends that § 5(e) in Article 5 of the Basic Regulation be revisited, and the Operational Suitability process redefined.

2) If the Basic Regulation cannot be revisited to have more clarity in what is required from the TC Holder, then this NPA should be considered as a preliminary review for getting inputs from all stakeholders and identifying all the difficulties that it raises.

The proposal should then be amended accordingly and CSs, AMC and GM developed in parallel, and this NPA should be subject to a second consultation with all relevant CSs and AMC/GM material when available.

3) As the initial intent was to mirror the JOEB process, consideration could be given to a different regulatory approach. Instead of being linked to a specific certificate (the OSC), the approval of the operational suitability elements, and their subsequent use by operators or training organisations, could be addressed under principles similar to those used for instructions for continued airworthiness. Those principles, which allow distinction between mandatory elements (e.g. airworthiness limitations) and advisory elements (e.g. MRB report), and use of specific approval processes (e.g. MRB process), could be transposed to operational suitability elements.

comment *311* comment by: *British Airways Flight Operations*

Relevant Text: Entire NPA - general comment.

Comment: Some certification specifications linked to NPA 2009-01 - for example the CS related to pilot training - have not yet been published. It is impossible to assess fully the implications of the NPA until all the supporting information is available.

Proposal: EASA should consider NPA 2009-01 as an A-NPA, and not proceed with rulemaking until all the supporting information has been published in the public domain.

comment *312* comment by: *Cirrus Design Corporation*

Validation of OSC Elements

How will validation be used for OSC for non-community TC holders? The NPA does little to explain how the validation process can be applied to the OSC process. Since OSC will be unique to EASA, but many of the elements contained within OSC are required by other authorities, will validation of these elements be accepted? In other words, will EASA accept another authority's approval of these elements or must the elements be uniquely managed and approved for the EASA OSC? Further, if validation is accepted, will acceptance of minor changes follow the principles of validation and not require EASA approval? Cirrus requests that the use of validation principles be maximized

with OSC.

Design Organization Approval (DOA)

If validation of OSC is not an acceptable means of approval, will EASA consider making some form of a mini-DOA available to non-member organizations? Some elements of the proposed OSC may undergo frequent change and DOA would greatly reduce EASA workload and simplify the change process for OSC holders.

Generic Elements for Aircraft Other Than Complex Motor-Powered Aircraft

The NPA states that the OSC applicant only needs to make a statement that the generic elements are sufficient to ensure safe operation (item 42). Will these generic elements include single-engine piston aircraft with Technically Advanced Avionics (TAA)? What will be required to support this statement? Will compliance data, or an EASA evaluation, be required? Cirrus requests the Guidance Material include a discussion addressing what is required for 21A.70. Otherwise, it is difficult to comment on this aspect without prior knowledge of what the generic elements will be, how the generic elements will be applied and what criteria will be used to determine if additional requirements will be applied.

Prescribing Minimum Training Duration (21A.62)

Cirrus understands EASA's desire to include a quantifiable target as part of the minimum syllabi for training. It is easier to compare different products if duration is included and the use of performance based objectives is difficult to measure. However, while the TC holder can provide a thorough technical position regarding what training should be accomplished for the product, the TC holder may lack the expertise necessary to make a qualified judgment as to the minimum duration necessary to accomplish that training. Further, training duration is highly dependant upon the training methods used by the training provider. A single duration requirement ignores the effectiveness of the various training methods available to the provider. Thus, all training duration requirements should be determined by the training organization responsible for implementation of the training that is based upon the methods provided by that organization. OSC should not place an unqualified duration requirement on training.

comment *313* comment by: *Czech Airlines*

Please find below comments to NPA 2009-01.

Brgds

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AEA Comments to EASA Notice of Proposed Amendment "Operational Suitability Certificates and Safety Directives" (EASA NPA 2009-01- OSC)
- Final June 2009
AEA submitted 49 comments to the EASA NPA 2009-01 (OSC)

1	78	(General Comments)	Relevant Text: Entire NPA 2009-1 Comment: The whole NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency. There is a possibility that the training syllabus of the TC-holder is different from the one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence the complete type rating training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices. Training programmes need - for safety and efficiency reasons – be adaptable to individual operations and organisations . Therefore sufficient flexibility should be kept to allow for different (type) training programmes from those developed by the TC holders, without imposing complicated processes and an administrative burden, which would also require EASA to hire a lot of administrative staff to deal with unnecessary paperwork. The aim of the EU legislator was to have a simple transfer of the JOEB into European law, not to create an administrative monster

			Proposal: Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and the AEA therefore urges EASA not to proceed with this flawed rulemaking. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.). A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA. Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...
2	79	(General Comments)	Relevant Text: Entire NPA 2009-1 Comment: From the NPA it is unclear which particular processes will be applied in case of changes to training programmes. Training programmes need to be linked to the operations concerned and should therefore not be subject to complicated dual approval procedures involving EASA (for type related training) and the Competent Authority (for the non-type related part). Such a regulatory environment will result in a huge administrative burden requiring EASA to hire a lot of staff. EASA will never have the resources to deal with this task. The possible administrative delays at EASA could disrupt operations for no safety benefit. The minimum syllabus develop by the TC holder should be considered as an acceptable means of compliance but should not be referred to in hard-law, as suggested by EASA. This is essential in order to keep the necessary flexibility for airlines or MROs to develop their own company-tailored type training programmes. This would be in line with the intentions of the EU legislator to have a simple

			transfer of the JOEB (JOEB reports are today only guidance – not mandatory law as un-flexible and rigid requirements as suggested by EASA!) Proposal: Reconsider the entire NPA. EASA should not get involved in approval of changes to an individual operator's or MRO's type related training programme, which should remain under control of the Competent Authority. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraphs to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.). A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA. Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...
3	80	(General Comments)	Relevant Text: complete NPA 2009-01 Comment: We believe that through this NPA, EASA is moving away from international harmonization and at least the spirit of the ICAO Chicago Convention. European operators will have to comply with OSC, Non EU operators will not be supposed to comply even if they are transporting European passenger and flying within the European airspace. The additional bureaucracy related to the OSC is unacceptable to AEA taking into account the lack of safety justification. Proposal: Reconsider the entire NPA; Our alternative proposal to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA would meet EASA's standardization objectives

			without burdening the industry with the rigid requirements of NPA 2009-1,. In addition, the ops data package could even be used by non EU operators
4	81	(General Comments)	Relevant Text: General comment on full NPA 2009-01 Comment: We believe there is no legal basis to have a rigid reference to the O-SC in the implementing rules applicable to operators, MROs and training organizations. The EASA proposal to establish a compulsory Operational Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations. The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which cannot be justified. The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility is provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a huge administrative burden). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB one and at least NPAs should be published before adopting an OSC or upgrading it. Proposal: Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly . The AEA proposal to delete the OSC and replace it with the OEB approved Ops data package as an acceptable means of compliance for the approval of the training would ensure EASA' standardization objective while retaining the flexibility for alternative means of compliance with meet the same safety objectives.. If this AEA proposal is accepted then the need for a consultation process would become less crucial.
5	82	(General Comments)	Relevant Text: General comment on NPA 2009-01

			Comment: Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available. Proposal: Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.
6	83	(General Comments)	Section General Comment on Catch Up Process Relevant Text: NPA 2009-1 (Catch Up Processes) The OSC may be established either by : •The aircraft manufacturer based on JOEB recommendations if existing, or •An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing. Comment: The AEA questions the added value to require any catch up. Grandfathering rights should be considered for all existing aircraft types including all modifications to existing aircraft types. The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This is unacceptable to AEA since it raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer! This approach does not seems realistic. It is also not in line with the basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC. Proposal: Reconsider the catch up process. We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of

			the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval.. In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.
7	84	(General Comments)	Section: NPA 2009-01 (General Comment on Catch Up Process) Relevant Text: NPA 2009-01 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. If the OPS regulation is not realigned with the existing practices than it will be essential that EASA introduces a mandatory catch up process for TC holders to update the preamble of their MMEL ref RIE. Proposal: The best way forward is to amend the existing EU-OPS regulation (to allow an extension of the Rectification Intervals even if there is no statement in the MMEL) and to realign it with JAR-OPS and the practices used by all worldwide safety Authorities. If the current OPS regulations are not changed than there is a need to introduce a mandatory catch up for TC holders to update all their MMEL to include a statement on Rectification Interval Extensions in the preamble.
8	85	(General Comments)	Relevant Text: General Comment NPA 2009-01 Comment: The AEA preferred option is for the OSC concept

			to be deleted and to be replaced by an approved training data package to be used as acceptable means of compliance. However, iIf an OSC becomes a mandatory requirement for EU airlines to put the aircraft into operation, than it should become an integral part of the TC and no EASA TC should be issued before the OSC is available. The EASA decision not to link the OSC to the TC is unacceptable to AEA since it will burden EU airlines in case the relevant information is not available in time. In addition, it is against article 5.5.e of the basic regulation which refers to the OSC as a condition to issue an EASA TC. This NPA is therefore against EU law. It has been written to take into account the requirements of some TC holders with no due consideration to the impact on the EU airline industry. Proposal: If it is decided to make the OSC mandatory for EU airlines (which is not the AEA's preferred option) than there is a need to link the OSC to the TC and there should be no EASA TC issued before the OSC is available.
45	122	(General Comments)	Relevant Text: Full NPA 2009-02 Comment: The (S)OSC concept is only applicable to EASA operators. As mentioned in the NPA, there is a possibility that the TC-holder can be held liable. To cover this liability, the TC holder will raise a fee that has to be paid by the operator. As a consequence, the price of aircraft for EASA operators will be higher in comparison with non-EASA operators. Therefore no level playing field.
9	86	A. Explanatory Note - IV. Content of the draft opinion and decisions - A. Background	Relevant Text: 17. These provisions were adopted by the legislator. The subject of the present NPA is to define the conditions under which they will be implemented and how the Agency will issue the decision mandating the related additional specifications for the operation of a given aircraft type. Comment: This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is

			different from EASA's approach to transfer such JOEB reports into hard-legislation for operators, training organizations and MROs rather than an acceptable means of compliance. Proposal: Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.). A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA. Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.
46	123	A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - iv. The use of Design Organisation Approvals in relation to OSC	Relevant Text: "47. A Design Organisation Approval (DOA) is not required for applicants for an OSC or SOSC. All Community holders of a TC for complex motor powered aircraft however are already required to hold a DOA. They can choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. After the initial implementation of the OSC rules and when enough experience is gained with the different approval processes, the Agency will investigate whether there is a need to mandate DOA for OSC applicants." Comment: We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for all changes resulting from modifications designed under their currently approved DOA scope.
41	118	A.	

		Explanatory Note - IV. Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - Question 1	Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects Comment: This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs. Such a requirement will result in a need for MROs/DOAs to hire a lot of flight operational experts to do work currently within the airline operator's field of expertise and responsibility. This is also a source of added complexity and costs. The concept of S-OSCs linked to S-TC should therefore be reconsidered. At least, there should not be a requirement for DOAs to hire operational staff since Ops and FCL experts are within the airline structure. This would ensure that the expert remains in the training area of the airline or the aircraft manufacturer thus keeping their training knowledge up to date rather than having them isolated in a Design Organisation structure linked to the MRO. Proposal: Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs
10	87	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 1. Introduction	Relevant Text: General Comment on RIA Comment: There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals? Proposal: The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be

			approved by the NAA.
11	88	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 1. Introduction	Relevant Texts: 1st para.: "According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties." 4th para.: "Therefore it is very difficult to make accurate predictions of some of the economic impacts." 5th para.: "Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules." last para.: "As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature." Comment: As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis. As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option". Proposal: Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training

			programmes.
13	90	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 1. Introduction	Relevant Text: 1.2 introduction for RIA related to the SD "Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders" Comment: This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the EU airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes. Proposal: In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.
12	89	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 2. Purpose and Intended Effect	Relevant Text: 2.2 Scale of the Issue "Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact." Comment: The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes. Proposal: The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.
14	91	A. Explanatory Note - Appendix VI	Section: 3.1.3, Option 3 Voluntary Inclusion in the TC Relevant Text: "If the elements are not included in the

		Regulatory Impact Assessment - 3. Options	application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs" Comment: This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options. Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option. Proposal: Reconsider the NPA which is based on a flawed RIA. EASA should not use arguments based on assumptions on the shape of a future regulation, which a) is under EASA's own influence and can therefore be changed, and b) has by far not yet gone through the rulemaking process.
15	92	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 3. Options	Section: 3.1.5 Option 5 :mandatory part of TC for all applicants requesting EASA STC Relevant Text: "This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type. This option was rejected by the rulemaking group as it put too much burden on the existing TC approval process." Comment: This statement highlights the fact that this NPA was written to fit the agenda of certain TC holders with no due regard to the impact on EU airlines. If an OSC is required for EU airlines to be able to operate the aircraft, than it should become an integral part of the TC and no EASA TC should be issued before all relevant information

			is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, than it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all this relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines. Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option is therefore against EU law. Proposal: Our preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part of TC for ALL applicants requesting an EASA TC.
16	93	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 3. Options	Section: 3.1.7 Option 7:Elements issued as AMC Relevant Text: "Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type." Comment: This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the AEA point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA. Proposal: We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.). A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating

			approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA. Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.
17	94	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 4. Sectors Affected	Section: 4.1.3 Cabin Crew Comment: There is no legal basis to link cabin crew matters to the OSC. Proposal: Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.
18	95	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.1 Safety	Section: 5.1 Safety Relevant Text: "The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL." Comment: Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of

			a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all? It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument. Proposal: Reconsider the entire NPA.
19	96	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.1 Safety	Section: 5.1.2 Safety Relevant Text: "Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety." Comment: There is no evidence that "Such differences do not contribute to a uniform high level of safety." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry. Proposal: These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

			A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA. Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.
20	97	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic and Social - 5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)	Relevant Text: "Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations." Comment: . "... unless otherwise determined by the applicable transition measure ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS. Proposal: Stretching of NPAs over the time will not give the industry the overall picture of aviation legislation in Europe regarding the operation and related regulations This NPA should therefore be reconsidered and common comment period should be set for all relevant NPA´s.
21	98	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic and Social - 5.2.1 Community Qualified personnel (maintenance certifying	Relevant Text: 5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews) Comment: . "... cabin crews" are not addressed by the Basic Regulation Proposal: Cabin crew aspects not to be addressed in the RIA since they should not be included in the OSC. The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

		staff, flight and cabin crews)	
22	99	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.2 Aircraft TC and STC holders and applicants (Community and non-Community)	Relevant Text: 5.2.2.1.4 Cost of Increased Liability "First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability." ... "Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements." Comment: Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA. Proposal: Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.
23	100	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.2 Aircraft TC and STC holders and applicants (Community and non-Community)	Relevant Text: 5.2.2.5 DOA Holders "TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis." Comment: This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry

			which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA Proposal: Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.). A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA. Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.
24	101	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.3 Community operators	Relevant Text: 5.2.3.1 economic impact on community operators of complex motor-powered aircraft "...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..." Comment: Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary. Proposal: The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports remains a basis for type rating approval.

25	102	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.5 Other impacts: Harmonisation with non-Community aviation regulations	Relevant Text: "With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation)." Comment: Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization. Proposal: Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.
26	103	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.5 Other impacts: Harmonisation with non-Community aviation regulations	Relevant Text: "Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems." Comment: This underlines that the OSC concept is not in line with the ICAO principles. Proposal: Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.
27	104	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.5 Other impacts: Harmonisation with non-Community aviation regulations	Relevant Text: "These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems." Comment: 1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks. 2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed

			increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety. Proposal: This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered
28	105	A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 6. Summary and Final Assessment	Relevant Text: "The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe." Comment: 1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option". 2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA. 3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application through standardisation, a power that was missing in the JAA system.

			Proposal: A high uniform level of safety does not require a prescriptive uniform set of rules. A high uniform level of safety does require proper execution of standardisation tasks.
29	106	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 1. Complex motor-powered aircraft	Relevant Text: "For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator" Comment: The concept of Supplemental O-SCs linked to S-TC should be reconsidered. It will not work in the practical airline and MRO world and will LEAD to huge operational and organizational disruptions and a huge administrative burden. It does not reflect the fact that MROs are not responsible for flight operations issues and will never be able to build up the desired level of expertise on pilot type training issues, which are the responsibility of the operator or flight training organization. A change to current responsibilities could even lead to decreased safety levels due to the added complexity. In addition, MEL items related to an STCs are already subject to approval by the NAA, and therefore there is no need for an MMEL linked to STCs. This goes way beyond what was intended by the EU legislator. This NPA will introduce an added complexity of the processes which will increase costs (i.a. require MRO DOAs to hire flight ops experts) with no safety justification in comparison with the today's JOEB system. The aim of the EU legislator was not to create the administrative monster proposed by EASA. Proposal: Reconsider the need for an S-OSC linked to S-TCs
30	107	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment	Relevant Text: "For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type

		to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 1. Complex motor-powered aircraft	certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator" Comment: There is no added value to require an S-OSC. In particular, if an STC is obtained for an equipment already subject to with the AMC 20 (i.e. Electronic Flight Bag for example), then the AMC 20 is already dealing with the generic airworthiness and operational issues (training, Operations Manual). This proposal seem to be driven by a desire from EASA to take over the tasks of the Competent Authority who is responsible for oversight..This was not the intent of the EU legislator when adopting the Basic Regulation. EASA Standardization inspections of Competent authorities should be used to ensure an uniform level of safety oversight in the EASA countries rather than inventing new and complicated processes which will have no safety benefit and which will increase costs for the industry and which will require EASA to hire a lot of administrative staff to be financed through new EASA fees. If an equipment is not affected by AMC 20, than it means that the existing regulation covering airworthiness and operations is sufficient and in such case there is also no need for an OSC. Proposal: Reconsider the need for an S-OSC linked to the S-TC
31	108	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 1. Complex motor-powered	Relevant Text: "For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator" Comment: Question: Who will decide if an S-OSC is needed? The processes and criteria are unclear. Proposal:

		aircraft	Reconsider the need for an S-OSC linked to the S-TC.
32	109	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 1. Complex motor-powered aircraft	Relevant Text: "For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator" Comment: Which costs would be linked to the S-OSC process? This rulemaking seems mainly driven by a desire from EASA to generate fees for its own budget. This is a conflict of interest. Proposal: Reconsider the need for an S-OSC linked to the S-TC
33	110	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 1. Complex motor-powered aircraft	Relevant Text: "For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator" Comment: The link between the S-OSC and AMC20 documents is unclear. The AMC20 documents are a much more efficient process than the proposed S-OSC. When updating an AMC 20 document for safety reasons, it may be used by every operator, instead the S-OSC would be the property of the S-OSC owner. In addition, the AMC principle allows an entity to propose an alternative means of compliance available to all the operators. The S-OSC will not as it would be the property of the S-OSC owner. Proposal:

			Reconsider the need for an S-OSC linked to the S-TC. The OSC should reflect the basic design of an aircraft type and the minimum training syllabus developed by the TC holder. When equipments are installed, the Operations regulation supplemented by AMC 20 should be used for operational approval, including training elements. This should remain the sole responsibility of the Competent Authority when checking compliance and ensure that any specificity is taken into account. EASA's responsibility should remain limited to standardization inspections of the Competent Authorities.
34	111	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart A – General Provisions - Reacting to general safety problems	Relevant Text: 21A.3C Additional Airworthiness Specifications for operations and Safety Directives. Comment: As the OSD will upgrade the OSC, there is a need to have a consultation mechanism. Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to implement the OSD. Proposal: Introduce a consultation process
35	112	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.62 Scope	Relevant Text: (a) (1) the minimum syllabus for pilot type training, … Comment: The Implementing Rules should also refer to difference training between types and variants. Proposal: Introduce difference training between types and variants into the implementing rules.
42	119	B. DRAFT	Relevant Text:

		OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.62 Scope	"(a) The Scope of the operational suitability certificate covers the following elements when applicable: ... 3. Determination of type or variant for cabin crew and type specific data for cabin crew training." Comment: The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry. There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment. We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant) Proposal: Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants
36	113	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates -	Relevant Text: Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming. Comment: The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided. Proposal: Realign this proposal with the existing

		21A.73 Occurrences	occurrence reporting legislation
47	124	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.80 Approval of changes proposed by the holder of the operational suitability certificate	Relevant text: 21A.80 Approval of changes proposed by the holder of the operational suitability certificate (a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate. (b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65, 21A.67, 21A.68 and 21A.69. (c) Minor changes to the elements of 21A.65(b) shall be approved: 1. in accordance with subparagraph (b); or. 2. by an appropriately approved design organisation under a procedure agreed by the Agency. Comment: Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.
48	125	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - I. Part M	Comment: In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website. It is unclear how these terms are implemented in the Regulation 2042/2003. Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI: 1) In which part of the regulation are the concerned terms mentioned? 2) How is this communicated with the Operators and maintenance organisations? 3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?

			4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI. 5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -◊ Perform a RIA
49	126	B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - II. Part 145	Relevant text "In addition, certifying staff and category B1 and B2 support staff can only exercise their privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training. The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned: • 145.A.42(b) Acceptance of components • 145.A.45 Maintenance data • Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance" Comment: Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place
43	120	B. DRAFT OPINION AND DECISIONS - II. Draft	Relevant Text: "2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum

		Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - .AMC 21A.62(b) Concept of minimum syllabus for maintenance certifying staff and pilots type rating training	syllabus should provide at least the following: a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and b. Specific areas of emphasis which are related to the particular aircraft type; and c. a minimum duration" Comment: For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is jeopardizing the industry's efforts to move towards performance based training programmes. This is completely unacceptable. Proposal: Delete para 2c (minimum duration) from the OSC
37	114	B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - AMC 21A.62(b)(3) Type specific data for cabin crew training	Relevant Text: "2. This includes but is not limited to: a. Aircraft generic information;" Comment: This should only refer to aircraft generic information relevant for cabin crew operations Proposal: Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"
44	121	B. DRAFT OPINION AND DECISIONS - II. Draft	Comment: The basic regulation does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any cabin crew matters,

		Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - AMC 21A.62(b)(3) Type specific data for cabin crew training	which is not asked for by the airline industry. There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment. We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant) Proposal: Delete this NPA and all references to cabin crew.
38	115	B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.62(c) Clarification of the term "changes".	Relevant Text: "The term 'changes' includes amendments, deviations, additions and supplements." Comment: This statement is unclear. Proposal: Delete the GM
39	116	B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C -	Relevant Text: " 1. The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed" Comment: The OSC should not refer to specific types of operations which are already covered by the

		Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.65(b) Information about type of operations	corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects. Proposal: Delete information about type of operations from the OSC
40	117	B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.69(d) Operational Suitability Certificate with Limited applicability	Relevant text: "There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes. For example, there may be a need to start training activities before all elements contained in the OSC application can be approved." Comment: Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation. Proposal: Reconsider the OSC concept (preferred option see previous AEA comments). If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.
		D. Transfer of the JOEB into the Agency regulatory framework, par.36	In order to allow all the stakeholders to thoroughly consider planned certification specification (CS-MMEL, CS-pilot type rating training, CS-Flight Simulator Training Devices (for OSC applicants), CS-cabin crew type training, CS-maintenance certifying staff type rating training, NPA 2009-01, NPA-OPS etc.) there should be a common/simultaneous comment period.
		5.2.2.1.3 Costs of Agency	Statement that "the exact amounts will be included in the next amendment to the fees and charges Regulation and are not yet known"

		approval of OSC	cannot be accepted. The concept of OSC/SOSC creates huge administrative burden for all the stakeholders (the Agency, TC/STC applicants, operators etc.) with no safety benefits. The whole process will cost huge amount of many, time and people thus putting all the European aviation industry in a competitive disadvantage. If the concept would be accepted (which we oppose) the agency must be able to summarize how many people, time and money it will need for OSC/SOSC approvals and it must be put in this RIA not after several moths in change to charges and fees Regulation.

comment *315* comment by: *ERA*

The complexity of the new rules combined with the shared responsibilities for EASA and NAA's is an unclear processes

The NPA does not appear to support the industry's objective of moving towards performance based training programmes

The NPA would require STC holders (DOAs of maintenance organization) to hire operational experts/pilots which does not reflect the fact that pilot training should not be their responsibility and is best dealt with by the airlines or their flight crew training organizations.

This NPA is tied with NPAs 2008-22 and 2009-02. 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

The complexity of the system that is being proposed is not justified in the NPA. The whole NPA and its practical implications have not been well thought through and could lead to a huge bureaucratic impact on the industry. The probable costs to EASA and to the NAAs, and therefore the industry via cost recovery, in implementing what is being proposed are likely to be very high. EASA's proposals go far beyond the intentions of the EU legislator (to have a simple transfer of the JAA Joint Operations Evaluation Board (JOEB). Therefore a simpler system is required.

The rule requires catch-up of existing TCs without OSC (or JOEB report). . If catch-up is required it should be the sole responsibility of TC holders. The "preferred option" of EASA is a voluntary catch-up that would put all burden and costs on airlines. It would appear that the OSC and SD will be charged (presently the JOEB report is a recommendation and is FOC). As a typical CS OSC and CS SD are not published, it is difficult to figure out what the result will be. Therefore how can full review of this NPA be carried out when these are unknown and hence no sound comment can be given before a complete review

of all the implications of the NPA has been completed.

The introduction of a mandatory OSC will impose considerable additional economic burdens on the European Aviation industry that are not imposed on those of the USA or Canada. For example as mentioned in the NPA, there is a possibility that the TC-holder can be held liable. To cover this liability, the TC holder will raise a fee that has to be paid by the operator. As a consequence, the price of aircraft for EASA operators will be higher in comparison with non-EASA operators.

Article 5(5)(e) of the Basic Regulation does not include the minimum syllabus of cabin crew training or cabin crew general. By specifying requirements for cabin crew training or cabin crew general within the constraints of the (S)OSC, EASA goes beyond the Basic Regulation. Therefore, all the articles/references with regard to (S)OSC to Part CC or cabin crew training must be deleted.

The CS for maintenance certifying staff, pilot type rating, cabin crew training and MMEL are not written yet. Therefore it is not possible to assess the impact of this new concept.

Within the Regulatory Impact Assessment lot of assumptions are stated, e.g.: 5.2.4, page 44 "it is expected that the costs would be proportionate" and 5.2.5, page 44 "it is expected that the total cost will be shared between all the different players". This is no basis for a RIA. The RIA should therefore be done again, based on facts (not assumptions!)

comment *376* comment by: *Virgin Atlantic Airways*

Relevant Text:
Entire NPA 2009-1

Comment:

The entire NPA goes far beyond the intentions of the EU legislator which intented to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency.

For example, there is a possibility that the training syllabus of a TC-holder is different from one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence, the complete type rating training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices.

Training programmes need - for safety and efficiency reasons – be adaptable to individual operations and organisations . Therefore sufficient flexibility should be kept to allow for different (type) training programmes from those developed by the TC holders, without imposing complicated processes and an administrative burden, which would also require EASA to hire a lot of administrative staff to deal with unnecessary paperwork.

The aim of the EU legislator was to have a simple transfer of the JOEB into European law. This NPA does not ensure that this is achieved in a manner

acceptable to the industry

Proposal:

Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and we therefore urge EASA not to proceed with this specific rulemaking. We therefore propose the removal of the OSC concept and its replacement with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) - to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement should then be added in the AMCs of the relevant parts related to type rating training, saying that the operational data is an acceptable means whereby the type rating can be approved by the authority but including some flexibility for alternative means (providing an equivalent level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardisation without burdening the industry with rigid requirements which have little or no safety justification.

comment *383* comment by: *British Airways Flight Operations*

Relevant Text: General comment - entire NPA

Comment: From the NPA it is unclear which particular processes will be applied in case of changes to individual training programmes. Training programmes need to be tailored to individual operators' needs and should not therefore be subject to complicated dual approval procedures involving EASA (for type related training) and the Competent Authority (for the non-type related part). Such a regulatory environment will result in a huge administrative burden requiring EASA to hire a lot of staff. Indeed, it is unlikely that EASA will have the resources to deal with the task. Therefore, possible administrative delays at EASA could disrupt operations for no safety benefit. The minimum syllabus develop by the TC holder should be considered as an acceptable means of compliance but should not be referred to in hard-law, as suggested by EASA. This is essential in order to keep the necessary flexibility for airlines or MROs to develop their own company-tailored type training programmes. This modus operandii would be in line with the intentions of the EU legislator to have a simple transfer of the JOEB process.

Proposal: Reconsider the entire NPA. EASA should not be involved in approval of changes to an individual operator's or MRO's type-related training programme, which should remain under control of the Competent Authority.

comment *384* comment by: *British Airways Flight Operations*

Relevant Text: General comment - entire NPA.

Comment: Since the OSC proposals will only be applicable within Europe, European operators will be placed at a competitive disadvantage compared with those from outside Europe. The bureaucratic processes associated with the administration of the OSC concepts will be unacceptable to European

operators.

Proposal: EASA should consider NPA 2009-01 as an A-NPA, and not proceed with rulemaking until all the financial implications, together with issues of equity and fairness, have been considered.

comment *386* comment by: *British Airways Flight Operations*

Relevant Text: General comment - entire NPA

Comment: Supplemental OSCs will only be required by European operators, for no defined safety benefit, but at a cost. Consequently, European operators will be placed at a competitive disadvantage.

Proposal: EASA should consider NPA 2009-01 as an A-NPA, and not proceed with rulemaking until all the financial implications, together with issues of equity and fairness, have been considered.

comment *387* comment by: *British Airways Flight Operations*

Relevant Text: General comment - entire NPA

Comment: There is no justification in the Basic Regulation for introducing any training requirements for, or indeed any issues related to, cabin crew. That EASA has chosen to do so raises suspicion that the Agency is acting beyond its safety remit and straying into social and industrial-relations areas. There is no safety justifcation for having any training relating to cabin crew in an OSC.

Proposal: Delete any references to cabin crew and their training from the text.

comment *397* comment by: *Europe Air Sports PM*

This response has been submitted by Europe Air Sports (EAS), the organisation representing sports and recreational aviation at the European level.

Although the OSC and SD concept is primarily focused on the manufacturers, as users of aircraft with a MTOM of up to 2000kg, the sports and recreational aviation community will also be affected. Our comments should be seen in this context.

EAS takes the view that there is no safety case for applying the OSC to sports and recreational aviation. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying. No proper impact assessment has been made in this respect. Applying the OSC to our segment of aviation would furthermore be disproportionate to the complexity

of the category of aircraft and the nature of their operation.

This is in direct conflict with the principles established by the European Commission's Communication "Agenda for Sustainable Future in General and Business (COM(2007) 869 final) and its endorsement by the European Parliament (2008/2134(INI)) and the Council of Ministers. In particular this NPA does not comply with the "application of the principles of subsidiarity and proportionality". Furthermore, it ignores the European Parliament's specific demand that the implementing rules must be *"proportionate and commensurate to the complexity of the respective category of aircraft and operation"*.

Proposal:

Non-complex aircraft and especially those used for sports and recreational aviation, should be excluded from the OSC and SD.

comment *403* comment by: *LAMA*

Dear EASA,

I have read the Executive Summary, and consider the proposed OSC to be excessive and redundant to USA ASTM standards already exisiting for Light Sport Aircraft.

Pilot Training:

Exisiting already in our POH ASTM standard are clear instructions for pilot training and especially the very important transition training for pilots going from Commercial and GA type aircraft to LSA.

Cabin Crew:

As LSA can only carry pilot and passenger, there is no Cabin Crew training requirements.

Maint Certifying:

The ASTM Maintenance standard is very clear on the type, and level of training required for every operation on LSA, and offers classes for such training. Each maint person is certified upon successful completion of these classes and is required to do recurrent training.

Min Req Equipment:

Our ASTM Required Product Information, plus our QA plan clearly lists MRE.

Final Comments:

For LSA, this proposed OSC documentation is redundant and excessive, and not at all applicable to the fine entry level aircraft under the LSA category.

Respectfully submitted,

Larry Burke, Founder and Chair Emeritus

Light Aircraft Manufacturers Association

PLeasanton, CA USA

comment *404* comment by: *Teveso*

Nevidíme žádný bezpečnostní důvod proč by OSC měl platit pro letouny do MTOM pod 2000kg.
Je to jen další nepotřebný certifikát, který zvyšuje cenu sportovního a rekreačního létání.

Návrh:
OSC a SD se nesmí vztahovat na letouny certifikované procesem ELA - MTOM pod 2000kg.
Domníváme se, že Typový certifikát takových letadel pokrývá vše co by měl pokrývat navrhovaný OSC.
Dále se domníváme že současný systém Airworthiness Directive dovoluje zajistit bezpečný provoz, takže nový systém SD není potřebný.

Dále nebudeme toto NPA komentovat, protože si myslíme, že OSC a SD koncept by se na letadla do MTOM pod 2000kg neměl vztahovat.

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

We think that for these aircraft the TC already cover all areas which would be in proposed OSC.

We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD proces just for Operation is necessary.

Based on our proposal we will therefore not make any additional comments, because we feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

comment *446* comment by: *Flight Design GmbH Matthias Betsch CEO*

I do not see any safety case why the OSC should be applicable to the aircraft under ELA and bellow 2000kg. It will add another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

I think that for these aircraft the TC already cover all areas which would be in proposed OSC. We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD process just for

Operation is necessary.

Based on this proposal I will therefore not make any additional comments, because I feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

comment *448* comment by: *Dassault Aviation*

The proposed NPA only deals with the high level aspect of the OSC concept. The related CS's have not been released officially, even if the CS-MMEL is in a mature stage waiting for final inputs from ASAWG.
In general Dassault Aviation supports the concept of the OSC as this concept will be based on an existing JOEB process by making the outputs mandatory. Thus it will improve flight safety and same level playing field in Europe.

However, it exists major differences, especially the type of handled data and the adjunction of the Maintenance Certifying Staff requirement.

Suggestion:

Dassault Aviation suggest that OSC perimeter be restricted to JOEB perimeter. It is thought that the MCS part does not address the same type of personnel as the Pilot parts. Indeed, the OSC concept does not address the Type Rating Examiner which is the equivalent on pilot's part of the maintenance certifying staff.

Coordination with FAA should be maximized so as to make OSC and FOEB/FSB outputs as close as possible as they both deal with the same products. Optimization at different levels between those two processes and validation procedures should be developed .

comment *531* comment by: *EUROCOPTER*

This NPA presents the OSC concept but the CS related to the OSC elements, which will really define in detail the expected content of these OSC elements, as well as some AMC/GM as the criteria for the classification major/minor of changes to training syllabi, are missing. As a matter of fact, there are many ways to interpret words like for example" minimum syllabus". Unless the detailed definition and complete picture from the CS is provided, stakeholders may misinterpret the intention and comments may be totally out of scope.

For these reasons Eurocopter recommend that this NPA should be used as a preliminary review of the first stake-holders comments, and that there will be a second consultation in the future after the CSes and other missing AMC/GM are available, and based on the answers to comments on NPA 2009-01.

comment *544* comment by: *DGAC France*

DGAC France General Comments on NPA 2009-01

A. Operational suitability

1) DGAC France is satisfied with the current JOEB process that provides operators with useful data and gives some flexibility to the authority to approve the operations, training programs…. Therefore, DGAC **France supports the intent of this NPA aiming at the consolidation of the present process**. DGAC supports in particular:

- the obligation for the TCH (or STCH when relevant) to provide Operational Suitability elements;
- the definition of these elements by a OEB involving representative experts;
- the approval of these elements by AESA after the opinion of this OEB;
- the fact that some of these elements would be mandatory for the operators, ATO, AMO (named hereafter "end users").;
- the fact that any deviation from the mandatory elements would have to be approved by the Agency;
- the fact that the availability or approval of all the OS elements would not be a prior condition to the delivery of the TC.

2) The basic regulation does ask for all the proposed data to be made available: they are all identified in the basic regulation within article 5 (5) **except cabin crew data**. We are not opposed to the inclusion of this additional data, provided the BR is amended.

3) However, **DGAC France does not support the option chosen by AESA to embody all those data within a new "certificate".** The basic regulation does not call for a certificate: there is no legal need, nor technical need. One can even question the competence of the Commission to create a new certificate that is not asked for by the legislator.
The only obligation should be for the TC holder to provide the end users with OS elements because it has the best knowledge of the design of the aircraft. The option of a certificate will lead to a lot of **administrative complexity** which should be avoided: this certificate should have a holder, a process to be maintained valid, **charges to be defined** and paid for, and it raises questions toward its position regarding the TC, with possible counter effects on the TC validity.
Due to the novelty of the "OSC concept" and the difficulty to envisage its use for the future without disturbing the current situation (considered satisfactory for commercially operated aircraft), DGAC France is considering the proposed opinion as a proposed concept within an "advanced-NPA".
DGAC believes the choice of the option needs to be first discussed among members before agreeing on it, and suggests there should be a complete NPA, including any necessary additional CS, AMC and GM, to collect comments to the agreed and retained option from this "advanced" NPA.

4) DGAC proposes to deal with **"Operational Suitability Data"** (or Elements) that should be provided by the TC holder for examination by an Operation Evaluation Board (including representative experts and other interested bodies) and approval by the Agency. **DGAC proposes a simple mechanism** aligned on a process that already works (MRB) and that came from JAA into the EASA system without any difficulty. This would avoid creating new certificates: OSC and SOSC, and new DOA, which would lead to useless administrative tasks for AESA and divert it from technical tasks. This proposal

allows avoiding SOSC, which is a complex concept. For instance, is not clear who can apply for it.

5) The OSD can be easily introduced within Part 21 in a new paragraph (21.A.62), similar to the concept of "ICA" (21.A.61), within Part B. It should apply to STC holders (thus avoiding SOSC) by a new paragraph 21.A.108 within subpart D of Part 21.
There is no need for a dedicated new Part C as created for the OSC in the EASA proposal.

6) The proposal by DGAC keeps the **necessary flexibility**: it allows the end users to tailor some elements of the OSD **after approval by their local authority**.
The approach retained by DGAC on this point is close to the option 7 proposed in the "A-NPA 2009-01". The only comment from DGAC is that those OSD would not necessarily have to go through NPA consultation. OEB process is considered satisfactory as it will imply all necessary authorities and end users.

7) The OSD could be divided in two parts, in a way similar to the maintenance data : ALI and CMR are mandatory, whereas MRB document is more a recommendation. It could be said for example:

- the "mandatory ALI-like" part of OSD is minimum technical parts that are specific to the TC, due to its design specificities (e.g. MMEL) , they cannot be deviated from.
- the "general" part of the OSD that is more a model of type training syllabus, maintenance certifying staff type rating training, … that is not necessarily specific to a type but can be valid for several types of a same TC Holder (family of aircraft) . They can be adapted from with the NAA approval.

The "general" part would then give the flexibility to an operator to build a training of CC based on the OSD provided for different TC. It allows for communality of processes and reduction of costs.

As a conclusion of those points, the strategy proposed by DGAC France is a mix of proposed "A-NPA 2009-01" options 4 and 7, that consists of:

- introducing mandatory provision of "Operational Suitability Data" in article 1 of CE 1702/2003,
- a new paragraph 21.A.62 within Part B, similar to ICA (21.A.61) but related to OSD that must be provided by the TC holder, (or STCH within 21.A.108)
- part FCL, 66, OPS, … requirements to make the link with users data based on the data provided by the TCH, STC Holder, and to ask for the authority to approve the operation data.
- AMC Part FCL, 66, OPS to explain how such data (operator, training school) is approved based on the acceptable basis provided by TCH, STCH.
- AMC 21 to explain that an OEB with the participation of representative experts and other interested bodies is a recommended process for TCH (or STCH when relevant) to elaborate those data. In this case, OEB would no longer be defined as an internal procedure of AESA to deliver certificates.

The Basic Regulation shall be amended accordingly.

See all dedicated comments related to those bullets.

B. Safety directives

1) **DGAC supports the concept of "safety directives" to modify OSD attached to a TC and restore a level of safety.**
However, the process is equivalent to an Airworthiness directive that mandates changes to the design of the aircraft (including flight manual or instructions for continuing airworthiness). The proposed A-NPA concept of "safety directive" seems to encompass the concept of airworthiness directive. As the aim is a decision to ensure safe operation due to OSD implementation, DGAC France would recommend to use the term "operational directive". Also, when a change is needed to amend the type design, only the "airworthiness directive" tool shall be used, whereas the operational directive tool shall be reserved only to amend the OSD.

The "operational directive" concept could also be applied to address MRB.

It is important to remain as simple and clear as possible and avoid inventing too many complicated new concepts.

2) The need to transpose JAR26 into EASA system is understood. However, it seems that the Safety Directive as proposed in the A-NPA is not the proper tool, as the idea seems to be to increase the level of safety of commercial operations; without being specific to a given aircraft type.

More thinking on the subject is necessary.

A tentative option could be to develop a CS26, including dates if possible, and render it compulsory for EU operators through amendments of IR OPS (modifying an IR is not such a long process : the procedure could even be accelerated by modifying the BR in order to be able to use article 65.5). The a/c manufacturer would then indirectly be compelled to change the design of the aircraft if it wants to sell aircraft to EU operators.

comment *569* comment by: *MECIAR Marian*

Nevidíme žádný bezpečnostní důvod proč by OSC měl platit pro letouny do MTOM pod 2000kg.
Je to jen další nepotřebný certifikát, který zvyšuje cenu sportovního a rekreačního létání.

Návrh:
OSC a SD se nesmí vztahovat na letouny certifikované procesem ELA - MTOM pod 2000kg.
Domníváme se, že Typový certifikát takových letadel pokrývá vše co by měl pokrývat navrhovaný OSC.
Dále se domníváme že současný systém Airworthiness Directive dovoluje zajistit bezpečný provoz, takže nový systém SD není potřebný.

Dále nebudeme toto NPA komentovat, protože si myslíme, že OSC a SD koncept by se na letadla do MTOM pod 2000kg neměl vztahovat.

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and

related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

We think that for these aircraft the TC already cover all areas which would be in proposed OSC.

We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD proces just for Operation is necessary.

Based on our proposal we will therefore not make any additional comments, because we feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

comment *577* comment by: *Gobosh*

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

We think that for these aircraft the TC already cover all areas which would be in proposed OSC.

We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD proces just for Operation is necessary.

Based on our proposal we will therefore not make any additional comments, because we feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

comment *579* comment by: *European Sailplane Manufacturers*

The European sailplanes manufacturers strongly disapprove and oppose the planned introduction for their type of airplanes (sailplanes according to CS-22) of an OSC as described in NPA 2009-01.

This opposition and disapproval also is valid for all aircraft falling under the definitions of ELA (as discussed in the MDM.032 group and/or defined in the amended Part-M).

Justification:

1) This is completely new regulation within our scope of aviation which cannot be justified by a safety benefit. If it would be otherwise then the JOEB process

referred to in the NPA would have been extended by JAA also to sailplanes or other small aircraft which was clearly not the case.

2) It will create new costs and workload for small aviation without any benefit. If EASA is really intending to alleviate the burden upon small aviation as it was outlined in the ToR of the MDM.032 rulemaking group and further elaborated by the amendment of Part-M then introduction of the OSC is a completely unnecessary and contra-productive act.

3) The reference into basic regulation 216/2008 contained within this NPA 2009-01 implies that EASA has no other option but to include the OSC because 216/2008 requires it.

This is not the case.

Within 216/2008 it may be found:

....

Article 5 -Airworthiness

...

5. The measures designed to amend non-essential elements of this Article, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 65(4). Those measures shall specify in particular:

...

(e) conditions for issuing, maintaining, amending, suspending or revoking type-certificates, restricted type-certificates, approval of changes to type-certificates, individual certificates of airworthiness, restricted certificates of airworthiness, permits to fly and certificates for products, parts or appliances, including:

...

(iv) the minimum syllabus of maintenance certifying staff type rating training to ensure compliance with paragraph (2)(f);

(v) the minimum syllabus of pilot type rating and the qualification of associated simulators to ensure compliance with Article 7;

(vi) the master minimum equipment list as appropriate and additional airworthiness specifications for a given type of operation to ensure compliance with Article 8;

....

In the case of sailplanes these requirements of basic regulation Article 5 (5)(e)(iv - vi) can already be considered as fulfilled:

(iv) minimum syllabus of maintenance certifying staff is already covered in Part-M or Part-66 and because no type-ratings exist for sailplanes this paragraph is either to be considered as fulfilled or not applicable

(v) minimum syllabus of pilot type rating will be covered in the FCL regulations and because no type-ratings exist for sailplanes this paragraph is either to be considered as fulfilled or not applicable;

regarding qualification of regarding simulators this requirement is not applicable for sailplanes (no simulators are used)

(vi) minimum equipment lists do exist for sailplanes but are already specified and published in the type certificates henceforth this requirement is fulfilled

The mentioned elements regarding training of cabin crew within the proposed OSC are also not applicable for sailplanes (no cabin crew).

Therefore the proposed OSC is unnecessary as the requirements within 216/2008 are already fulfilled or are not applicable.

Therefore it makes absolutely no sense to introduce the OSC for sailplanes or other aircraft fitting in the ELA definitions.

comment *580* comment by: *European Sailplane Manufacturers*

Regarding the proposed introduction of safety directives (SD) the European sailplane manufacturers oppose this proposal as this would be based on introduction of an OSC.

As explained in the first general comment the OSC is unnecessary for ELA aircraft and therefore should not be introduced for sailplanes.

The current Airworthiness Directive system allows already to assure safe operation.

Therefore the SD will not introduce any improvement and are therefore not necessary.

comment *581* comment by: *European Sailplane Manufacturers*

The proposed regulation within NPA 2009-01 is another example where EASA proposes rules for small aviation which only make sense for the commercial air transport aviation sector.

This "one size fits all" approach is dangerous for the future of small aviation.

(Small aviation is used here in the sense of activities conducted by ELA type of aircraft; nevertheless the same is true for general aviation in a broader sense).

The European Parliament recently published the following text:

.....

An agenda for sustainable future in general and business aviation

(text adopted: P6_TA-PROV(2009)0036, dated 03. Feb. 2009)

The European Parliament ,

...

1. Broadly welcomes the Commission Communication on general and business aviation since it provides a
sound analysis of the issues affecting the sector and identifies a number of suitable approaches for addressing
the specific needs of this sector within a framework of permanent dialogue between all the stakeholders;
Proportionate regulation and subsidiarity

2. Stresses the need to take into account the interests and specificities of general and business aviation in the development of future air transport policy initiatives, with a view to strengthening its competitiveness; in this respect calls on the Commission to ensure the application of the proportionality and subsidiarity principles in the design and implementation of both existing and future aviation legislation;

3. Reminds the Commission of the need to carry out, on a systematic basis, segmented impact assessments to provide for differentiation of regulations affecting different categories of undertakings and airspace users, if necessary and in so far as this does not compromise safety;

4. Calls on the Commission when adopting implementing rules on aviation safety, to ensure that they are proportionate and commensurate to the complexity of the respective category of aircraft and operation;

5. Welcomes the recent adaptation of maintenance standards for aircraft not involved in commercial air transport and in particular for aircraft not classified as "complex motor-powered aircraft" as a good example of proportionate regulation;

.....

The European sailplane manufacturers 100% agree with these statements made by the European parliament.

The NPA 2009-01 and especially the application of the proposed OSC to general aviation is certainly not fulfilling the spirit and the standards as given by this communication from the European Parliament.

Therefore and regarding the technical / procedural reasons given in the other comments the European sailplane manufacturers propose not to introduce the OSC for small aviation.

comment *582* comment by: *International Air Transport Association (IATA)*

1) IATA supports in principle all initiatives aiming to achieve a more efficient and better quality of aircraft type specific training
2) The current draft NPA is not meeting this objective , however, since it puts an unnecessary emphasis on administration, monitoring and reporting aspects, rather the quality of the training and the efficiency of the qualification process itself. This approach creates an additional burden for the operators without clear operational and safety benefits outlined.
3) The current draft NPA is not complete and lacking key aspects of the entire process as outlined by the contributing airline experts
4) The draft also does not reflect numerous airline expert inputs , especially on the practical implementation and resulting operator processes
5) EASA should therefore review the NPA entirely by coordinating with current initiatives aiming to improve the training and qualification as such (e.g. ICAO NGAP, EASA ECAST , IATA Training & Qualification Initiative)

comment *583* comment by: *International Air Transport Association (IATA)*

Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available.
Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment *584* comment by: *International Air Transport Association (IATA)*

Catch Up Processes
The OSC may be established either by :
•The aircraft manufacturer based on JOEB recommendations if existing, or
•An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing.
Comment:
The added value to require any catch up is questionable. Grandfathering rights should be considered for all existing aircraft types including all modifications to existing aircraft types.

The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are

available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer!

This approach does not seems realistic. It is also not in line with the basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC.

Proposal:
Reconsider the catch up process. We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of the new ops data package approved by the JOEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval..

In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.

comment *623* comment by: *HANS, Miroslav*

Nevidíme žádný bezpečnostní důvod proč by OSC měl platit pro letouny do MTOM pod 2000kg.
Je to jen další nepotřebný certifikát, který zvyšuje cenu sportovního a rekreačního létání.

Návrh:
OSC a SD se nesmí vztahovat na letouny certifikované procesem ELA - MTOM pod 2000kg.
Domníváme se, že Typový certifikát takových letadel pokrývá vše co by měl pokrývat navrhovaný OSC.
Dále se domníváme že současný systém Airworthiness Directive dovoluje zajistit bezpečný provoz, takže nový systém SD není potřebný.

Dále nebudeme toto NPA komentovat, protože si myslíme, že OSC a SD koncept by se na letadla do MTOM pod 2000kg neměl vztahovat.

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:
OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).
We think that for these aircraft the TC already cover all areas which would be in proposed OSC.
We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD proces just for Operation is necessary.

Based on our proposal we will therefore not make any additional comments, because we feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

UL-JIH s.r.o.

Omlenicka 742
382 41 Kaplice
Czech Republic

comment 624 comment by: *Werner Scholz*

As active glider pilot, member of a gliding club and also as person having contact to many small aircraft manufacturers I have the following comment:

I oppose the introduction of the regulations described in NPA 2009-01, i.e. the "Operational Suitability Certificate" (OSC) and the "Safety Directives" (SD).

Justification:
1) For the field of small aviation these regulations are entirely new and not justified as the JOEB of JAA was only used within commercial air transport.

2) The associated costs for the manufacturers of small aircraft from such an introduction are not justified by any safety improvement. Additionally they would contradict the published will of EASA to alleviate the burden in the sector of small aviation.

3) The requirements of basic regulation 216/2008 onto which NPA 2009-01 refer are already fulfilled for sailplanes (or do not apply).
Minimum equipment is already covered by type certificates, minimum requirements for pilots and maintenance staff is covered by existing regulations, type ratings do not exist and cabin crew / simulators also do not exist.

4) The already existing Airworthiness Directives (AD) already cover the function of the proposed SD.

Therefore introduction of OSC and SD is unnecessary for small aviation and especially for sailplanes and is strictly rejected from our side.

I propose to exclude all aircraft falling under the ELA definition from this new regulation.

Furthermore I refer to the comments given by the European sailplane manufacturers which I fully endorse.

comment 627 comment by: *Luftfahrt-Bundesamt*

LBA - General Comments

(1) Generally, the LBA agrees to introduce requirements to reflect operational issues during aircraft certification projects. In so far, the LBA supports the introduction of the OSC concept. However, it is difficult to judge the implications of this NPA without knowing details of the contents of the expected new CS (MMEL, 26), the related working procedures and cost recovery / fees and charges. The RIA does not seem to envisage that to a satisfactory extent, so a lot of additional work will result from the implementation of this NPA. This is not assured as long as the above details are not available.

(2) In addition, it may be questioned if EASA is given the responsibility by the Basic Regulation to issue SD with the view of enhancing safety of commercial aircraft operators. JAR-26 did, in combination with JAR-OPS 1/EU-OPS, address the operators of such aircraft to comply with the newest retroactive airworthiness requirements. Hence, the NAAs were asked to verify compliance with these operational rules. Now, with the proposals of this NPA, EASA will take over these surveillance tasks. Hence, we do not share the explanations given in Section E (paragraphs 48 and following).

(3) Considering that EASA should be involved in a day-to-day business, the number of affected aircraft needs to be taken into account, which means that EASA will have to deal with more or less every commercially operated aeroplane, as far as "JAR-26" issues are concerned. Did EASA consider this huge amount of work? How will this be coordinated with the surveillance tasks of the NAAs?

(4) In the absence of any clause excluding small General Aviation aeroplanes (single engine piston aeroplanes, sailplanes etc.) or excluding non-commercial operations it is obviously intended that the OSC and SD requirements will be applicable to all aircraft that are to be operated in the community. As the TC holders of such aeroplanes are generally small companies it is feared that it will cause an undue additional burden to go through the OSC approval process additionally to the TC process.

(5) Applicability of the OSC process for imported products: How will it be ensured that TC holders for imported products will take the responsibility to apply for and obtain an OSC of their products? Contrary to the TC, the OSC seems not to be derived from an ICAO standard. It would be a competitive disadvantage if applicants from within the EU had to go through the OSC approval process and foreign applicants did not have to. It would be a further competitive disadvantage if operators from within the EU had to go through the SOSC approval process for imported products without OSC being provided by the TC holder, because legally an OSC cannot be required from the TC holder of the imported product. The NPA is silent on these aspects. It seems not to be desirable to implement a regulation that could lead to a competitive disadvantage of entities of the EU.

LBA – General Proposal

(1) The LBA in general welcomes the OSC intent as a successor of the JOEB procedure. However, small aircraft such as gliders and touring motor gliders should not fall under these rules as this will put unnecessary bureaucratic burdens on the manufacturers without enhancing safety.

(2) The current NPA text often refers to Implementing Rules which are currently available only in draft or NPA status. In order to establish some kind of regulatory continuity, we very much recommend to finish the work on these Implementing Rules (OPS, FCL) first before dealing with the OSC issue. Otherwise, some problems in NPA 1-2009 may jeopardise the finalisation of the rulemaking task of other affected important regulations.

(3) Taking account of the above, the LBA herewith proposes not to introduce the SD - concept, but to introduce a similar regulatory

mechanism in the operational Implementing Rules for CAT air operations, as presently available in JAR-OPS 1/EU-OPS, where the operator is generally asked to comply with the recent retroactive airworthiness requirements, together with a reference to CS 26. To our knowledge, NPA 02-2009 does not cater for this as there is no equivalent rule to EU-OPS 1.005 (b). Our suggestions also mean that, until the work on establishing CS 26 has not been finalised, the use of the current rules in EU-OPS are to be followed and that aircraft falling under CS 23, CS 27 and CS 29 are not affected by equivalent rules.

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

comment *630* comment by: *Light Aircraft Association of the Czech Republic*

Toto je odpověď Letecké amatérské asociace České republiky.

Nevidíme žádný bezpečnostní důvod proč by OSC měl platit pro letouny do MTOM pod 2000kg.
Je to jen další nepotřebný certifikát, který zvyšuje cenu sportovního a rekreačního létání.

Návrh:
OSC a SD se nesmí vztahovat na letouny certifikované procesem ELA - MTOM pod 2000kg.
Domníváme se, že Typový certifikát takových letadel pokrývá vše co by měl pokrývat navrhovaný OSC.
Dále se domníváme že současný systém Airworthiness Directive dovoluje zajistit bezpečný provoz, takže nový systém SD není potřebný.

Dále nebudeme toto NPA komentovat, protože si myslíme, že OSC a SD koncept by se na letadla do MTOM pod 2000kg neměl vztahovat.

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

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

We think that for these aircraft the TC already cover all areas which would be in proposed OSC.

We also think that the current Airworthiness Directive system allows to assure

safe operation, therefore no new SD proces just for Operation is necessary.

Based on our proposal we will therefore not make any additional comments, because we feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

comment *649* comment by: *Virgin Atlantic Airways*

Relevant Text:
Entire NPA 2009-01

Comment:
We believe that through this NPA, EASA is moving away from international harmonization and the spirit of the ICAO Chicago Convention.

European operators will have to comply with the OSC, Non EU operators will not be required to comply even if they are transporting European passenger and flying within European airspace. The additional bureaucracy related to the OSC is unacceptable to Industry taking into account the lack of any real safety justification.

Proposal:
Reconsider the entire NPA. An alternative proposal would be to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA which would meet EASA's standardisation objectives without burdening the industry with the overbearing requirements of NPA 2009-1.

comment *650* comment by: *Virgin Atlantic Airways*

Relevant Text:
General comment on full NPA 2009-01

Comment:
We believe there is no legal basis to have a rigid reference to the OSC in the implementing rules applicable to operators, MROs and training organizations.

The EASA proposal to establish a compulsory Operational Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations.

The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which would seem to justify.

The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility has been provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a unnecessary administrative layer). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB process and as a minimum NPAs should be

published before adopting an OSC or upgrading it.

Proposal:
Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly .

comment *651* comment by: *Virgin Atlantic Airways*

Relevant Text:
General comment on NPA 2009-01

Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to fully assess the implications of this NPA. It is inappropriate for EASA to rush through this rulemaking proposal without ensuring all the required elements being available. This NPA should therefore only be considered as an Advanced NPA which should then be subject to a second consultation round once all elements are available.

Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment *657* comment by: *CAA-NL*

The Ministry of Transport of The Netherlands has a number of considerations to oppose to the introduction of the Operational Suitability Certificate, in line with the fundamental concept as laid down in the Basic Regulation. In our opinion another approach, based on safety management principles would serve the same safety purpose and increase responsibility of stakeholders in aviation at the same time.

Legal consideration.
The introduction of the OCS implies an important new element in the European aviation safety system. Such an important and complex new certificate should have a solid base in the Basic Regulation. However this is not the case, nor does the Basic Regulation define the need for certificates under art.5 like MMEL, training syllabi, training devices etc. Article 5 only states that '**conditions** should be established for the issue (…) of Type-certificates, including (….)'; which leaves the opportunity to propose another approach, as specified below.

Safety Management considerations:
The concept of safety management as introduced in Europe as well as internationally will only be effective if parties that are responsible for safety have the power to exercise that responsibility. By introducing this new certificate that binds the obligation to one party, the limited flexibility and the need for parties to take responsibility, will lead to frustration if. The concept of cooperation between industry parties has been established in the past for the creation of documents like MRB and MMEL to everybody's satisfaction. The design holder may not have all relevant knowledge and competences to properly create the various documents. . In our opinion safety management would best be served when the responsibility for establishing some of these

documents would be assigned to the existing organisation approvals, taking into account the need to cooperate with other organisations depending on the type of information that needs to be defined.

Considerations related to administrative burden
The OSC implies an additional administrative burden and limitation of flexibility for aviation. This is not in line with the objective of the European Union as well as its Member States to reduce the administrative burden for industry with 25 %. The RIA does not cover this subject. Furthermore a reduction of flexibility in the way of operation to establish the information that is needed is to be expected without a visible safety benefit.

Safety
The NPA does not give any safety need for the introduction of this certificate. The Regulatory Impact Assessment that has been published only deals with the preferred option and does not include any information on the other options. Thus the necessary information to make a proper assessment/comparison of the various options related to cost/safety benefits is impossible.

Costs
We expect considerable rise of the (bureaucratic) costs involved in the introduction of this new as well as complex system of documents, amendment of document and communication between parties. The RIA does not give any information on the level of F&C to be expected.

Scope
The Netherlands has the opinion that the scope of the intended regulation should be limited to aircraft 'certified to be used for CAT' (transport and commuter including helicopters). In this way overregulation of the GA sector is prevented. We realise this is not strictly in line with the article 5 of the Basic Regulation.

Alternative approach
Based on the above considerations, we feel an alternative approach to the OSC is needed. The alternative we propose, based on option 5, is twofold.

First to use the JOEB process to come to the MMEL and regulate this similar as the MRB process is regulated currently. The MMEL represents airworthiness limitations related to the Type-design defining the boundaries for the operator.

Second to use the approach taken in production where exchange of information between design and production is needed. Organisations holding a DOA and POA working on the same product/part have to cooperate in executing their respective functions. The obligation to work together is regulated through Part 21 as part of their individual responsibilities. Likewise the organisation responsible for a certain design and the organisations responsible for training related to that design could be obliged to cooperate for defining information (including those necessary for STD's) and training syllabi; both for maintenance and flight crew training. The fundamental elements of the related processes that are needed, could be proposed as part of the organisation regulations, including the option of participation of EASA or National Aviation Authorities where needed. This assures a reliable process and broadly acceptable documents. The minimum content of items to be dealt with could be introduced in the product specifications (CS-es).

comment 676 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
Entire NPA 2009-1

Comment:
The whole NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency.

There is a possibility that the training syllabus of the TC-holder is different from the one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence the complete type rating training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices.

Training programmes need - for safety and efficiency reasons – be adaptable to individual operations and organisations . Therefore sufficient flexibility should be kept to allow for different (type) training programmes from those developed by the TC holders, without imposing complicated processes and an administrative burden, which would also require EASA to hire a lot of administrative staff to deal with unnecessary paperwork.

The aim of the EU legislator was to have a simple transfer of the JOEB into European law, not to create an administrative monster

Proposal:
Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and the AEA therefore urges EASA not to proceed with this flawed rulemaking. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment 677 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
Entire NPA 2009-1
Comment:
From the NPA it is unclear which particular processes will be applied in case of changes to training programmes. Training programmes need to be linked to

the operations concerned and should therefore not be subject to complicated dual approval procedures involving EASA (for type related training) and the Competent Authority (for the non-type related part). Such a regulatory environment will result in a huge administrative burden requiring EASA to hire a lot of staff. EASA will never have the resources to deal with this task. The possible administrative delays at EASA could disrupt operations for no safety benefit. The minimum syllabus develop by the TC holder should be considered as an acceptable means of compliance but should not be referred to in hard-law, as suggested by EASA. This is essential in order to keep the necessary flexibility for airlines or MROs to develop their

own company-tailored type training programmes. This would be in line with the intentions of the EU legislator to have a simple transfer of the JOEB (JOEB reports are today only guidance – not mandatory law as un-flexible and rigid requirements as suggested by EASA!)

Proposal:
Reconsider the entire NPA. EASA should not get involved in approval of changes to an individual operator's or MRO's type related training programme, which should remain under control of the Competent Authority. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraphs to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *678* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
complete NPA 2009-01

Comment:
We believe that through this NPA, EASA is moving away from international harmonization and at least the spirit of the ICAO Chicago Convention.

European operators will have to comply with OSC, Non EU operators will not be supposed to comply even if they are transporting European passenger and flying within the European airspace. The additional bureaucracy related to the OSC is unacceptable to AEA taking into account the lack of safety justification.

Proposal:
Reconsider the entire NPA; Our alternative proposal to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA would meet EASA's standardization objectives without burdening the industry with the rigid requirements of NPA 2009-1,. In addition, the ops data package could even be used by non EU operators

comment 679 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
General comment on full NPA 2009-01
Comment:
We believe there is no legal basis to have a rigid reference to the O-SC in the implementing rules applicable to operators, MROs and training organizations.

The EASA proposal to establish a compulsory Operational Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations.

The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which cannot be justified.

The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility is provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a huge administrative burden). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB one and at least NPAs should be published before adopting an OSC or upgrading it.
Proposal:
Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly . The AEA proposal to delete the OSC and replace it with the OEB approved Ops data package as an acceptable means of compliance for the approval of the training would ensure EASA' standardization objective while retaining the flexibility for alternative

means of compliance with meet the same safety objectives.. If this AEA proposal is accepted then the need for a consultation process would become less crucial.

comment 680 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
General comment on NPA 2009-01
Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available.
Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment 682 comment by: *Swiss International Airlines / Bruno Pfister*

Section:

NPA 2009-01 (General Comment on Catch Up Process)

Relevant Text:
NPA 2009-01

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. If the OPS regulation is not realigned with the existing practices than it will be essential that EASA introduces a mandatory catch up process for TC holders to update the preamble of their MMEL ref RIE.

Proposal:
The best way forward is to amend the existing EU-OPS regulation (to allow an extension of the Rectification Intervals even if there is no statement in the MMEL) and to realign it with JAR-OPS and the practices used by all worldwide safety Authorities. If the current OPS regulations are not changed than there is a need to introduce a mandatory catch up for TC holders to update all their MMEL to include a statement on Rectification Interval Extensions in the preamble.

comment *683* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
General Comment NPA 2009-01

Comment:
The AEA preferred option is for the OSC concept to be deleted and to be replaced by an approved training data package to be used as acceptable means of compliance. However, iIf an OSC becomes a mandatory requirement for EU airlines to put the aircraft into operation, than it should become an integral part of the TC and no EASA TC should be issued before the OSC is available. The EASA decision not to link the OSC to the TC is unacceptable to AEA since it will burden EU airlines in case the relevant information is not available in time. In addition, it is against article 5.5.e of the basic regulation which refers to the OSC as a condition to issue an EASA TC. This NPA is therefore against EU law. It has been written to take into account the requirements of some TC holders with no due consideration to the impact on the EU airline industry.

Proposal:
If it is decided to make the OSC mandatory for EU airlines (which is not the AEA's preferred option) than there is a need to link the OSC to the TC and there should be no EASA TC issued before the OSC is available.

comment *684* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
Full NPA 2009-02

Comment:
The (S)OSC concept is only applicable to EASA operators. As mentioned in the NPA, there is a possibility that the TC-holder can be held liable. To cover this liability, the TC holder will raise a fee that has to be paid by the operator. As a consequence, the price of aircraft for EASA operators will be higher in comparison with non-EASA operators. Therefore no level playing field.

comment *685* comment by: *Swiss International Airlines / Bruno Pfister*

comment *690* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

As already said in our previous comments #1145 (NPA 2008-22 C), the EU legislator wish is **only** to transpose JARs, EU-OPS and ICAO standards into new regulation (commission Opinion on Basic Regulation 216/2008, C2009-3220 final). Modifications may **only** be done if it increases significantly safety and if the EASA can demonstrate it. Though we fully agree with i) the JOEB process and ii) the transfer of the relevant competencies to EASA, the *NPA 2009-01* cannot be considered as a simple transfer of the JOEB process.

comment *692* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

1. ***Comments***

First of all, this NPA has cross references with NPAs 2008-17, 2008-22 and 2009-02. The size of those texts makes almost impossible to comment with a fully understanding of the EASA proposal.

2. Materials for commenting this NPA are not sufficient. Regarding the issues raised by this NPA, this seems unfair asking us to comment this without all relevant CSs published accordingly. The whole rulemaking procedure is not respected as we are requested to comment an incomplete NPA. Therefore we do consider this consultation as an Advanced NPA. We request a second consultation is launched after this A-NPA is amended and completed, to fully understand the impact of such a regulation.

3. Training syllabus from the TC holder may be different from the one used for a particular training organization. In the process of this NPA, the whole type rating training syllabus would be changed. This would lead to financial and administrative concerns without any value added regarding safety. The main concern for aviation is to get sufficient flexibility to be able to allow different type training programmes from the one given by the TC holder without creating huge administrative burdens with unnecessary paperwork. These rigid requirements are not worth safety justification.

4. Processes leading to changes of training programmes are not clear. They have to be linked to operations and cannot be part of complicated procedures involving both EASA and the competent authority. This would create huge administrative paperwork and delays that do not contribute to increasing safety. As a reminder, JOEB reports are today only guidance and not mandatory rigid requirements as proposed by EASA.

5. Through this NPA, EASA create competition issues between European organizations and non-EU organizations. Non-EU operators will not have to comply with the OSC even if transporting passengers and flying across European airspace. Moreover the OSC concept is only applicable to "EASA" operators. So the price for "EASA" aircraft operators might be higher than for "non EASA" aircraft operators. As a result, operators might engage expenses to cover OSCs' and S-OSCs' developments to comply with the regulation. OSC could thus lead in creating international unfair competition without justified safety gain, unless Part TCO (not yet published) imposes OSC to all aircraft overflying Europe.

6. Nothing from the EU legislator says that the JOEB process must become compulsory as seen in NPA 2009-01. This would lead to many problems for airlines, MROs and training organizations. JOEB reports did not include minimum type rating training syllabus for certifying maintenance staff so the OSC has a wider scope than it. Once more, there is no safety justification for this. The mandatory compliance and the wider scope of the OSC do not allow flexibility to the competent authority to approve alternative means of compliance (the so-called AMCs). The only solution remains in the S-OSC which will be a long process with administrative concerns.

7. **Transition measures and Catch up process:**

Relevant text: "The OSC may be established either by:

- *The aircraft manufacturer based on JOEB recommendations if existing, or*
- *An operator if the aircraft manufacturer does not exist anymore and bases JOEB recommendations if existing"*

This raises the problem of operators using aircraft for which no JOEB outcomes are available or for which no manufacturer exists anymore. As a result, the operator will have to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer. This is both not realistic and not practically feasible. Moreover the "preferred option" of EASA, the voluntary catch-up, would cause administrative problems and additional costs for operators through cost recovery.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

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We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *723* comment by: *Aviation Working Group*

Please Note: Below are the comments of the Aviation Working Group (**AWG**) on all aspects of NPA 2009 -1. The comments are also being inserted on a section by section basis. The comments have also been submitted by email.

Jeffrey Wool, Secretary, AWG

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COMMENTS ON EASA NPA 2009-1,
OPERATIONAL SUITABILITY CERTIFICATE AND SAFETY DIRECTIVES

(Submission by the Aviation Working Group)

Introduction

AWG is a not-for-profit legal entity whose purpose is to '*contribute to the development and acceptance of policies, laws, regulations, and rules that (i) facilitate advanced international aviation financing and leasing or (ii) address inefficiencies in aviation financing or leasing or that constrain these transactions*'. Co-chaired by Airbus and Boeing, AWG is comprised of the major aviation manufacturers and financial institutions, including most of the world's largest leasing companies. More information regarding AWG, its members and its activities may be found at www.awg.aero.

AWG has an active sub-group that focuses on technical requirements relating to the cross-border transferability of aircraft. The sub-group: (1) assesses proposed technical and related documentation requirements and practices; and (2) consults with governments and international organizations on such requirements and practices with a view towards avoiding undue economic burden and delay, while maintaining the highest level of safety.

The sub-group is particularly focused on aircraft transferability issues impacting the aircraft leasing and financing industry due to national aviation authority requirements. Nearly 50% of aircraft operate outside the FAA and EASA environment. AWG therefore believes that it is important to have a harmonized, global and transparent approach to technical and documentation requirements for aircraft transfers, without compromising aircraft safety or the responsibilities of national aviation authorities.

AWG has been involved in the analysis of the EASA Implementation Regulations (IRs), though informal work and consultations, viewing them ***from the perspective of the financing and leasing community***. After review of the subject NPA, AWG feels that financier/lessor perspectives have not been sufficiently considered. Accordingly, AWG presents the following comments, seeking to provide EASA with an additional perspective that is often overlooked in the commenting process.

For ease of reference, such comments will reference the corresponding section / page of NPA 2009-1.

General Assessment

In general, AWG supports EASA's intention to enhance regulatory uniformity within the EU. Intra-European standardization will be of benefit to the lessor community. However, we are concerned that the following three implementation regulations may increase flowtime, cost and economic burden:

(i) STC grandfathering
(ii) Addressing the relationship between uniformity and safety
(iii) Global harmonization

Our thoughts on these concerns are expressed in detail below.

Specific comments on EASA NPA 2009-1, Operational Suitability Certificate (OSC) and Safety Directives (SD)

NPA 2009-01	AWG Comments
Pg. 14: Explanatory Note IV E: *Transfer of JAR-26 into the Community regulatory framework:*	It is expected that when Certification Specification-26 will be introduced, most of JAR-26 and several CFR 14-

Safety Directives	121 design requirements will be superseded. To avoid the need for recertification of existing materials and equipment, CS-26 should make reference to these JAR-26 and CFR 14-Part 121 requirements (when applicable.) This should reduce the need for recertification. The requirement for issuance of SDs adds an additional level of compliance that may be redundant and burdensome to lessors. Currently, if there is a design flaw that compromises airworthiness or safety of flight, an Airworthiness Directive is issued which mandates a corrective action be implemented. If the defect requires immediate attention, an Emergency AD can be issued. These are issued in an abridged manner without the need of a notice and comment period. Therefore, with the OSC elements now under Airworthiness, the SD does not offer any additional protection above an AD. The SD may cause Lessors and Lessees alike additional administrative burdens in having to maintain two separate and distinct tracking and compliance files. For the correct implementation of all SDs, it will become important that the OSC data sheet (SOSC data sheet) correctly reflects the compliance needed for meeting the applicable SDs and CS-26. This will require EASA to build a rigid system that provides up-to-date data sheets to stakeholders and other parties. Current experience with Type Certificate Data Sheets indicates that EASA systems are not yet capable of this fidelity.
Pg. 19: Explanatory Note IV F. Grandfathering and Transition measures: Question 2: *The Agency would like to know stakeholders' opinion on the preferred option, their preferred option for transition measures and the length of the transitional period needed.*	The grandfathering provisions of EC 1702/2003, applicable at the start of the EASA, created significant burden and additional costs to the leasing industry due to the requirement to (re)validate existing STCs and aircraft modifications before entry into the EU. Historically, a number of aircraft were unable to enter the EU market due to the lack of EASA validation of existing STCs and design modifications done on such aircraft.

	The introduction of the OSC may increase this burden, as aircraft with existing EASA TCs/STCs might be denied to EU markets when some OSC elements are unavailable. Based upon the experience with the existing grandfathering provision of EC 1703/2003, AWG objects to grandfathering provisions that would require (re)validation work on existing TCs and STCs, especially those approved by previously competent EU aviation authorities. AWG supports a grandfathering concept of automatic EASA acceptance/approval of all National Aviation Authority approved or accepted elements for all existing EASA TCs and STCs.
Pg. 37: Explanatory Note, Appendix VI : Chapter 3.2; Options: *The option selected by the rulemaking group and the Agency is option 4: approval of the elements under an Operational Suitability Certificate (OSC).*	Any coupling of the OSC to the Type Certificate that might jeopardize the validity of a TC due to non-existence or due to suspension of the OSC, is not supported by AWG. Option 4 limits the OSC to a required option for EU operation only. Therefore this is the preferred AWG option.
Pg. 40: Explanatory Note, Appendix VI ; Chapter 5.2; Impact; Economic and social: *The economic and social impact is evaluated for each of the affected sectors.*	No impact assessment has been provided applicable to the leasing industry. At EASA's introduction in 2003, the requirement for an EASA TC and STC for all aircraft registered in the EU, together with extensive maintenance records requirements, placed significant added burden and costs on the leasing industry, given these requirements for placing airplanes within the EU. Specifically, the (re)validation of existing STCs made it very costly to get airplanes registered. AWG expects that the introduction of the EASA's OSC will cause additional burden to the leasing industry because: o some aircraft can not be placed within the EU due to the lack of existing OSC elements (even existing EU registered aircraft may be forced to leave the EU instead of being introduced at another EU operator) o additional EASA validation work may be necessary to obtain EASA approved OSC elements for existing TCs and STCs Despite the fact that the leasing industry has made EASA aware of

	these burdens and costs faced by the introduction of the EASA TC and STC, this has not been taken into account when drafting the Regulatory Impact Assessment for this NPA. Therefore AWG urges EASA to consider the adverse impact which implementation of proposed NPA 2009-1, relative to re-evaluation of approved STCs, will have on transferability and the aircraft finance community.
Pg. 44: Explanatory Note, Appendix VI ; Chapter 5.5: *Other impacts: Harmonization with non-Community aviation regulations*	EASA acknowledges that the proposed OSC concept may not exist within other aviation authorities and may not lead to better international harmonization. Instead, it invites other aviation authorities to adopt similar measures and processes. In our view, proposing diverging initiatives is contrary to the objectives for which EASA was created - standardization and harmonized implementation of safety regulations. AWG supports EU harmonization, and is hopeful that a unified Europe will facilitate global standards and practices. In the leasing industry, the absence of, or deviations from, international standards and practices result in additional downtime, burden and cost. These potential impacts are not addressed in this NPA.
Pg. 46: Explanatory Note, Appendix VI ; Chapter 6: *Summary and Final Assessment*	Industry stakeholders were not adequately consulted on the introduction of the OSC elements into the Basic Regulation (EC 216/2008), Article 5.5 (e), Airworthiness. AWG believes that this introduction into the BR will have significant cost impact on the leasing industry, without any definable positive safety benefit. It is understood that the prime objective of the proposed OSC is to provide uniformity (A. Explanatory note IV A.13); yet, this uniformity does not necessarily translate into an increase in safety. EASA and the EC should therefore reconsider this introduction into the BR and should urgently seek harmonization with practices and standards of (i) ICAO, and (ii) the other major aviation authorities.

comment *779* comment by: *Association of Asia Pacific Airlines*

The AAPA recognises that EASA has now fully assumed the competence of the

JAA and has issued a number of NPA's to amend the relevant European Commission regulations to enable the transfer of the Joint Aviation Authorities (JAA) requirements within the Community framework. We further acknowledge that EASA has the responsibility to approve relevant information necessary for the safe operation of a specific aircraft type under EU community rules and oversight. Such information would include the training of pilots, cabin crew and maintenance certifying staff and includes the Master Minimum Equipment List (MMEL). Such information is proposed to be approved under the new approval to be known as the Operational Suitability Certificate (OSC).

Notwithstanding, the NPA goes beyond a simple transfer and looks to establish new bureaucratic processes which provide no added safety or efficiency. We would urge therefore EASA to reconsider their proposal by only considering at this time the introduction of the OSC for new aircraft types such as the B787, A350 and others. We would strongly recommend the grandfathering of existing rights for all in-service type certificated aircraft with regards to operational data and its use in training, MMEL development, etc. We would further recommend for existing type certificated aircraft the transfer of the function of the outgoing JOEB to an equivalent EASA OEB where they would approve an operational data package. This would assure and maintain safety objectives, retain operational flexibility, and enable alternative means of compliance to be demonstrated as and if required.

Harmonisation is an important aspect of all regulation and we would urge EASA to make more effort in this area. EASA as a leading regulator cannot ignore that it influences many non Community National Airworthiness Authorities (NAA) who are also influenced by other leading regulators such as the FAA, TCCA, CASA and New Zealand CAA. In the event that the leading regulators cannot achieve acceptable levels of harmonisation resulting in divergence in regulatory standards this can only result in conflicting standards and the potential to impact safety performance.

AAPA has been in dialogue with other Industry Stakeholders on this issue of the introduction of an OSC. We therefore draw to EASA attention our concurrence with the remarks submitted by AEA.
It is noted that the proposed rules have the intent to retain and continue as much as possible with the existing processes. The existing processes as you are aware were established under JAA Joint Operations Evaluation Board (JOEB) and have been broadly accepted beyond the EU Community.

comment *786* comment by: *Gulfstream Aerospace Corp*

General Comments / Concerns:
1. 1. What impacts can an OEM expect when sending an aircraft into a member country whereas the NAA might influence or override the EASA approved OSC process (i.e. final approval of training, etc)?

2. There is significant concern with the potential lack of EASA resources to oversee the OSC function resulting in a potential for EASA to outsource and therefore pass additional increased cost to the applicant.

comment *797* comment by: *Gulfstream Aerospace Corp*

Attachment #2

Gulfstream Aerospace Corporation offers the attached with regard to the subject Notice of Proposed Amendment.

comment *804* comment by: *FAA*

General Comment
Comment:
The FAA does not issue an approval that is equivalent to the Operational Suitability Certificate (OSC) proposed in this NPA. It does, however, develop some of the elements of the OSC (i.e., type rating through the Flight Safety Board (FSB) report, Master Minimum Equipment List through the Flight Operations Evaluation Board FOEB)). Other elements of the OSC are approved as part of an other FAA approval (i.e., simulator approval includes aircraft reference data to support qualification of associate simulators, training school approval or air carrier approval includes maintenance training syllabus and type specific data for cabin crew training).

The implementation of these requirements could have an adverse economic impact on
U.S. manufacturers. Although this impact may be mitigated through a bilateral agreement, it is not clear that such an agreement will be in place prior to the effectivity date of this implementing rule.

Recommendation:
The transition measures should address this situation so that U.S. Type Certificate holders will not be required to obtain an EASA DOA to support the OSC.

comment *805* comment by: *FAA*

o *Comment:*
The impact of this proposed regulation will be driven by "opt out" provisions, grandfathering, and the Certification Specifications that have yet to be developed. EASA is recommending to the Commission voluntary catch-up for existing aircraft

If "opt out" are permitted allowing EASA States to "opt out" of a specific requirement for a given period; the impact on non-EASA States, such as the U.S. needs to be considered.

Recommendation:
The transition measures must consider both European Union (EU) and non-EU

applicants and provide equal treatment.

comment *807* comment by: *FAA*

General Comment.
Comment:
Proposed EASA regulations require a type rating for all complex motor powered aircraft that are defined in Regulation (EC) 216/2008, Article 3, (j). The U.S. does not issue type ratings for all these aircraft. That is, small multi-engine turboprops and all small turbojets do not typically receive type ratings. As a result, no pilot type rating training syllabi will be developed for these aircraft in the FAA system. This disharmony will place an economic burden on U.S. manufacturers.

Recommendation:
The impact of disharmony should be minimized in the final regulation.

comment *837* comment by: *AIR FRANCE*

General NPA :

Some CSs are missing which make the reading of the NPA difficult and lead to consider it as an A-NPA.

OSC concept
We recognize the interest of the JOEB outcomes for the type related training, FSTDs and the MMEL. Our comments are not related to the content but rather to the OSC and S-OSC concept.

The proposed use of an OSC which is in a way a supplement to the Type Certificate raises the question of the complexity of this system.

The today JOEB process is based on a volontary use of the JOEB evaluation by the TC holder and the publication of recommendations used to define type related training.

The new OSC concept means the publication of a compulsory document only for european operators as the OSC is not defined in the ICAO annexes.

The S-OSC leads also to added complexity in comparison with the today system.
It raises a question when an airline wishes to install a system via an STC which is also subject to an AMC 20 operational approval (dealing with crew training etc.). This could mean that the OSC deals with similar point as the one dealt with by the AMC 20 under the responsibility of the NAA.

The Basic regulation does not ask for a new certificate such as the OSC.

That is why, we think that a request for the TC holder to provide for the operational type related elements submitted to the OEB approval is a way to solve this issue. This could be made by a specific paragraph in part 21.

Similar to existing MRB processes, the data may be divided in two parts, the MMEL which must be followed as per Ops regulation in order to establish the

MEL and the type related training and FSTD data which are acceptable means to establish the type training programmes approved by the NAA.

Catch Up process
As far as the catch up process is concerned, the concept should only concern futur aircraft certification. Some data are already available for existing aircraft (existing JOEB reports, etc.) and may be used. Operations may continue on the basis of already approved trainings and MEL.

Such a proposal similar to option 7 would require additional work for the drafting of detailed rules. It is then difficult to make detailed comments based on this proposal.

comment *855* comment by: *Transport Canada Civil Aviation Standards Branch*

Attachment #3

These comments pertain to the faxed letter to Mr. Jules A.J.M. Kneepkens, dated June 30, 2009. The letter is available in the attachment "TCCA comments.pdf".

TCCA supports EASA's initiative to formalize the Joint Operations Evaluation Board (JOEB) process. The intent of these new provisions is to allow EASA to approve the aircraft type related training requirements, the aircraft type related minimum equipment list and the aircraft type related additional airworthiness specifications for a given type of operations, so that these will become the minimum standard for all users of this aircraft type in the EU. This will support the establishment of a high uniform level of civil aviation safety in Europe, which is the principal objective of the Basic Regulations in accordance with its article 2.

From a worldwide perspective, OEMs have been successful in providing each State of operations with the appropriate operational and maintenance data required for National Airworthiness Authorities (NAA) to satisfy their ICAO obligations without negative impact on the global aviation safety. However, with the expansion of EASA's remit, TCCA recognizes EASA's challenges in ensuring uniformity of these specifications to all EU Member States due to the voluntary nature of the JOEB process. EASA is therefore proposing to directly link these specifications to the product to alleviate variations from one Member State to the other.

With option 4 of NPA 2009-01 (preferred by EASA), Type Certificate (TC) holders would obtain an OSC before an aircraft can be used by a Community operator, but the OSC is not a pre-condition to obtain a TC, and the validity of the TC is not dependent on the availability of the approved elements. Consequently, the existence of approved OSC elements is a condition for the operation of the aircraft by a Community operator, which are required by Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR to use the elements approved in accordance with Part-21. While option 4 provides an effective solution to alleviate European regulatory difficulties dealing with the Basic Regulation, it also creates significant burden for EASA's foreign authorities such as TCCA. The approval of the additional specifications by linking them to the aircraft and their corresponding type certificate (thus putting the onus on the TC holder to satisfy all elements of the OSC whether or not they have provided such in the past) will result in collateral impact for both TC holders and the foreign

authorities. The OSC/TC direct link introduces confusion and conflicting considerations from an aircraft certification perspective since the OSC is regarded as a "special category of change to TC" while "not being part of the TC". Furthermore, the consequences of future changes to an OSC resulting in Supplemental OSC (SOSC) and the need for an OSC associated with an STC exacerbate the complexity in the integrated management needed to satisfy both aircraft certification and OEB activities.

A Design Organization Approval (DOA) is not required for applicants for an OSC or SOSC. However, holders of a TC in the EU are already required to hold a DOA that they can choose to extend their privileges for approval of minor changes to the OSC. Based on discussions with EASA, the need for such privilege extensions with respect to OEB activities would impact foreign TC holders who do not hold an EASA DOA. Consequently, EASA is offering the possibility to grant DOA with limited privileges dealing only with the OEB activities, referred as a "mini-DOA". This solution is not acceptable to TCCA since it is not respecting fundamental principles of reciprocal acceptance on which the Canada-EU Aviation Safety Agreement has been built on. In addition, the relevancy of the scope of the Agreement to deal with an operational matter directly linked to aircraft certification is subject to interpretation. Many questions arise from the "mini-DOA" concept including the roles and responsibilities of TCCA and EASA in the oversight of the activities associated with "mini-DOA", the obligations of the "mini-DOA" holders, the consequences of not complying with the privileges granted and the management of corrective measures associated with safety issues linked to the OSC.

NPA 2009-01 also introduces the proposal for "Safety Directives" (SD) enabling EASA to require "retro-active measure that in the JAA system were or would have been included in JAR-26" and "mandatory corrections of shortcomings identified in OSC elements". The addition of these new SDs to already existing complex Mandatory Continuing Airworthiness Information (MACI) which includes both Airworthiness Directives (AD) and Emergency Conformity Information (ECI) further complicates the worldwide well-established continuing airworthiness principles that satisfy ICAO requirements. Similarly to the OSC, these new tools (ECI and SD) are proposed to alleviate European regulatory difficulties with the Basic Regulation while creating further challenges for foreign authorities such as TCCA.

In TCCA's opinion NPA 2009-01 option 3 satisfies the intent of the new provisions because it is based on proven practices such as All Weather Operations (AWO) and Extended Range Twin-engine Operations (ETOPS) which relies on the addition of notes within the Type Certificate Data Sheet (TCDS) to indicate that the aircraft type design has been shown to be operationally suitable for specific type of operations.

With ETOPs and AWO, the note on the TCDS has been conditional upon the TC holder satisfying only those design related aspects of the operational approval, acknowledging that other aspects (e.g. training) are often satisfied by someone other than the TC holder.
Expanding the concept of a note on the TCDS (such as with ETOPS or AWO) to signify full compliance to all aspects of operational approval (including those items outside the realm of the TC holder) is feasible also, and still preferable to the OSC concept in TCCA's opinion. It would require the same coordinated activity that currently exists for any operational approval, with an additional feedback to the responsible Authority to put the note on the TCDS, after

verifying compliance (from the various parties involved) to the required elements of an operational approval.

Option 3 could be enhanced to build on the existing practices by developing the appropriate EU operational rules that would mandate the operational note within TCDS and EASA's approval of the corresponding operational documentation should operational approval in the EU be sought. With an enhanced Option 3, the validity of the TC would not be dependant on the availability of approved elements and it provides EASA the necessary tools through an obligation in Part-OPS, Part-FCL, Part-66, Part-CC and Part- OR for European operators to use the elements as approved under Part 21 therefore ensuring that the elements are approved before Entry into Service (EIS) by a Community operator. The enhanced Option 3 would also satisfy oversight concerns raised with the "mini-DOA" concept.

We understand that TCCA and other foreign authorities have participated as observers in rulemaking group 21.039. Unfortunately, the Terms of Reference have led to the identification of representatives from primarily operational and/or maintenance disciplines without appropriate representation from the aircraft certification authorities that are primarily impacted by the preferred solution.

In conclusion, it is TCCA's opinion that EASA, foreign authorities and aviation industry should be working collectively to build on the intent of NPA 2009-01 proposal with a focus on an enhanced Option 3 which would not only benefit EASA in meeting its high uniform level of civil aviation safety in Europe but also help progressing the worldwide integration of activities in aircraft certification, operations and maintenance while contributing to the evolution of Safety Management System with accountabilities clearly defined.

comment *910* comment by: *Fokker Services*

- Include MMEL O and M procedures in OSC.
-
- Make the EASA PCM for the aircraft type responsible for the OSC as well and keep process as much as possible aligned with TC process. This to avoid the complexities of dealing with two different parts of the Agency's organisation (which is already difficult enough between certification and MRB).

comment *912* comment by: *Michael GREINER*

The sailplane manufacturer Alexander Schleicher GmbH & Co. fully supports Mr. Scholz's comments on behalf of the European Sailplane Manufacturers (Cmts# 578, 579, 580, 581).

There is **no necessity** for an OSC for sailplanes and powered sailplanes (CS 22):

- The requested contents of an OSC are either already available (Minimum Equipment List in the TCDS) or not applicable (no different type ratings for pilots or maintenance personnel, no crew other than the pilot, no simulator training)

- There has never been a safety deficit without such a document
- There is no information deficit

Correspondingly, the same applies for the concept of Safety Directives

There would be **a negative impact** on the manufacturers of sailplanes and powered sailplanes (CS22). We appreciate, that in this NPA the category "other than complex motorpowered aircraft" has been regarded. But the introduction of generic OSC still means, that an OSC has to be issued by the Agency, which is connected with fees and loss of time.

21A.70 Issue of the Operational Suitability Certificate for aircraft other than complex motorpowered aircraft
Notwithstanding paragraphs 21A.67, 21A.68 and 21A.69 the applicant for an operational suitability certificate for an aircraft other than a complex motorpowered aircraft shall be entitled to have an operational suitability certificate issued by the Agency, composed of the applicable certification specifications for operational suitability containing generic approved elements issued by the Agency after it has made a statement that these generic approved elements will ensure safe operation of the aircraft, [..]

Think of the process of issuing "Flight Conditions" for a Permit to Fly: For the signature on the approval of flight conditions, made by an otherwise uninvolved department, a fee of about 675€ becomes due, although all factual issues have already been clarified with the person in charge for the certification. With the fee for the creation of this piece of paper two whole working days of an engineer in the own company could be paid. (There are only two engineer in our company). The issue of a generic OSC is quite similar. A fee, something that has to be taken care of, no practical use, but it fits with the formalism that was set up for larger aircraft.

No additional information can be supplied in an OSC, and especially not in a generic OSC. For a sailplane or powered sailplane all necessary information are supplied in the TCDS, Flight Manual, and Maintenance Manual. Another document makes things less clear for the pilot. In the best case it gives redundant information (resulting in more work to keep all documents up-to-date and consistent). A generic document cannot be very specific anyway. As an example: Sailplane owners already handle a generic document for the Individual Maintenance Program. It basically says: "Do everything that is already laid down in the Maintenance Manual, follow ADs and do your annual inspections." This has to be signed by the NAA and another fee has to be paid.

There are minor aspects, too:

- Sailplanes under national rules (ANNEX II) will still have no OSC and will not be subject to SDs. For glider pilots the aspired uniformity would cease to exist because of OSC.
- Some sailplane manufacturers hold about 30 TCs. There is no financial balance for expenses that have to be made for these older types.

We therefore oppose the introduction of OSC and SD for CS 22 aircraft.

Kind regards,
Michael Greiner

comment *916* comment by: *Deutscher Aero Club (DAeC)*

The Deutscher Aero Club disagrees completely with the concept applying an OSC to ELA aircraft, especially to sailplanes and balloons. ELA aircraft are defined in the amended Part M.

Justification:

1. The JOEB concept was never developed nor applied to aircraft covered by the ELA definition. The JOEB process was developed for commercial air transport only.
2. Article 5 (5) (e) (iv – vi) is already fulfilled:
    1. MEL: The minimum equipment for different operations as aerobatics, aerotow etc. are covered during the type certification. A MEL is part of the approved flight manual.
    2. Type ratings: No type training or type ratings existed in the past for ELA aircraft nor is such concept foreseen in NPA 2008-17 (FCL). Hence the requirement of the BR is not applicable.
    3. The maximum capacity of a sailplane is two persons (including pilot) and four persons for all other ELA aircraft. Therefore all requirements re cabin crew are not applicable.
    4. No Simulator (FSTD) exists for ELA aircraft.
    5. Minimum syllabus for pilot training. NPA 2008-17 addresses already such syllabus.
    6. Minimum syllabus for Part 66 personal. Part 66 addresses already such syllabus. NPA 2008-3 and its CRD (to be published soon) requires no maintenance type training for ELA aircraft, but general training which is appropriate.
3. Airworthiness Directives cover all aspects of the proposed safety directives.

Proposal:
In case of ELA aircraft article 5 (5) (e) (iv – vi) of the BR can be seen as covered by existing regulations.

comment *948* comment by: *LAMA*

Dear EASA,

I have been notified by one of your representatives that I should provide comments to your proposed NPA 2009-01, Operational Suitability Certificate (OSC) before 30 jun 2009.

I am respectfully submitting my comments:

The OSC is quite broad, and attempts to encompass all aircraft, when there is a very successful category of entry level aircraft, Light Sport Aircraft, that was purposely created for simplicity and ease of operation under the USA ASTM standards.
Many fine aircraft have successfully met these standards, the vast majority

from Europe.

Why EASA would wish to burden this entry level category with more useless documentation, when both the US FAA and both USA and European, Asian, and other mfgs in the world participated in creating the ASTM standards, is totally incomprehensible.

Pilot Training:
We have some very excellent ASTM standards encompassing Pilot Training, especially the very critical transition training necessary for pilots going from Commercial and GA type aircraft to LSA.

Maintenance Personnel:
We have specified, and offer training couses for various levels of maintenance personell.
We do not need a staff of "Maintenance Certifiers", for this is done in each and every class, with required periodic currency training.

Cabin Crew:
As LSA are very simple airplanes, allowed to carry only one passenger, we are not subject to "cabin crew" training.

Minimum Equipment List:
As the exists an excellent ASTM standard on "Required Product Information" which in addition to other ASTM standard clearly specifies minimum equipment to be provided with each aircraft, we see no use for added documentation in this area.

Final Comments:
Therefore, for Light Sport Aircraft I think your OSC proposal redundant and excessive.
Adding this useless documentation to our excellent system would tend to defeat the simplicity and excellent record of the LSA aircraft community.
I strongly suggest that you do not apply OSC to Light Sport Aircraft.

Respectfully submitted,
Larry Burke, Founder and Chair Emeritus
Light Aircraft Manufacturers Association
Pleasanton, CA USA

comment *951* comment by: *Dostal Jaroslav*

General comment :

Dear sirs

As I commented some times before, this created system of European light aircraft certification looks for me like true nightmare :
Maybe somebody who is creating that is from UK - remembered red-flad law, created hundreds year ago in England - to reduce car traffic (because it was dangerous for horses). Of course - it was stupidity, and some years after forgotten, because England was only one place with this dumb regulation.
And now - it looks for me - You are ctreating new "red flag law" - that time giving advantage to the rest of countries - now the same.
Only England was changed to Europe.

Who from USA and the rest of the world is paying You to destroy European light sport aircraft industry ?
- It looks, these creative guys do not have pilot licence and do not know what they do. It is only paper for You - but try to understand somebody will need to live according to that.
Although I think from steps You are doing , You are creating regulations for nothing, and **producers will need to follow existing EU regulation together with USA requirements - to survive**, ... and from this reason somebody else will need to return to that Your work after ten, twenty years - to create something usable, to reduce negative influence, I would like to repeate recommendation of Czech LAA :

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

We think that for these aircraft the TC already cover all areas which would be in proposed OSC.

We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD proces just for Operation is necessary.

Based on our proposal we will therefore not make any additional comments, because we feel that this OSC and SD concept should not apply for aircraft covered by ELA process.

Or there is another possibility :

Start to listen what users of light sport aircraft in EU want and needs.

Forgot to create tons of useless papers and try to help.

(I know it is not real - You are paid to create papers . So we will need to wait until Your papers will destroy European aircraft industry, and after Americans producer will come, they will have not competitors excluding some 2-3 enough strong through problems created by You)

TITLE PAGE p. 1

comment *63* comment by: *Cessna Citation European Service Center*

NPA 2009-01 doesn't mentioned that it will affect regulation (EC) n°2042/2003 and corresponding AMC/GM.

This means that approved organisations under regulation (EC) 2042/2003 have probably not take particular attention to this NPA due to missing title's informations.

Commenting this NPA in 2 weeks is real short period.

EXECUTIVE SUMMARY p. 2

comment *47* comment by: *Bombardier Aerospace*

Attachment #4

Bombardier Aerospace has prepared the attached to provide overall comments to NPA 2009-01

comment *65* comment by: *CAA-Norway TFH*

The manufacture should read The Manufacturer in the first sentence of the 3rd. Block.

Also the manufacturer is not necessarily the TC holder.

comment *382* comment by: *British Airways Flight Operations*

Relevant Text: Executive Summary, Para 2; general comment on entire NPA.

Comment: It was clearly the intention of the legislators to transfer the JOEB process into the EASA canon in as simple a way as possible. The legislators' aim was valid, since the JOEB process seemed to work well from the points of view of safety and efficiency. However, the proposals in the NPA appear to go far beyond that intention.

For example, training syllabi must be adapted to suit the needs of individual operators and training organisations. A 'one-size-fits-all' approach will not work.

Proposal: EASA should consider NPA 2009-01 as an A-NPA, and not proceed with rulemaking based upon it. The information and analysis appears flawed.

comment *405* comment by: *Cargolux Airlines International S.A.*

The whole NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JAA JOEB process into European law. The JAA JOEB worked perfectly well from the point of view of safety and efficiency.

There is a possibility that the training syllabus of the TC-holder is different from the one used by, and approved by a Competent Authority , for a particular training organisation. As a consequence the complete type rating training syllabus would have to be changed. This must be avoided as it will lead to a significant change (and financial burden) with no added safety value. The EASA change in approach must not be made subordinate to the current practices.

Training programmes need - for safety and efficiency reasons – be adaptable to individual operations and organisations . Therefore sufficient flexibility should be kept to allow for different (type) training programmes from those developed by the TC holders, without imposing complicated processes and an administrative burden, which would also require EASA to hire a lot of administrative staff to deal with unnecessary paperwork.

The aim of the EU legislator was to have a simple transfer of the JOEB into European law, not to create an administrative monster

Proposal:
Reconsider the entire NPA. This new concept and its practical implications have not been well thought through and therefore EASA should not proceed with this flawed rulemaking. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *406* comment by: *Cargolux Airlines International S.A.*

From the NPA it is unclear which particular processes will be applied in case of changes to training programmes. Training programmes need to be linked to the operations concerned and should therefore not be subject to complicated dual approval procedures involving EASA (for type related training) and the Competent Authority (for the non-type related part). Such a regulatory environment will result in a huge administrative burden requiring EASA to hire a lot of staff. EASA will never have the resources to deal with this task. The possible administrative delays at EASA could disrupt operations for no safety benefit. The minimum syllabus develop by the TC holder should be considered as an acceptable means of compliance but should not be referred to in hard-law, as suggested by EASA. This is essential in order to keep the necessary flexibility for airlines or MROs to develop their own company-tailored type training programmes. This would be in line with the intentions of the EU legislator to have a simple transfer of the JOEB (JOEB reports are today only guidance – not mandatory law as un-flexible and rigid requirements as suggested by EASA!)
Proposal:
Reconsider the entire NPA. EASA should not get involved in approval of changes to an individual operator's or MRO's type related training programme, which should remain under control of the Competent Authority. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraphs to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification...

comment *407* comment by: *Cargolux Airlines International S.A.*

Comment:
We believe that through this NPA, EASA is moving away from international harmonization and at least the spirit of the ICAO Chicago Convention.

European operators will have to comply with OSC, Non EU operators will not be supposed to comply even if they are transporting European passenger and flying within the European airspace. The additional bureaucracy related to the OSC is unacceptable to AEA taking into account the lack of safety justification.

Proposal:
Reconsider the entire NPA; Our alternative proposal to have an approved package of training data as an acceptable means of compliance for the training approval by the NAA would meet EASA's standardization objectives without burdening the industry with the rigid requirements of NPA 2009-1,. In addition, the ops data package could even be used by non EU operators

comment *408* comment by: *Cargolux Airlines International S.A.*

We believe there is no legal basis to have a rigid reference to the O-SC in the implementing rules applicable to operators, MROs and training organizations.

The EASA proposal to establish a compulsory Operational Suitability Certificate instead of the JOEB recommendation is a total change from today's requirements which will raise several problems for airlines, MROs and training organizations.

The proposed scope of the OSC is wider than that of the JOEB reports , because the minimum type rating training syllabus for certifying maintenance staff is now included. This is a substantial change which cannot be justified.

The mandatory compliance plus the wider scope of the proposed OSC means that no flexibility is provided for allowing the Competent Authority to approve an alternative means of compliance (the only means to deviate from the OSC would be through filing an S-OSC with EASA which we do not believe will work in practice and will result in a huge administrative burden). This implies that the OSC process (initial OSC publication or following OSC updates) has become equal to an indirect legislative process. It should therefore be more "transparent" than the JOEB one and at least NPAs should be published before adopting an OSC or upgrading it.
Proposal:
Publish an NPA for each OSC or change to an OSC to allow the industry to comment publicly . The proposal to delete the OSC and replace it with the OEB

approved Ops data package as an acceptable means of compliance for the approval of the training would ensure EASA' standardization objective while retaining the flexibility for alternative means of compliance with meet the same safety objectives.. If this proposal is accepted then the need for a consultation process would become less crucial.

comment *409* comment by: *Cargolux Airlines International S.A.*

Comment:
Important elements linked to this NPA are still missing: for example the CS for Pilot Type Rating Training has not yet been published by EASA. It is therefore not possible to assess fully the implications of this NPA. It is undemocratic for EASA to rush this rulemaking until all the required elements are available. This NPA should therefore only be considered as an Advanced NPA which should be subject to a second consultation round once all elements are available.
Proposal:
Reconsider this NPA as an advanced NPA and publish a new NPA once all elements are available.

comment *413* comment by: *IACA International Air Carrier Association*

General comment:
The practical implications of the proposed OSC have not been well thought. The OSC could lead to a huge bureaucratic burden and creates another competitive disadvantage for European operators in the global aviation market. The proposed OSC will lead to non-justified costs without any improvement in aviation safety.
The NPA is incomplete and does not adequately address existing aircraft. Acknowledging the catch-up for existing aircraft is too burdensome for the OEM, the proposal to simply transfer the burden to the operators and training organisations is unacceptable.
The proposed OSC significantly diverges from the performance-based regulations philosophy promoted by EASA. Once the OSC becomes the sole legal reference for training courses, these can no longer be adapted by operators and training organisations taking into account operational experience.

comment *414* comment by: *IACA International Air Carrier Association*

Of the seven proposed options, only Options 4-5-6 appear to comply with the Basic Regulation. However, compliance with art.5.5.(e) of the Basic Regulation, causes EASA to diverge from international acceptable procedures, resulting in a lack of global (international) harmonisation.

BR 216/2008 art.5.5.(e) clearly stipulates that the minimum syllabus of maintenance certifying staff type rating training, the minimum syllabus of pilot type rating and the qualification of associated simulators, the master minimum equipment list and additional airworthiness specifications are part of the (restricted) type-certificates and changes hereto, individual (restricted) certificates of airworthiness…Therefore the proposed Option 4 – OSC not as part of but change to the TC - does not comply with the Basic Regulation.

Therefore, only Options 5-6 fully comply with the Basic regulation. These options however also diverge from international acceptable procedures, hence

lack any global harmonisation.

comment *472* comment by: *ECA - European Cockpit Association*

Comment on the following paragraph:

Any legal entity (e.g. operators, training organisations) can apply for a supplemental OSC if they either wish to exceed the limitations or to simply change elements of the OSC.

ECA requests clarification for this paragraph. As important elements of JAR-FCL were withdrawn in the IR-FCL (e.g. hard-limits for the duration of type rating training), ECA/IFALPA has problems accepting that the procedure on how to determine the minimum content of a pilots type rating training has been shifted to a regulation responsible for airworthiness requirements. To evaluate, whether this change is acceptable, a CS-pilot type rating training would be mandatory, But this CS doesn't exist yet. ECA fears, that exercising this privilege without the proper and strict guidance of an appropriately drafted CS gives leeway for lowering minimum standards established in the original OSC-process by operators or TRTO's leading to potential non-compliance with the ICAO standards.

comment *480* comment by: *ECA - European Cockpit Association*

Comment: change text as follows:

Any legal entity (e.g. operators, training organisations) can apply for a supplemental OSC if
they either ~~**to exceed**~~ **go below** the limitations or to simply change elements of the OSC.

Justification:

Editorial.

comment *551* comment by: *Evektor*

As a representatives of Association of Aviation Manufacturers in Czech Republic we did not find any safety reason why use tools such as OSC or SD for aircraft other than complex motor-powered aircraft.

Such tools will generate only unduly burden for TC holder, maintenance and training organizations, operators etc. without any significant effect on safety.

For aircraft other than complex motor-powered aircraft will OSC only duplicate informations previously approved under aplicable CS. **Duplicity can generate ambiguity that can lead to safety risk.**

comment *578* comment by: *European Sailplane Manufacturers*

As already explained in the general comment to this NPA 2009-01 the European sailplane manufacturers strictly oppose introduction of an OSC for sailplanes or other aircraft falling under the already proposed (in MDM.032

documents) / published (in Part-M) definitions for ELA.

Within the Executive Summary of NPA 2009-01 EASA explains that the proposed OSC will generally follow the example of the JOEB process of the JAA.

Furthermore it is explained that the proposed safety directives (SD) will follow the principles of JAR-26 (also of JAA).

Both proposed new processes (OSC and SD) thus are made for application in the world of commercial air transport and for aircraft which do not fall under the definition of ELA or the type of activities typical for ELA aviation.

The proposed alleviation that for aircraft other than complex motor-powered aircraft generic elements of the OSC will be developed is not considered to be adequate.

Being a new process and certification procedure the introduction of an OSC will bring with it additional effort for the type certification holders (the manufacturers) which is not tolerable.

Being another certificate will bring with it additional fees which also is not acceptable.

Being a complete new regulation which was not considered required or useful under the JAA regulation shows clearly that introduction of OSC and SD into the aviation sectors where ELA are operated is unnecessary.

And last but not least nowhere in the new basic regulation 216/2008 is the introduction of an OSC mentioned. Only the regarding requirements are found there and for ELA aircraft these are already fulfilled.

(Explanation: there are no type ratings for very small motor airplanes and sailplanes, the minimum equipment is already defined in the TC and the minimum requirements for pilots and for maintenance staff is sufficiently defined in the EC regulations. And cabin crew and simulators are simply not applicable / used for ELA.)

comment *681* comment by: *Swiss International Airlines / Bruno Pfister*

Section
General Comment on Catch Up Process
Relevant Text:
NPA 2009-1 (Catch Up Processes)
The OSC may be established either by :
•The aircraft manufacturer based on JOEB recommendations if existing, or
•An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing.
Comment:
The AEA questions the added value to require any catch up. Grandfathering

rights should be considered for all existing aircraft types including all modifications to existing aircraft types.

The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This is unacceptable to AEA since it raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer!

This approach does not seems realistic. It is also not in line with the

basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC.

Proposal:
Reconsider the catch up process. We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval..

In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.

comment *787* comment by: *Gulfstream Aerospace Corp*

Paragraphs 4 & 5:

Gulfstream perceives to have no mandatory obligation to support any given legal entity desiring to apply for a SOSC. However, section 5.2.4 implies that these organizations need to base their training on the type rating training syllabi for the aircraft. This infringes upon the OEM right to maintain proprietary data regardless of the NPA position on economic costs.

comment *866* comment by: *O. Reinhardt / Flightdesign*

I do not see any added safety reason why a OSC is required for aircrafts that match ELA category, especially ELA 1. Therefore I highly recommend to eliminate OSC requirements for this category of aircraft.

If, hovever, an OSC is considered absolutely necessary also for this category of aircraft, I propose not to re-invent the wheel.

Harmonization considerations then should clearly push this effort to refer for this category of aircraft the provisions within ASTM F2746 standard for "Flight Training Supplement". It is well understood that this part of the contents is not yet detailed formulated, but it is clear by the definition that it matches the intent of OSC exactly. EASA has properly understood in the meantime how to utilize the possibilities of ASTM Standards for a harmonized ELA respectively LSA environment in EASA and FAA world. There is no reason at all why EASA can not work the standard within the ASTM committees to provide the guideline, and the minimum standard wording fo this category of aircraft. As this is also utilized by FAA, a simple and effective step for proper

harmonization is done this way, helping everyone involved.

A. EXPLANATORY NOTE p. 5

comment *753* comment by: *Boeing*

Page 5
A. Explanatory Note
I. General

General comments from Boeing Commercial Airplanes:

- We are disappointed that it appears the EASA OSC moves away from the concept of shared responsibilities in the OEB process and specifically puts must of the responsibility on the TC holder. This will affect the flexibility and efficiency of the process with unclear effects on increasing safety.

- The proposed OSC will create a significant additional burden for the Industry and, in the end, for the consumer, who will eventually bear much of the associated costs. The safety objectives of the proposal are solely based upon the expected safety benefits from "standardization." However, we question whether the proposed standardization requirements will create the safety benefit that would justify the total costs to the industry. The proposed RIA does not provide this justification.

- Continued validity of OSCs will require significant additional resources in production and in post-delivery support of the airplane. For example:
  a. Additional reviews and classification on OSC changes impact will be necessary, as well as additional approvals for affected elements.
  b. For non-EU TC holders with no DOA privileges, direct involvement of EASA will be continuously needed. We recall that in a previous meeting, EASA leadership committed to an equal approach to the EU TC holders; this needs to be addressed by FAA and EASA very urgently.

- The Safety Directives (SD) and CS-26 are mainly aimed at the TC holder. Much more responsibility in operation, training, and maintenance is being put on the TC holder.

- It is unclear how SDs and CS-26 will affect the delivery of new airplanes (i.e., potential change of type design for C of A for Export; responsibility of manufacturer or operator).

- The basic premise of requiring an MMEL as part of the OSC is inappropriate. The MMEL is alleviating in nature, allowing certain equipment to be inoperative for a limited period of time provided that certain restrictions are observed. Absence of an MMEL certainly does not adversely affect the airworthiness of the airplane.

In general, we recommend that EASA adopt JOEB procedures to the maximum extent possible to avoid many of Industry's concerns and enable a simplified

implementation.

A. Explanatory Note - I. General p. 5

comment *412* comment by: *Cargolux Airlines International S.A.*

Comment:
The preferred option is for the OSC concept to be deleted and to be replaced by an approved training data package to be used as acceptable means of compliance. However, iIf an OSC becomes a mandatory requirement for EU airlines to put the aircraft into operation, than it should become an integral part of the TC and no EASA TC should be issued before the OSC is available. The EASA decision not to link the OSC to the TC is unacceptable since it will burden EU airlines in case the relevant information is not available in time. In addition, it is against article 5.5.e of the basic regulation which refers to the OSC as a condition to issue an EASA TC. This NPA is therefore against EU law. It has been written to take into account the requirements of some TC holders with no due consideration to the impact on the EU airline industry.

Proposal:
If it is decided to make the OSC mandatory for EU airlines (which is not the preferred option) than there is a need to link the OSC to the TC and there should be no EASA TC issued before the OSC is available.

comment *647* comment by: *Gianlivio De Otto*

We do not see any safety case why the OSC should be applicable to the aircraft with MTOM bellow 2000kg. It will add just another unnecessary certificate and related fees will increase the cost of sports and recreational flying.

Proposal:

OSC and SD should not be applicable for the aircraft covered by ELA process (MTOM less than 2000kg).

We think that for these aircraft the TC already cover all areas which would be in proposed OSC.

We also think that the current Airworthiness Directive system allows to assure safe operation, therefore no new SD proces just for Operation is necessary.

comment *911* comment by: *General Aviation Manufacturers Association / Hennig*

Attachment #5

Please see included file.

A. Explanatory Note - II. Consultation p. 5-6

comment *44* comment by: *Bombardier Aerospace*

This is a test

A. Explanatory Note - III. Comment response document p. 6

comment *747* comment by: *Cessna Aircraft Company*

Cessna strongly suggests maintaining the CRD open while the six expected Certification Specifications for the OSC are published as NPAs. It is impossible to objectively comment on processes that refer to standards that have not been defined yet.

A. Explanatory Note - IV. Content of the draft opinion and decisions p. 6

comment *249* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
17. These provisions were adopted by the legislator. The subject of the present NPA is to define the conditions under which they will be implemented and how the Agency will issue the decision mandating the related additional specifications for the operation of a given aircraft type.

Comment:
This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is different from EASA's approach to transfer such JOEB reports into hard-legislation for operators, training organizations and MROs rather than an acceptable means of compliance.

Proposal:
Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *686* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
17. These provisions were adopted by the legislator. The subject of the present NPA is to define the conditions under which they will be

implemented and how the Agency will issue the decision mandating the related additional specifications for the operation of a given aircraft type.

Comment:
This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is different from EASA's approach to transfer such JOEB reports into hard-legislation for operators, training organizations and MROs rather than an acceptable means of compliance.

Proposal:
Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *752* comment by: *Association of Asia Pacific Airlines*

In para 15 AAPA would remind EASA of their intent to mirror the current JOEB process unless the effected stakeholders indicate a preference for alternative certification process

A. Explanatory Note - IV. Content of the draft opinion and decisions - A. Background p. 6-8

comment *51* comment by: *Bombardier Aerospace*

To Section 14: In general terms, Bombardier can appreciate the decision of the EC that the burden of compliance (and subsequent accountabilities for operational approval) is best placed with the Type Certificate Holder. However, as any qualified entity other than the TC Holder can then hold a Supplementary OSC, surely this would represent a situation of *"generally applicable binding standards"* and not be permitted by the EC interpretation? EASA is requested to advise if *"generally applicable binding standards"* will apply to SOSCs.

We understand that the operational change potential of the SOSC is similar in nature to the design change potential of the STC currently in place; as such the changes envisaged by the SOSC can implement significant differences in the minimum criteria for training compared to that established for the initial OSC. As a potential OSC Holder, we suggest that EASA must proactively be assured that appropriate interaction between the TC/OSC holder and the SOSC applicant has occurred, before the Agency issues the SOSC.

comment *86* comment by: *AEA*

Relevant Text:
17. These provisions were adopted by the legislator. The subject of the present NPA is to define the conditions under which they will be implemented and how the Agency will issue the decision mandating the related additional specifications for the operation of a given aircraft type.

Comment:
This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is different from EASA's approach to transfer such JOEB reports into hard-legislation for operators, training organizations and MROs rather than an acceptable means of compliance.

Proposal:
Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *159* comment by: *UK CAA*

Page No: 6

Paragraph No: 8 (A. IV. A)

Comment: In general a reference to 'specifications' is not consistent and is often ambiguous. For instance, examples of 'specifications for the operation of a given type of aircraft' are 'the minimum syllabus for pilot type training, … technology linked to a certain type of operation' that are also defined as 'elements of the OSC' and are defined in footnote 10.

Similarly it is unclear if references to "additional airworthiness specifications" is to be interpreted as a reference to CS-MMEL, ….. (ref paragraph 36) or to 'specifications' identified in para 8 as examples of the output of the JOEB process?

Justification: Consistency

comment *161* comment by: *UK CAA*

Page No: 7

Paragraph No: 16

Comment: The UK CAA strongly supports the proposal that the minimum pilot training requirements determined by the JOEB process are mandated. It is agreed that the certification process would be a logical medium to set the minimum requirements through the use of the Operational Suitability Certificate. Only in this way can it be assured that identical requirements are applied by training organisations throughout the Community. This will harmonise the training and also remove the need for subjective judgement by an authority when approving a type rating course based up to now on generic guidance contained in an AMC which may be inappropriate for a specific aircraft as the guidance does not take into account the complexity or otherwise of the type except in general terms.

As the JOEB process is harmonised with the FAA and Transport Canada, identical training requirements should prevail for most new aircraft irrespective of where the course is held.

Justification: Harmonisation of requirements.

comment *162* comment by: *UK CAA*

Page No: 7

Paragraph No: 16

Comment: The UK CAA notes that Article 5(5)(e) of the Basic EASA Regulation enables an Implementing Rule to set out conditions for issuing type certificates, restricted type certificates, approval of changes to type certificates, individual certificates of airworthiness, restricted certificates of airworthiness, permits to fly and certificates for products, parts or appliances. This does not specifically enable the issue of something called an operational suitability certificate. UK CAA would welcome the Agency's legal view on this.

Justification: Legal clarification

comment *196* comment by: *Icelandair*

Relevant Text:
17. These provisions were adopted by the legislator. The subject of the present NPA is to define the conditions under which they will be implemented and how the Agency will issue the decision mandating the related additional specifications for the operation of a given aircraft type.

Comment:
This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is different from EASA's approach to transfer such JOEB reports into hard-legislation for

operators, training organizations and MROs rather than an acceptable means of compliance.

Proposal:
Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *385* comment by: *British Airways Flight Operations*

Relevant Text: Background; general comment - entire NPA

Comment: The elements from the Basic Regulation (BR) referred to in Para 16 assume that the OSC process will define a minimum syllabus of training for pilots and maintenance staff. That definition would seem to be a natural outcome of JOEB-like processes. However, the BR does give EASA carte blanche to oversee development of complete training syllabi, nor of their approval.

Proposal: Reconsider the NPA to ensure the JOEB processes result in minimum training syllabi for pilots and maintenance staff. Detailed syllabi can then be developed in conjunction with an organisations Competent Authority - as at present.

comment *399* comment by: *ETF*

8. The current approval of specifications for the operation of a given type of aircraft does not only cover data for cabin crew training today but through the OEB even *assessment of cabin crew training requirements*. While the OEB process is voluntary for the TC applicants, the cabin crew OEB team and its recommendations has successfully promoted uniformity within the Community as regards basis for cabin crew training.

comment *454* comment by: *Cargolux Airlines International*

Comment:
This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is different

from EASA's approach to transfer such JOEB reports into hard-legislation for operators, training organizations and MROs rather than an acceptable means of compliance.

Proposal:
Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *494* comment by: *ECA - European Cockpit Association*

Comment on paragraph 14., page 7:

The insufficient legal context of EASA leads to hinging operational and fcl-related issues to a law which basically should only regulate manufacturing and maintenance of aeronautical equipment. This is unsatisfactory. Efforts should be taken to adapt the legal environment (i.e. adapt the basic regulation) to avoid such circumnavigation which in consequence cloud the responsibilities.

comment *563* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

explanatory note, IV A §9,
appendix VI RIA §5.2.5

2. PROPOSED TEXT/ COMMENT:

STD (Synthetic Training Device) should be replaced by FSTD (Flight Simulation training Device).

3. JUSTIFICATION:

Consistency with FAA/JAA usage since 1st august 2008.

comment *585* comment by: *International Air Transport Association (IATA)*

17. These provisions were adopted by the legislator. The subject of the present NPA is to define the conditions under which they will be implemented and how the Agency will issue the decision mandating the related additional specifications for the operation of a given aircraft type.

Comment:

This NPA goes far beyond the intentions of the EU legislator which was to have a simple transfer of the JOEB process. The intention of the legislator was not to introduce the bureaucratic and complex processes of this NPA. The intention of the legislator to mandate TC holder to develop a JOEB report which is different from EASA's approach to transfer such JOEB reports into hard-legislation for operators, training organizations and MROs rather than an acceptable means of compliance.

Proposal:
Reconsider the entire NPA. We therefore propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *694* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment This NPA does not match with the intentions of the EU legislator that only wished, like for the whole aviation related EU regulation, a transfer of the JOEB process. Nothing was supposed to be added to the JOEB concept. As a result, due to EASA's approach, JOEB become compulsory and does not allow the requested operational flexibility.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are

not affordable to airline industry.

5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

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We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *760* comment by: *Association of Asia Pacific Airlines*

The NPA emphasises the need for the simple transfer of the JOEB process within the EU regulatory framework. However the NPA proposes to establish a more complex process resulting in possible duplication of effort, time and additional unneccesary cost.

We would propose that the OSC be only considered for new type aircraft which will not enter service until after 2010 or later such as the B787, A350 and others.

AAPA would strongly recommend the grandfathering of rights for operational data on inservice type certificated aircraft.

comment *784* comment by: *Walter Gessky*

- Item 15

It seems that the scope of the OSC process does not mirror the JOEB process. The Delta between the JOEB and the OSC as detailed in the NPA does not reflect the true scope of the JIPs'. No OEB is established

Proposals

1. Implement OEB rules as part of the type certification process in an Appendix to Part 21, including participation of operation, design, maintenance licensing experts etc. from:
   1. TC Holder
   2. EASA
   3. Operators (Launch customers)
   4. NAA's and foreign NAA's
2. Implement MMEL approval rules in an appendix to Part 21 following the same principles.
3. The result of the process should be the basis for EASA to approve the documents (MMEL, minimum trainings syllabus) and not to issue an OSC.

comment 789 comment by: *Walter Gessky*

- Item 15:

We disagrees with the working procedures being implemented solely through EASA decisions. It is felt that implementation through IR is appropriate iaw BR Art 5.5 for OEB, MMEL and safety related tasks according Art 22/1.

comment 871 comment by: *General Aviation Manufacturers Association / Hennig*

The requirement for providing "the minimum syllabus of maintenance certifying staff type rating training" for aircraft other than complex motor-powered aircraft should receive specific consideration from the agency and the EC with respect to grandfathering of existing type (group) training courses.

A significant number of the aircraft that meet the definition of aircraft other than complex motor-powered aircraft rely on maintenance training programs that are long established and where it is likely not cost-beneficial to develop a new course to meet a generic OSC.

This leaves EASA two options with respect to the generic elements for the syllabus of maintenance certifying staff type rating training:

1) Provide guidance to the 21.039 working group that develops the generic elements for the syllabus of maintenance certifying staff type rating training that the generic elements must be broad enough to capture, if not all, the vast majority of existing type (group) training courses.

2) Establish a grandfathering provision for the maintenance certifying staff type rating training requirement for aircraft other than complex motor-powered aircraft which would grandfather all existing type (group) training courses.

If EASA, working with the EC, does not embrace GAMA's proposed Option 1 or 2 outlined above, we expect this specific requirement for maintenance certifying staff type rating training to be prohibitively burdensome which would result in a large portion of the GA fleet likely not having access to properly trained maintenance staff.

comment 898 comment by: *General Aviation Manufacturers Association / Hennig*

GAMA Comment on Qualification of Associated Simulators

The Basic Regulation directs the agency to provide the qualification of associated simulators.

GAMA recommends that EASA direct the 21.039 working group tasked with the development of the CS aircraft data for the qualification of Synthetic Training Devices to reference and view as a resource the IATA document titled: "Flight Simulation Training Device Design and Performance Data Requirements, 7th Edition, 2009" as several of our member companies have been involved with

its development.

comment *952* comment by: *kapers Cabin Crew Union*

8. The current approval of specifications for the operation of a given type of aircraft does not only cover data for cabin crew training today but through the OEB even *assessment of cabin crew training requirements*. While the OEB process is voluntary for the TC applicants, the cabin crew OEB team and its recommendations has successfully promoted uniformity within the Community as regards basis for cabin crew training.

A. Explanatory Note - IV. Content of the draft opinion and decisions - B. Terms of Reference (ToR) p. 8

comment *316* comment by: *ERA*

Paragraph 15
The Agency has not asked stakeholders to indicate their preference. The Agency enforces its own unsubstantiated preference, the OSC, on all stakeholders. The OSC is definitely not a mirror image of the JOEB. The following arguments support this statement:
The JOEB is transferred into the EASA system, but in addition to that with a "delta", namely the minimum Syllabus of maintenancecertifying staff type rating training to be prepared by the OEM/TC Holder. This creates a huge burden for MRO's through reduced flexibility to adapt training programmes to the individual and operational environment. In the first place this is not justified on safety grounds and in the second place the OEM/TC Holder cannot be the judge of this.

Unlike the JOEB the OSC is mandatory instead of voluntary.

comment *361* comment by: *Austro Control GmbH*

The Basic regulation does not provide a legal framework for implementing the proposed OSC requirement for Cabin Crew training syllabus.

comment *415* comment by: *IACA International Air Carrier Association*

The benefits of the additional airworthiness specifications according to the 21.039 Terms of Reference compared to the existing system are not identified. The intention of the OSC remains unclear for the operator.
The contents of the OSC are not clearly specified, leading to confusion and misunderstanding. The airworthiness is already certified by the type certificate or supplemental type certificate holder, including operational requirements / restrictions. Lacking clear benefits, the OSC will introduce an additional burden and bureaucracy.
Last but not least – considering EASA as the European Aviation Safety regulator – IACA is not aware of any safety case that warrants the need to regulate the OSC requirements.

A. Explanatory Note - IV. Content of the draft opinion and decisions - C. Rulemaking group composition, discussions and considerations p. 8-10

comment *260* comment by: *Airbus*

Relevant text: § 28

The Agency envisages creating additional subgroups for the drafting of CSs for the approval of data for the cabin crew type training and reference data for the qualification of the associated simulators and generic CSs for aircraft other than complex motor-powered aircraft.

Comment:

Airbus fully supports Agency proposal and considers that it is a MUST to have subgroups with relevant expertise to draft the CS and revise the relevant OSC NPA parts together based on feedback from this first consultation phase. This should be done in close relationship with the core group.

comment *263* comment by: *Airbus*

Relevant text : § 31

(2) The definition of the concept of minimum syllabus for pilots and maintenance certifying staff type rating training;

Comment:

Airbus considers that these words "minimum syllabus", which come from the Basic regulation, are very misleading. Most of stakeholders would understand that this is "a minimum training course". Airbus would like to stress that a TC Holder is NOT a Training organisation: a TC Holder provides its Customers Operators with all the necessary aircraft relevant data, so that the Operator and its Training organisation can develop the relevant training programmes based on applicable rules (part FCL, Part OPS, Part 66).

What is a responsibility for the Manufacturer may be to identify and highlight the specific areas of emphasis for the type due to its specific design, but nothing more. For example, in no way should a TC Holder be required to define training duration.

Proposal:

To clarify the Basic Regulation text with regard to the minimum syllabus, or at least to clarify the definition of minimum syllabus in Part 21, so that it adequately reflects what a TC Holder may be held responsible for.

comment *272* comment by: *Airbus*

Relevant text § 31:

The review of the list of items in the ToRs and the determination of those which should be included as mandatory items versus those which should be

only considered as voluntary (e.g. if they were included in the aircraft type certification for for which the applicant 'elects voluntarily to comply with')

Comment: Airbus considers that, in order to mirror the JOEB process, as EASA declared that it is their intent, identification of "voluntary elect to comply" elements from a TC holder is important. However, because of the new compulsory nature of the OSC elements associated to major change to type design, the result for the end-users (operators/training organisations) is not of the same nature (now binding). For example, for EFBs, ETOPS, etc. criteria are already contained in AMC documents that may be used by every operator, and the approval is conducted by the NAA. No special need of OSC elements for this.

Proposal:

- Reconsider the scope of the OSC to limit it to a minimum list and mainly re-assess the process of changes to type design following initial Type Cerification to keep flexibility at TC Holder and operator level.
- Ensure that the already available material can be used by every operator, keeping those items as voluntary elect to comply for a TC holder without a compulsory result imposed to the operator, so that the JOEB concept of recommendations on voluntary elements is kept.

comment *283* comment by: *Airbus*

Relevant Text § 31:

The determination of appropriate, acceptable and reasonable transition measures for existing fleet including the conditions for a voluntary versus mandatory catch-up for existing models;

Comment:

Airbus considers that the new process should be limited to "new aircraft types", that no mandatory catch-up should be imposed. The link with OSC in the relevant Parts FCL, 66, OPS, OR, AR would exist but should only be rendered mandatory when introducing a new aircraft type (newly certificated), for which an OSC has been required by this new rule. For all other aircraft, grandfathering rights/provisions should be considered, including for modifications to existing types. What is currently done in the JOEB process could be considered: applicability to derivative aircraft in addition to brand new TC.

Proposal:

Neither OSC nor SOSC required for already existing fleet, including modifications to existing aircraft types. OSC only required for new TC and derivative aircraft.

comment 292 comment by: *Airbus*

Attachment #6

Relevant text § 31:

The determination of the type specific data for cabin crew type training instead of the minimum syllabus for cabin crew type rating training as initially mentioned in the ToRs

Comment:

Airbus would like to stress that the initial JOEB TORs were mentioning: "if appropriate, manufacturer's/launch customer proposal for cabin crew operation on more than 3 types or variant" (See enclosed TORs. Behind this, was the idea of the manufacturer assisting its customers in determining the compliance to OPS 1.1030, determination for cabin crew whether the new aircraft is a new type or a variant. There has never been any mention in the JAA TORs about cabin crew type rating training.

Consequently if there should be an OSC element related to cabin crew aspects, with the idea of mirroring the JOEB process, bearing in mind that there is no clear legal enforcement in the Basic Regulation under Article 5 paragraph 5(e), it should be limited to the assessment of whether the new aircraft with respect to doors and slides can be considered as a variant or should be considered as a new type. In any way final assessment can only be made at operator level due to each specific cabin layout, and selection and location of portable equipment. (Ref to EU OPS 1.1030)

Proposal:

Limit OSC scope for cabin crew as follows: Determination of type or variant for cabin crew. (Generic level)

comment 299 comment by: *Airbus*

Relevant text § 31:

The determination of the necessary data for the evaluation and qualification of the simulators associated with the pilots type rating training as included in the new Basic Regulation and also in the ToRs;

Comment:

The Basic Regulations is very much misleading as it states:

"minimum syllabus for pilot type rating training and the qualification of associated simulators".

The qualification of simulators belongs to operators/training organisations, NOT the TC Holder. As a consequence some interpretation was needed, and it was then said "the necessary data for the evaluation and qualification" of the simulators. Once more this is NOT an adequate sentence as a TC Holder is NOT a Simulator provider.

With regard to simulator objective qualification, the TC Holder provides aircraft

source validation data as required in CS FSTDs.

Proposal:

Amend Scope of OSC as follows:

"minimum syllabus of pilot type rating training, including determination of type rating, and the aircraft validation source data to support the objective qualification of associated simulator(s)

comment *300* comment by: *Airbus*

Relevant text: § 33

It should be highlighted at this point, that the Agency has decided to keep the MRB process separate from the new OSC process, because:

(1) Currently the output of the MRB process is considered to be contained in the Instructions for Continued Airworthiness as required by the applicable CS and therefore already included in the TC; and

(2) The MRB is not mentioned in the new provisions of article 5(5) of the BR.

Comment

Airbus fully concurs with EASA to have the MRB process separate from the new OSC process, and fully agrees with the EASA rationale.

There is no need to include the MRB process into the OSC system. The MRB process is, for the TC holder, a means of compliance with Part 21 § 21.A61, and with the section of the relevant certification specification dealing with instructions for continued airworthiness (e.g. CS 25.1529 and Appendix H). The link between the TC holder's instructions and the owner/operator's maintenance programme is specified in Part M § MA.302. This set of rules is comprehensive and consistent, and the general concept should not be changed.

comment *402* comment by: *ETF*

(6) The ETF contest that cabin crew minimum syllabus for cabin crew type training has been reduced to type specific data. Our representative objected to the outcome by mail of October 1st last year to the group. She feared that the outcome would imply a watering down of the OEB cabin crew subgroup and expressed unfair treatment of the cabin crew compared to the other groups.

comment *416* comment by: *IACA International Air Carrier Association*

Footnote 10: Elements

O&M procedures shall be developed and provided by the OEM as part of the MMEL, one of the elements of the OSC.
As explained by EASA during the workshop, NPA 2009-01 OSC only includes the approval of the MMEL, but excluding the related O & M procedures. The Operational and Maintenance Procedures, CS–MMEL.130 to be developed, shall be part of the approved elements: see EASA NPA EASA 2009-02c:
GM OR.OPS.020.MLR(g) Minimum Equipment List

OPERATIONAL AND MAINTENANCE PROCEDURES
Operational and maintenance procedures are an integral part of the compensating conditions needed to maintain an acceptable level of safety, enabling the competent authority to approve the MEL. The competent authority may request presentation of fully developed (O) and/or (M) procedures in the course of the MEL approval process.

comment *534* comment by: *EUROCOPTER*

Comment on item n° 28:

"*The Agency envisages creating additional subgroups for the drafting of CSs for the approval of data for the cabin crew type training and reference data for the qualification of the associated simulators and generic CSs for aircraft other than complex motorpowered aircraft*."

Comment: Eurocopter fully support this Agency proposal and consider that it is a MUST to have subgroups with relevant expertise to draft the CS and revise the relevant OSC NPA parts together based on feedback from this first consultation phase. This should be done in close relationship with the core group.

comment *564* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

Explanatory note, question at §32-33 regarding MRB:

2. PROPOSED COMMENT:

Based on our general comment [CRT numbered 544] and proposed way-ahead, it seems logic to consider the MRB as a similar data as what is proposed in the OSD. It could therefore be easy to add a reference in the basic regulation, article 5 (5).
Part 21 could also be clarified to mention the MRB and add a reference to the OEB group and methods that elaborates the MRB.

comment *652* comment by: *ETF*

Point 28. The ETF question how data for cabin crew type training can define CS for cabin crew type training. The ETF suggest that the T.o.R for the subgroup on cabin crew should not be restricted data for cabin crew training but to include: **CS for the determination of the minimum content of the cabin crew training programme for type of aircraft or variant of types.**

Reason: This would bring cabin crew in line with the aim as described in IV. A. point 13.

comment *721* comment by: *General Aviation Manufacturers Association / Hennig*

To section 28, GAMA members are concerned that NPA 2009-01 is being evaluated without access to the applicable Certification Specification that will

outline how to implement these new requirements. This makes it difficult to full determine the implications of this NPA.

It would be unfortunate if the comment review of the NPA for the Certification Specification for pilot type rating training; maintenance certifying staff type rating training; cabin crew; MMEL; aircraft data for the qualification of Synthetic Training Devices; and likely a stand-alone CS for aircraft other than complex-motor powered aircraft be limited in affecting the requirements as a result of not being able to make changes to the implementing regulations. It is especially concerning for the CS for maintenance certifying staff and aircraft other than complex motor-powered aircraft since requirements for these do not exist today, but will have to be developed from scratch.

GAMA recommends that the CRD for NPA 2009-01 be maintained open pending the publication of the applicable CS NPAs and allow a period of overlap between the CRD being open for review and the NPAs for the CSs being subject to comment. Alternatively, if needed, EASA should identify a process through which Part-21 can be amended if the development of the CSs and their public comment identifies a need to amend the Part 21 with respect to the OSC.

comment *803* comment by: *Walter Gessky*

- Item 33:
  It should be noted that a clear regulative in the IR for the MRB and CMR approval process is required.

comment *953* comment by: *kapers Cabin Crew Union*

(6) The ETF contest that cabin crew minimum syllabus for cabin crew type training has been reduced to type specific data. Our representative objected to the outcome by mail of October 1st last year to the group. She feared that the outcome would imply a watering down of the OEB cabin crew subgroup and expressed unfair treatment of the cabin crew compared to the other groups.

comment *954* comment by: *kapers Cabin Crew Union*

Point 28. The ETF question how data for cabin crew type training can define CS for cabin crew type training. The ETF suggest that the T.o.R for the subgroup on cabin crew should not be restricted data for cabin crew training but to include: **CS for the determination of the minimum content of the cabin crew training programme for type of aircraft or variant of types.**

Reason: This would bring cabin crew in line with the aim as described in IV. A. point 13.

A. Explanatory Note - IV. Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - p. 10

comment *356* comment by: *Austro Control GmbH*

- Austro Control disagrees with the Basic system framework. The OEB

concept involves all stakeholders, whereas the OSC system, as proposed, only includes the TC Holder and EASA. Proposals

1. Implement OEB board including:
1. TC Holder
2. EASA
3. Operators (Launch customers)
4. NAA's

- Foreign NAA's

comment 357 comment by: *Austro Control GmbH*

Austrocontrol disagrees with the Scope of the OSC. The Delta between the JOEB and the OSC as detailed in the NPA does not reflect the true scope of the JIPs'.

comment 358 comment by: *Austro Control GmbH*

- Austro Control disagrees with the working procedures being implemented solely through EASA decisions. It is felt that implementation through IR is appropriate iaw BR Art 5.5 Proposal
  1. Implement the requirement for OEB structure through appendix to Part 21 as follows
1. Scope of OEB
2. Make up of OEB

comment 687 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"47. A Design Organisation Approval (DOA) is not required for applicants for an OSC or SOSC. All Community holders of a TC for complex motor powered aircraft however are already required to hold a DOA. They can choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. After the initial implementation of the OSC rules and when enough experience is gained with the different approval processes, the Agency will investigate whether there is a need to mandate DOA for OSC applicants."
Comment:
We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for all changes resulting from modifications designed under their currently approved DOA scope.

comment 691 comment by: *Swiss International Airlines / Bruno Pfister*

Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

Such a requirement will result in a need for MROs/DOAs to hire a lot of flight operational experts to do work currently within the airline operator's field of expertise and responsibility. This is also a source of added complexity and costs.

The concept of S-OSCs linked to S-TC should therefore be reconsidered. At least, there should not be a requirement for DOAs to hire operational staff since Ops and FCL experts are within the airline structure. This would ensure that the expert remains in the training area of the airline or the aircraft manufacturer thus keeping their training knowledge up to date rather than having them isolated in a Design Organisation structure linked to the MRO.

Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment *766* comment by: *Association of Asia Pacific Airlines*

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - i. The options explored by the drafting group 21.039 p. 10

comment *739* comment by: *Pilatus*

General
Pilatus Aircraft Ltd. supports in general the intent of this NPA, however Pilatus has its reservations concerning the undeveloped details and implementation of the NPA.

Although this NPA indicates that a minimum syllabus for maintenance certifying staff, pilot type rating and MMEL is required, the exact details of these minimum requirements are not available in a technical standard or developed CS to review the influence together with the requirements stipulated in the NPA for the OSC.

The additional workload for a TC holder is still also not clear and therefore it is difficult to agree/comment it.

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - ii. The preferred option: Operational Suitability Certificate p. 10-12

comment 4 comment by: *Francis Fagegaltier Services*

Explanatory note, content of the draft opinion and decisions, item numbered 36
With regard to CS-MMEL, when drafting this new document, the Agency should take account of already existing CS on similar subject such as "CS-E 1030 Time Limited Dispatch". Of course, MMEL is defined at aircraft level. But items related to engine, propeller and APU should be defined in coordination with TC holders (ETSO for APU) for such products and consistent with the certified elements published with agreement of the engine, propeller, APU certificating authorities.

comment 53 comment by: *Bombardier Aerospace*

To Section 35: As noted in our overall comments (posted against the Executive Summary), Bombardier Aerospace considers that Option 4 has not been adequately thought through with regard to non-EU Applicants and Holders. Therefore, we do not agree that Option 4 can be claimed as the preferred option from a regulatory impact/efficiency point-of-view. Our suggestion for next steps is included in later comments.

To Section 37: If EASA agrees, this Section, its Note 11 or a more appropriate Section will need clarification to address the following potential scenario. It concerns a Type with a mature North American TC that has never been issued with an EASA TC (but does hold multiple NAA TCs in the EU) and, through the TC Holders choice, has obtained a JOEB approval. If the JOEB approval grandfathers into an OSC, it is assumed that the only option is for EASA to then issue the EASA TC, unsolicited and without Fee/charge so that the OSC can be associated with that EASA TC.

To Section 43: As noted in our overall comments (posted against the Executive Summary), Bombardier Aerospace suggests that a comprehensive review of the OSC is not possible without the Agency Certification Procedures, which may throw some light (and benefits) on the use of existing or proposed International/Bilateral Agreements and Treaties as well as long-established cooperative arrangements for "joint" operational evaluations under the JAA. Through the briefings in March to May 2009, EASA explained that the Agreements in place for "mutual acceptance" or other mechanisms that enable one Agency to accept the findings on behalf of the other do not extend beyond the TC. However, the more specific agreements on collaboration between Agencies for a specific EASA Operational Evaluation would not be prohibited. As will be understood from our comments against later parts of the NPA, without the benefits and efficiencies provided by equivalent Agreements for the OSC, there will be a disproportionate high level of activity with EASA for non-EU Holders in the issuance of the OSC (and changes to that OSC) compared to issuance to non-EU Holders of the TC (and changes to that Certificate). Solutions are necessary to address this burden for the non-EU community. The potential for non-EU OEMs to hold a limited or "mini" Design Organization Approval (DOA) may be explored, although the jurisdiction issues between EASA and the State of Design where the TC/OSC is held will need to be resolved. It is for certain that non-EU TC and potential OSC Holders will not encourage two Agencies overseeing their Approval Organizations.

comment *163* comment by: *UK CAA*

Page No: 11, 13, 55, 65

Paragraph No: 38, 47, B.I 21A.78/79/80/81, B.II GM 21A.79

Comment: It is clear (para 37 and B.I 21A.64) that 'The applicant for the initial OCS is the TC holder' and that (para 47) 'All Community holders of a TC …. are required to hold a DOA', but recognising (para 47) that 'a DOA is not required for applicants for OSC or SOSC' the proposal does not elaborate the approval requirements for TC holders that do not hold DOA in the context of Part 21 Subpart J.

It is stated (para 38) that 'changes to the initial OSC may be proposed by the OSC holder or any other legal entity.' whereas the draft opinion 21A.80 states 'Only the holder of the OSC can apply for an amendment of this certificate.' It is not clear if these requirements are in fact conflicting. Also with reference to draft opinion 21A.79, may it be assumed that classification of the change, minor / major, is part of the proposal for change and therefore permitted by the OCS holder or any other legal entity?

Justification: Clarification

comment *309* comment by: *Airbus*

Relevant text page 11 § 36

The OSC of an aircraft type is issued by the Agency when the applicant has demonstrated that the elements comply with the applicable technical standards. These standards are included in CSs which are also issued by the Agency in accordance with the Rulemaking Procedure. There shall be a CS for each element: CS-MMEL, CS-pilot type rating training, CS-Flight Simulator Training Devices (for OSC applicants), CS-cabin crew type training and CS-maintenance certifying staff type rating training. All of these CSs are currently under development and will be open for consultation through publication of dedicated NPAs throughout the course of this year. To give an indication of the contents and structure of these CSs the table of contents for the draft CS-MMEL is attached to this NPA as Appendix V.

Comment:

Airbus strongly believes that those CSs are missing key elements, without which it is difficult for all stakeholders to provide EASA with constructive comments.

In addition, the above text is misleading, as it gives inappropriate title to those future CSs, like for example CS-Cabin Crew type training. In no way will a TC holder provide training material for Cabin crew. TC Holder is NOT responsible for training content, this is the role of operators/training organisations.

Proposal

Airbus recommends EASA to consider the comments to this NPA as a set of inputs to revisit the NPA OSC/SOSC/SED content while developing in parallel the relevant CSs. EASA, based on this work, should then publish for

consultation a new complete NPA containing ALL elements (IRs, CSs, AMC, GM) that will allow an adequate assessment by all stakeholders, who will be then in a position to provide constructive comments.

comment *310* comment by: *Airbus*

Relevant text is from § 38-39-40

General comment on changes to OSC and SOSC concept

Comment:

Today, the JOEB is used mainly for providing recommendations to assist Operators and NAAs in introducing a newly certificated aircraft.

Then Operators monitors carefully the evolution of the fleet and ensure that training is adjusted where needed to reflect aircraft modifications. This is true as well for STC. Moreover, AMC 20 documents already covers adequately some of those aspects like for example EFB, ETOPS. So, if an Operators wants to install an EFB, airworthiness and operational criteria are made available to him through these AMC 20 documents, and the Operator then works with the NAAs for approval.

If EASA objective is to mirror the JOEB process, then Airbus does consider that there is no need for a S-OSC. Moreover this S-OSC concept would only be applicable to EU operators , adding an additional approval layer while there would not be any equivalent for non EU operators. In fact all operators are taking care already of their fleet specifics, and this should remain..

Proposal: Airbus recommends EASA to keep the OSC process as close as possible to the JOEB one and consequently recommend to reconsider the need for an S-OSC.

comment *314* comment by: *Airbus*

Relevant text

For complex motor-powered aircraft, the process used by the Agency to approve the elements of an OSC is not specified in the rule, as it is an Agency certification procedure adopted by the EASA Management Board after consultation with the EASA Advisory Board; however it is clearly the intention to base it on the existing OEB process. The existing OEB process is mainly applicable to large aircraft. It can, however, be adapted to the size and complexity of the aircraft type in case an element needs to be developed for an aircraft other than complex motor-powered aircraft. The final processes used by the Agency will be included in the Agency Certification Procedures and will be published on the Agency's website.

Comment:

Airbus is very concerned about this paragraph, as it is does not allow to clearly understand what part of the process will not be published in the OSC rule. If EASA is referring to the content of the so-called Common Procedure Document, then Airbus considers that this should be part of the CS for the relevant

elements. If EASA is referring to the former JIP, then all stakeholders should be consulted for these, so as to built on lessons learned from the previous JOEB experience. The draft procedure should be made available for comments, not only to the EASA Advisory board, but to all stakeholders. But maybe the procedure should be published within the Part AR, as NAAs may be involved?

Proposal:

- Airbus requests a wider consultation with cognisant specialists of the OEB process, and not only with the EASA advisory board.
- Airbus recommends that the OSC Agency Certification procedure be made available to all stakeholders with sufficient notice, for consultation and comment, prior to final review with the EASA Advisory Board.

comment *317* comment by: *ERA*

Paragraph 36
More detail is required as to the anticipated CS rulemaking programme and the procedures involved.

Paragraph 43
Is the EAB aware of detail of their role in this process and what the expectations might be?.

comment *552* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

Paragraphs 36 and 42

2. PROPOSED COMMENT:

a) The CS-MMEL, CS-pilot type rating training, CS-cabin crew training, CS-maintenance certifying staff training shall be made available in French language, at least for the "generic" part.

b) In order to be consistent with our general comment, it is recommended to speak of "generic OSD". Those generic data would be available in the language of each national authority.

3. JUSTIFICATION:

Because CS are to be used as generic documents for general aviation community, when the TCH does not have to provide with specific "OSC data", the generic CS must be understood by all citizen in their own language.

comment *570* comment by: *Airbus*

Relevant text:

Page 11, paragraph 39, and

Page 55, § 21A.81

Comment:

We understand that the SOSC may either:
(ii) 1. Be linked to an STC (a physical change to an aircraft, e.g. new avionics), or
(iii) 2. Be independent of an STC (no physical change to an aircraft, e.g. MMEL change for specific operating conditions).
21A.113 requires the STC applicant to justify that the information it submits is adequate either from its own resources, or through an arrangement with the TC holder. We assume that, in case 1 above, this obligation is extended to the related SOSC elements.
There is no similar requirement in case 2 above (no STC related to SOSC).
Whether this difference is on purpose or not, it would be required to apply for an SOSC, with a presumably heavy process involving the Agency, whenever an operator seeks a deviation from the OSC. The compatibility of this process with the operating needs is doubtful. Another process, possibly involving the operator's competent Authority and/or the TC/OSC holder, should be considered.

comment *628* comment by: *Luftfahrt-Bundesamt*

Item 42: Concerning the necessary statement of an OSC applicant, that the generic elements are sufficient for his non-complex product, it is left unclear whether this decision is made by the OSC applicant himself alone or with involvement of the Agency. For cost and effort reasons, there would be a natural tendency of OSC applicants to avoid any need to develop something specific. We envisage frequent and endless discussions on this subject.

comment *639* comment by: *SOCATA*

We would like to have more clarification on the CS related to each OSC element. For instance our product (non-complex aircraft) is not type rated but **class rated.**

From our understanding, the generic CS-pilot type rating training is then not applicable to our product.

Thanks to provide us with clear definition and content of the CSs.

comment *653* comment by: *ETF*

The ETF supports the OSC option.

comment *663* comment by: *EAMTC*

NPA 2009-01 item No 40. The procedural requirements ..... The contents of the elements are owned by (S)OSC holders, who are required to provide them to each entity that is required to comply with their contents. The OSC DS will be published on the Agency's website.

The sense of the words "owned by" could be clarified.

Case 1: "owned by" in the commercial sense and users may need to purchase the (S)OSC DS
Case 2: "owned by" in the copyright sense and users may need to purchase the (S)OSC DS
Case 3: "owned by" in the document sense and the owner updates the document as required and the use of the document is free and in the public domain
Case 4: "owned by" as in Case 3 but Cases 1 and/or 2 may apply

comment *669* comment by: *EAMTC*

point 36.

It is not easy (impossible) to comment on this NPA when the key elements - here CS-MCS are unknown!

comment *722* comment by: *Cessna Aircraft Company*

#42--

In theory, this process appears to be reasonable. However, until the CS is defined, it is difficult to determine the acceptability of such a process.

comment *728* comment by: *Pilatus*

§ 38 Explains that any legal entity can apply for a change to the OSC and the change is called an SOSC, but the NPA is does not give any indication of cooperation between the OSC holder and the SOSC applicant. How does EASA see the interaction between the organisations in this matter or is it envisaged that there should be no interaction.

§ 40 The NPA is not very clear on the matter, but it is assumed that if all the technical requirements are listed in a CS, that compliance be demonstrated in separate compliance documents or is it envisaged that the individual syllabi approval constitute compliance demonstration?

The OSC will only contain reference to the approved syllabi (document number and name)?

§ 42 Although the NPA indicates that a CS will contain generic elements for aircraft other that complex motor-powered aircraft this NPA does not address the generic elements, which again makes it difficult to evaluate the impact of the NPA.

comment *781* comment by: *General Aviation Manufacturers Association / Hennig*

GAMA believes that the proposal for a "generic OSC" for aircraft other than complex motor-powered aircraft is a good step forward and addresses one of industry's key concerns that were raised in the letter from industry to Mr. Goudou on May 29, 2008 related to the scope of the OSC.

However, EASA should recognize that the establishment of this generic OSC should be considered carefully as it significantly expands the regulatory requirements placed on light general aviation.

The basic concept of a CS containing generic elements is difficult to evaluate without being able to review the CS for aircraft other than complex. GAMA and our members look forward to working with the agency to develop the relevant CS for aircraft other than complex aircraft.

As the agency develops the Terms of Reference for this tasking under rulemaking group 21.039, GAMA recommends EASA should be recognized that "other than complex motor-powered aircraft" captures a broad and diverse segment of aviation. This diversity may drive a set of targeted CSs for the generic OSC for different types of aircraft and operations conducted by aircraft other than complex motor-powered aircraft.

comment *782* comment by: *General Aviation Manufacturers Association / Hennig*

GAMA recommends that EASA establish simplified process through which aircraft other than complex motor-powered aircraft be put through if it is determined that the "generic OSC" does not suffice to ensure safety. Putting an aircraft other than complex motor-powered aircraft through a complete OEB evaluation for not meeting a set of criteria would likely be disproportionally burdensome for aircraft of this size and complexity.

comment *785* comment by: *Walter Gessky*

• tem 36.

We have major concern with regard to the OSC concept and do not support that an OSC has to be issued by the Agency. Instead of a certificate, the documents issued after the evaluation process shall be approved by the Agency following the OEB, MMEL process.

Art 5/5 regulates, that the COM has to establish IR on the following subject:

"The measures designed to amend non-essential elements of this Article, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 65(4).

In Art. 5/5(e)(iv),(v) and (vi) the measures are specified and compliance with paragraph (2)(f), Article 7 or Article 8 shall be ensured. Austria was initially opposing the proposal to add the text of lit (iv), (v) and (vi) to Art 5/5(e) because they are not directly related to certification tasks which are competency of the Agency. Therefore, when the tasks are not linked to the Type Certificate, the issuance of this kind of Certificate would be the responsibility of the NAA.

I remember from the Council Working Group, Austria opposed the

concept. I discussed the subject with the COM member and was asked not to oppose the concept, because when part of the type certification process, than a workable process could be established. But it was mentioned that the approval process will be part of the Type certification process. It is not supported that an individual certificate (OSC) shall be issued. The approval process shall be included in the TC process and the individual documents (trainings syllabus, MMEL) shall be approved similar to the AFM.

The concept includes features in paragraph 21A.62 which are normally handled by an Operations Evaluation Board (former JOEB).

The OEB concept and a MMEL approval concept shall be included in the IR as an Appendix and shall include the basic principles of the process and grant involvement of all stakeholders, whereas the OSC system, as proposed, only includes the TC Holder and EASA.

Proposals

1. Implement OEB rules in an appendix to Part 21, including participation of operation, design, maintenance licensing experts etc. from:
2. Implement MMEL approval rules in an appendix to Part 21 following the same principles.
3. The process for issuance of Safety directives has to be deleted and transferred to the OPS rules.
4. For the OEB and MMEL process a general clarification is required what kind of acceptance process is possible before the ED publish a decision even when the content was not supported by the NAAs and stakeholders (like a comitology process)

Justification:
We disagree with the working procedures being implemented solely through EASA decisions. It is felt that implementation through IR is appropriate iaw BR Art 5.5 for OEB and MMEL structure.

When following the concept of the basic regulation, than all tasks where the Agency is responsible shall be notified in Art 20. I could not find anything in Article 20 that the Agency shall issue a certificate (an OSC) as proposed in the NPA.
It was not the intention and Art 20 gives not the power to the COM that in addition to the type certificate EASA can issue an OSC. Therefore we do not support the proposal to issue an OSC.

In addition the proposed process would be a bureaucratic activity.

EASA scheduled for the year 2008 to issue approximately 8000 approvals in the Certification Division. Most of them would be design related. Most of the approvals relate to design changes. It seems to be required that the OSC or Supplemental OSC has to be amended after each design change (minor or major).

We do not see that Art. 5/5(e)(vi) give the COM power to regulate the issuance of safety directives in the manner described in the NPA.

The additional airworthiness specifications for a given type of operation shall ensure compliance with Article 8 and shall regulate f.e. additional

standards for aerial work, flight training etc and not solve safety problems. According Art 22/1 safety related issues shall be regulated in the OPS rules.

"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."

We also see problems in the concept. When according Art 5/5(e) only non-essential of this Article can be regulated by implementing rule, why can safety related tasks be regulated by non binding material.

It is also questionable why in a safety directive requires retroactive requirements are effective only for aircraft used in a given type of operation (large aircraft in CAT) and not for an A/C used in non-commercial operation. In case of an accident the court will ask the NAA issuing the CofA why a standard required by a safety directive under part 21is not executed. Therefore safety related issues have to be solved following a process regulated in Part OPS.

Walter Gessky

Ministry of Transport, Innovation and Technology

comment *788* comment by: *General Aviation Manufacturers Association / Hennig*

GAMA believes that EASA should further clarify the circumstances which would make an aircraft other than complex motor-powered aircraft subject to additional requirements beyond the generic elements as generally outlined in 21A.70(a)1. in the NPA.

The NPA states that "…the TC holder does not need to develop the elements except for the case where the generic elements contained as published in the applicable CS are not sufficient to ensure the safe operation of the particular aircraft type."

GAMA recommends that the agency further specify the process through which the determination whether the generic elements are sufficient to ensure safe operation of a specific aircraft model. Is the aircraft subject to a full OEB evaluation until it can be proven that the generic is enough or does the burden lie with the agency for doing the evaluation? If the burden lies with the agency, then EASA needs to clarify the process which it would use for making this determination.

comment *793* comment by: *General Aviation Manufacturers Association / Hennig*

GAMA recommends that EASA establish a process through which a manufacturer can petition the agency to establish a targeted OSC for an aircraft other than complex motor powered in cases where the manufacturer identifies operational issues or equipment that warrant targeted training requirements beyond the generic elements.

As an example, if the manufacturer petitions the agency for a targeted set of OSC pilot training requirements for a new avionics installation, this targeted set of new requirements would not void the ability of the OSC for the aircraft to

be built around the generic elements of the OSC for all other areas.

comment *796* comment by: *Walter Gessky*

- Item 42, 43

  According Art. 20 of the basic regulation, the type certificate and noise certificate are the only certificates to be issued by the Agency for products. Any other certificates for products shall be issued by the NAA. The OSC process is not specified in the basic regulation, the COM is not entitled to adopt this kind of regulation, giving the Agency power to issue a certificate which is not covered in Art 20. The tasks are clearly part of the TC process and the proper certificate would be the TC or an approved document like MMEL.

  Implementation of the OSC concept for all A/C is a overkill for large segments of GA. The generic CS's for non-"complex motor powered" is a Bureaucratic act of little value for large sections of GA (For example gliders). Given the EASA systems inability to create a generic maintenance program for light A/C as has been practiced for decades in the form or FAR 43 Appendix D, it is highly unlikely that any meaningful result would come of the enormous bureaucratic effort involved with creating the generic CS's required by NPA 2009-01.
  Proposal:
  1. Cut off for mandatory OEB at complex motor driven aircraft.
  2. If a TC holder wan't to implement elements of the OEB, voluntary application shall be possible(Works for the MRB).

comment *798* comment by: *Walter Gessky*

- Item 45:
  CS are by definition non binding material and are not mandatory for the applicant. The issuance of certificates except the type certificate, when required, are task of the NAA, because no power is given to the Agency in Art. 20 to issue an OSC.

comment *826* comment by: *FAA*

- **Paragraph 35 of the Explanatory Notes.**

Comment:
Paragraph 35 of the Explanatory Notes states that, in the preferred option, the OSC is not a precondition for issuance of the type certificate (TC). However, a Project Certification Manager from the Certification Directorate insisted in a multiple authority meeting that he has been told that it will be a precondition for issuance of the TC.

The FAA is opposed to the OSC being a precondition for issuance of the TC since this is not consistent with ICAO Annex 8.

Recommendation:
The proposed change to part 21 should be changed to clearly allow the

issuance of the TC, STC, or design change without prior need for the OSC. OSC would only be required prior to introduction into service in the EU. Language similar to the language for the Instructions for Continued Airworthiness in 21A.61 should be used.

comment 865 comment by: *General Aviation Manufacturers Association / Hennig*

The Basic Regulation (BR 216/2008) Article 5(5)(e)(v) directs EASA to specify the "minimum syllabus of pilot type rating".

GAMA notes that for many of the types of aircraft that fall under the definition for aircraft other than complex motor-powered aircraft a "type rating" is today not required.

GAMA requests that EASA further explain the implications of Article 5(5)(e)(v) with respect to its applicability for aircraft other than complex motor-powered aircraft.

comment 871 □ comment by: *General Aviation Manufacturers Association / Hennig*

The requirement for providing "the minimum syllabus of maintenance certifying staff type rating training" for aircraft other than complex motor-powered aircraft should receive specific consideration from the agency and the EC with respect to grandfathering of existing type (group) training courses.

A significant number of the aircraft that meet the definition of aircraft other than complex motor-powered aircraft rely on maintenance training programs that are long established and where it is likely not cost-beneficial to develop a new course to meet a generic OSC.

This leaves EASA two options with respect to the generic elements for the syllabus of maintenance certifying staff type rating training:

1) Provide guidance to the 21.039 working group that develops the generic elements for the syllabus of maintenance certifying staff type rating training that the generic elements must be broad enough to capture, if not all, the vast majority of existing type (group) training courses.

2) Establish a grandfathering provision for the maintenance certifying staff type rating training requirement for aircraft other than complex motor-powered aircraft which would grandfather all existing type (group) training courses.

If EASA, working with the EC, does not embrace GAMA's proposed Option 1 or 2 outlined above, we expect this specific requirement for maintenance certifying staff type rating training to be prohibitively burdensome which would result in a large portion of the GA fleet likely not having access to properly trained maintenance staff.

comment 923 comment by: *GAMA*

The 21.039 drafting group held extensive discussions in support of the

principle to close the gap between aircraft design and operation. However, the explanatory note and corresponding discussion in the RIA does not adequately explain that the language in the BR severely restricted the ability of the 21.039 drafting group to consider all possible options to transpose the JOEB process for these operational elements into the community regulatory context in the most effective and efficient manner because it pre-determined that these operational elements be conditions for the issuance of a certificate. This approach to addressing these operational elements within the community regulatory context was determined without adequate consideration and consultation with directly affected stakeholders such as manufacturers, operators, and foreign civil aviation authorities.

Article 5(5)(e) of the Basic Regulation (BR) establishes the requirement that additional specifications for the operation of a given aircraft be conditions for the issuance of a certificate. Therefore, the only viable options that could even be considered by the 21.039 drafting group in the RIA would be to make these operational elements a condition for the issuance of a type-certificate, certificate of airworthiness, or to create a "new" certificate. Options 1 (do nothing), 2 (voluntary attachment to TCDS) and 7 (elements issued as AMC) are not in line with the BR so they are not viable options.

The trade associations representing aviation design & manufacturing industry members from Brazil, Canada, European Union and United States (AIA, AIAB, AIAC, ASD, GAMA) have consistently expressed concerns about any approach that would require operational elements to be determined as part of the certification of the product impacting the type certification process. Manufacturers have stated that it would be unacceptable for operational elements to become a precondition to obtain a TC and to maintain the validity of the TC. Therefore, Options 3, 5 and 6 were rejected by the rulemaking group because they make these operational elements directly linked to the TC process and the product TC.

The Option to make operational elements as a condition for issuance of an airworthiness certificate was not included in the RIA. This option was discussed by the 21.039 drafting group and ultimately rejected. Unfortunately, the assessment and justification for this decision is not captured in the RIA for consultation.

Since all other options were rejected, the manufacturing industry generally endorsed "Option 4: Operational Suitability Certificate" as the only widely supported orientation for transposition of JOEB into the community regulatory context and have communicated this support to EASA and the 21.039 drafting group in a joint letter signed by AIA, AIAB, AIAC, ASD, GAMA. However, the manufacturing industry also stated that some very important issues remained to be resolved in order for this Option to be acceptable, particularly with respect to transition and grandfathering measures. Specific comments on these issues are provided in the appropriate sections.

comment *924* comment by: *GAMA*

It is not possible to provide an adequate assessment of the OSC proposal without having an understanding of the specific technical standards for the envisioned certification specifications (CS) for each element for both complex motorpowered aircraft and aircraft other than complex motorpowered aircraft. This is because the content of the CS standard will ultimately determine the actual impact upon the development of operational elements and whether the

existing processes and standards that have previously been acceptable will have to change under the new OSC.

For complex motorpowered aircraft, GAMA supports EASA's intention to mirror the current JOEB process and based on comments made throughout the NPA, expects that the envisioned CSs will be established such that nearly all existing operational elements developed through the JOEB process would meet the new CS standards. GAMA requests that EASA confirm that this is correct.

For other than complex motorpowered aircraft, GAMA supports the proposal that the CSs will contain generic elements and that the applicant only need make a statement that they are sufficient for the aircraft type to ensure safe operation.

Although GAMA supports the OSC concept and the proposed part 21 procedural requirements, GAMA must also respectfully request that each of the rulemaking NPAs for the related CSs also allow for additional comments to the OSC proposal as may be necessary. As a practical approach to addressing this need over the next several months as the various CSs are published, GAMA recommends that EASA notify the public within each NPA that the NPA 2009-01 CRD document will have an extended comment period to allow for additional comments as necessary as a result of the proposed CS standards.

comment *934* comment by: *GAMA*

OSC is NOT a completely new "Certificate"
There have been many concerns expressed by various industry representatives that because the OSC is a "new certificate" that it will result in significant burden to manage and administer in addition to having to develop/comply with the many new operational element.

GAMA recommends that EASA address these concerns by clarifying that the OSC is NOT a completely "new certificate" that requires completely new company procedures to manage and maintain and that although there are changes in how operational elements are being implemented, most of them are existing requirements that are already being performed today. The primary economic impact or burden imposed upon (S)TC holders and community operators as a result of this NPA will be due to the transition & grandfathering provisions and not the recurring OSC activities. This is because these provisions will determine the extent to which industry manufacturers/operators will be required to develop and obtain redundant approvals under the new OSC process to replace existing approvals already issued by NAAs and safely being utilized by community operators.

As stated in Explanatory Note paragraph 8, currently the approvals of specifications for the operation of a given type of aircraft, such as the minimum syllabus for pilot type rating training, data for cabin crew type training and the MMEL, as well as that of technology linked with a certain type of operation, are the responsibility of the NAA. The OSC approach would in fact reduce the cumulative overall burden upon the industry and authorities by establishing a process by which these elements are approved by EASA for each aircraft type and accepted by NAAs as a common standard for all community operators. Currently, each operator must work independently with each NAA to develop the appropriate standards in order to approve the required operational elements such as a type training programs for pilots.

The OSC and the use of the term "certificate" is an administrative necessity to comply with the BR. However, the term "certificate" does not in and of itself require a whole new process or system to administer and maintain. The OSC is simply a compilation of the various operational standards that are already required to support operational approval of an aircraft. The OSC-DS is merely a reference document which identifies the current version of the EASA approved standard for each operational element. As stated in paragraph 15, it has always been the Agency's intention to mirror the current JOEB process (as well as those processes used between industry and NAA's to the maximum extent possible) to develop and maintain these operational standards. Therefore, the overall cost or burden associated with the OSC should be limited to the new requirements that do not currently exist such as occurrence reporting and evaluation. Although, due consideration must be given to the shift in cost/burden from one stakeholder group to another such as from operators to (S)TC holders.

comment *955* comment by: *kapers Cabin Crew Union*

The ETF supports the OSC option.

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework -iii. Requirements for operators and training organisations to use the OSC elements p. 12

comment *329* comment by: *Airbus*

Relevant text: § 46 page 12

Comment: Having reference to Part 21 is very confusing as most of training organisations and operators do not use Part 21, this part being up to now mainly used by TC Holder; So to make a link that is easier to understand Airbus recommends to specify reference to Part 21 Subpart C on OSC.

Proposal: Ensure that when implementing link within the other IRs, link clearly spells out Part 21 Subpart C on OSC, to ease understanding by the readers.

comment *500* comment by: *ECA - European Cockpit Association*

Comment on paragraph 46:

Change the cross-references to Part 21 in other EASA Parts to the OSC or SD, as applicable. While reading requirements that a legal entity or a person involved in the operation may have to comply with, in those mentioned Parts, there are requirements that refer to Part 21. ECA already made comments on NPA 17 in this way. Not having all applicable regulation in one single book is not "friendly use regulation",. Moreover, not having the cross-reference in part 21 leads to misunderstanding and legal uncertainty and even impossibility to really be able to comply with something that is not even published or public.

comment 675 comment by: *EAMTC*

point 45.

again - it is not possible to figure out the impact on 147 organisation. There is only a cross reference to NPA 2007-07 stating that everything will change.

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework -iii. Requirements for operators and training organisations to use the OSC elements - a. Flight Crew Licensing p. 12-13

comment 696 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment We did not know at the time of consultation of NPA 2008-17 that there were links already included in Part FCL. This is problematic as comments will not reflect our vision of OSC and moreover, it was not obvious that it was related to OSC.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

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We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'

We promote the "No catch-up at all" approach.

comment 767 comment by: *General Aviation Manufacturers Association / Hennig*

Attachment #7

EASA has expressed concerns about how to manage training requirements for complex aircraft that are authorized for single pilot operations – especially when these aircraft are possibly operated by "less" experienced pilots.

GAMA believes the OSC provides a mechanism through which EASA can manage the training requirements for single pilot operation of complex aircraft based on experience.

If the agency has specific concerns about "less experienced" pilots, GAMA recommends that EASA structure the CS for type rating training to allow the flexibility for the creation of "minimum training requirement" for pilots based on pre-existing experience and a process for the evaluation of the pre-existing experience. This would place the foundation of the OSC within the framework of being a performance based requirement versus a prescriptive regulation.

GAMA is also providing an overview of the existing approach to training for CS-23 jet airplanes that are authorized to conduct single pilot operations as background information.

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework -iii. Requirements for operators and training organisations to use the OSC elements - b. Air Operations p. 13

comment 333 comment by: *Airbus*

Relevant text: Page 13, § 46 b - Air Operations

Comment: Amendments to Part OR, and most probably Part AR as well, will have to be proposed in association with the CS. This material should be developed within the frame of task 21.039

Proposal: EASA should use technical expertise from the 21.039 group to develop the CSs and associated amendments to Parts OR and AR.

comment 656 comment by: *ETF*

46. b. The ETF supports that references and requirements for operators and training organisations from NPA 2009-2 be added and included as appropriate. This includes cabin crew type training and variants.

comment 956 comment by: *kapers Cabin Crew Union*

46. b. The ETF supports that references and requirements for operators and training organisations from NPA 2009-2 be added and included as appropriate. This includes cabin crew type training and variants.

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework -iii. Requirements for operators and training organisations to use the OSC elements - c. Maintenance certifying staff p. 13

comment 339 comment by: *Airbus*

Relevant text: Page 13, § 46 c - Maintenance certifying staff

Comment: This requirement is a major difference with the current JOEB process. Moreover it addresses a different category of personnel compared to what we were used to with the JOEB for pilot.

Proposal: The OSC perimeter should not include maintenance certifying staff, so as to mirror the JOEB process and to keep the harmonization with FAA, that was achieved with the JOEB process.

comment 871 comment by: *General Aviation Manufacturers Association / Hennig*

The requirement for providing "the minimum syllabus of maintenance certifying staff type rating training" for aircraft other than complex motor-powered aircraft should receive specific consideration from the agency and the EC with respect to grandfathering of existing type (group) training courses.

A significant number of the aircraft that meet the definition of aircraft other than complex motor-powered aircraft rely on maintenance training programs that are long established and where it is likely not cost-beneficial to develop a new course to meet a generic OSC.

This leaves EASA two options with respect to the generic elements for the syllabus of maintenance certifying staff type rating training:

1) Provide guidance to the 21.039 working group that develops the generic elements for the syllabus of maintenance certifying staff type rating training that the generic elements must be broad enough to capture, if not all, the vast majority of existing type (group) training courses.

2) Establish a grandfathering provision for the maintenance certifying staff type rating training requirement for aircraft other than complex motor-powered aircraft which would grandfather all existing type (group) training courses.

If EASA, working with the EC, does not embrace GAMA's proposed Option 1 or 2 outlined above, we expect this specific requirement for maintenance certifying staff type rating training to be prohibitively burdensome which would result in a large portion of the GA fleet likely not having access to properly trained maintenance staff.

A. Explanatory Note - Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - iv. The use of Design Organisation Approvals in relation to OSC p. 13

comment *54* comment by: *Bombardier Aerospace*

To Section 47: EASA has solicited comments that discuss the need for OSC Applicants to extend their DOA to include OSC aspects. As a non-EU TC Holder, not immediately eligible for the privileges provided through an EASA DOA, the question is somewhat moot. However, in general terms, we believe that the benefits of using DOA privileges to minimize the regulatory burden of changes to the OSC will encourage DOA/OSC Holders to extend their DOA coverage to OSC aspects, without the need for requirement. We provide this comment on the assumption that any regulatory need to mandate DOA extensions envisaged would be to reduce the burden on EASA and not for any safety or compliance issue that may become evident. Having said that, the ability to allow EU DOA Holders to benefit from privileges re the OSC, would seem discriminatory against non-EU organizations who hold similar privileges with their Authority.

Should EASA consider that Bombardier Aerospace can use the DOA granted to Shorts Brothers, Belfast as a route to manage changes to the OSC for Canadian and potentially US products covered by a Bombardier Inc or Bombardier Learjet Inc TCs, then our comment would essentially be the same, though additional comments may be added to the CRT against the GM and AMC criteria of IR 21, Subpart J. This comment is provided regardless if Bombardier choose to use the Belfast privileges for this purpose.

comment *123* comment by: *AEA*

Relevant Text:

"47. A Design Organisation Approval (DOA) is not required for applicants for an OSC or SOSC. All Community holders of a TC for complex motor powered aircraft however are already required to hold a DOA. They can choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. After the initial implementation of the OSC rules and when enough experience is gained with the different approval processes, the Agency will investigate whether there is a need to mandate DOA for OSC applicants."

Comment:
We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for all changes resulting from modifications designed under their currently approved DOA scope.

comment 197 comment by: *Icelandair*

Relevant Text:
"47. A Design Organisation Approval (DOA) is not required for applicants for an OSC or SOSC. All Community holders of a TC for complex motor powered aircraft however are already required to hold a DOA. They can choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. After the initial implementation of the OSC rules and when enough experience is gained with the different approval processes, the Agency will investigate whether there is a need to mandate DOA for OSC applicants."

Comment:
We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for all changes resulting from modifications designed under their currently approved DOA scope.

comment 250 comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"47. A Design Organisation Approval (DOA) is not required for applicants for an OSC or SOSC. All Community holders of a TC for complex motor powered aircraft however are already required to hold a DOA. They can choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. After the initial implementation of the OSC rules and when enough experience is gained with the different approval processes, the Agency will investigate whether there is a need to mandate DOA for OSC applicants."

Comment:
We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for all changes resulting from modifications designed under their currently approved DOA scope.

comment 253 comment by: *NHAF Technical committee*

§ 47

Comment:

Answer for question 1:

NHF strongly believe that the existing DOAs should apply for extension of their priviledges to be able to apply for OSC.

Justification:

The OSC introduces a whole new aspect to the DOA regarding development of training requirements for their designs. The DOA organisation will have to revise their procedures both to accomodate for the OSC, new mandatory reporting system and the SD. EASA should also have firm competence and experience requirements for the persons which are tasked in the DOA to develop training requirements. Both procedures and nominated persons should be approved by the competent authority. Training requiremens and standards must not be allowed to drop.

comment *318* comment by: *ERA*

Paragraph 47
We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *453* comment by: *Cargolux Airlines International*

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

Such a requirement will result in a need for MROs/DOAs to hire a lot of flight operational experts to do work currently within the airline operator's field of expertise and responsibility. This is also a source of added complexity and costs.

The concept of S-OSCs linked to S-TC should therefore be reconsidered. At least, there should not be a requirement for DOAs to hire operational staff since Ops and FCL experts are within the airline structure. This would ensure that the expert remains in the training area of the airline or the aircraft manufacturer thus keeping their training knowledge up to date rather than having them isolated in a Design Organisation structure linked to the MRO.

Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment *572* comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible

administrative bottlenecks.

comment 586 comment by: *International Air Transport Association (IATA)*

"47. A Design Organisation Approval (DOA) is not required for applicants for an OSC or SOSC. All Community holders of a TC for complex motor powered aircraft however are already required to hold a DOA. They can choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. After the initial implementation of the OSC rules and when enough experience is gained with the different approval processes, the Agency will investigate whether there is a need to mandate DOA for OSC applicants."

Comment:
We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for all changes resulting from modifications designed under their currently approved DOA scope.

comment 695 comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment There should not be "special DOA privileges" for approving minor changes. All DOAs may be able to do this. A need to get a new privilege/approval will lead to cost increment, delays and new administrative constraints.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are

possible for transition measures:
(i) EASA (b) option: Mandatory catch up of all existing types
(ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)
'

We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

A. Explanatory Note - IV. Content of the draft opinion and decisions - D. Transfer of the JOEB into the Agency regulatory framework - Question 1 p. 14

comment *66* comment by: *CAA-Norway TFH*

There should be a requirement for OSC applicants to extend their DOA to OSC aspects for all TC holders with complex aircraft.

comment *118* comment by: *AEA*

Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

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Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment *198* comment by: *Icelandair*

Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

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Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment *255* comment by: *KLM EASA DOA 21J.012*

Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

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Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment 365 comment by: *Austro Control GmbH*

ACG does not support a DOA requirement for OSC.

comment 417 comment by: *IACA International Air Carrier Association*

Lacking a clear understanding of the OSC, IACA cannot answer this question.
Does not every (S)TC-holders hold a DOA anyway ?
Should this question also to SOSC applicants ?
If an SOSC is not approved by a DOA, how is it approved ? Based on what ? What criteria and specifications will EASA use approving SOSC without an existing OSC ?

comment 455 comment by: *Cargolux Airlines International*

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

Such a requirement will result in a need for MROs/DOAs to hire a lot of flight operational experts to do work currently within the airline operator's field of expertise and responsibility. This is also a source of added complexity and costs.

The concept of S-OSCs linked to S-TC should therefore be reconsidered. At least, there should not be a requirement for DOAs to hire operational staff since Ops and FCL experts are within the airline structure. This would ensure that the expert remains in the training area of the airline or the aircraft manufacturer thus keeping their training knowledge up to date rather than having them isolated in a Design Organisation structure linked to the MRO.

Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment 459 comment by: *Cargolux Airlines International*

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

Such a requirement will result in a need for MROs/DOAs to hire a lot of flight operational experts to do work currently within the airline operator's field of expertise and responsibility. This is also a source of added complexity and costs.

The concept of S-OSCs linked to S-TC should therefore be reconsidered. At least, there should not be a requirement for DOAs to hire operational staff

since Ops and FCL experts are within the airline structure. This would ensure that the expert remains in the training area of the airline or the aircraft manufacturer thus keeping their training knowledge up to date rather than having them isolated in a Design Organisation structure linked to the MRO.

Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment *553* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

Question 1 (page 14/70)
2. PROPOSED COMMENT:

Following our comment where we do not recommend that other than TCH or STCH persons shall produce and get approved "OS/SOS data", DGAC France believes there is no need to require a DOA in order to produce "OS data".

Nevertheless, when STC or TC holders have already a DOA (excluding alternative procedures), it seems reasonable to consider the possibility to include in their DOA scope the privilege to approve minor changes to those OS data without agency involvement.

But there is no reason to mandate to have the scope of "OS data" in the DOA: It is obvious that the TC or STC holder must be competent to produce "OS data" (1) , but why would they be forced to hold a privilege associated to the OS data? There is no reason to mandate the DOA for OSC applicants.

(1) It is acceptable that the TC or STC holder can contract to a third party the production of some of those data, and therefore endorse those data under its own DOA. In such a case, the DOA procedure is amended to document that relation with a contracted company.

comment *587* comment by: *International Air Transport Association (IATA)*

Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects

Comment:
This concept is tailored to the organization structures of OEMs/TC holders but will not work in the airline/MRO world. Airlines can do their maintenance/modifications in-house or they can outsource it to independent MROs. Therefore in today's structures there is a clear distinction between the responsibilities of airlines and of the MROs/DOAs.

Such a requirement will result in a need for MROs/DOAs to hire a lot of flight operational experts to do work currently within the airline operator's field of expertise and responsibility. This is also a source of added complexity and costs.

The concept of S-OSCs linked to S-TC should therefore be reconsidered. At least, there should not be a requirement for DOAs to hire operational staff

since Ops and FCL experts are within the airline structure. This would ensure that the expert remains in the training area of the airline or the aircraft manufacturer thus keeping their training knowledge up to date rather than having them isolated in a Design Organisation structure linked to the MRO.

Proposal:
Reconsider the need for S-OSC linked to S-TC and associated implications for DOAs

comment *634* comment by: *Luftfahrt-Bundesamt*

Question 1: Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects.

LBA - Answer: An extension of DOA to OSC aspects seems useful for all products that need a DOA to obtain a TC. There are cases of product certification without a need for a DOA. In such cases the addition of OSC aspects shall be possible without the need to have a DOA. OSC applicants for non-complex products may not have a DOA. Hence, the LBA recommends not to require OSCs for gliders and touring motor gliders.

comment *658* comment by: *CAA-NL*

Question 1: Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects.

Answer 1: The Netherlands does not agree with the approach to introduce the OSC, see above remarks and the first part of the answer to Q2. However if the OSC is introduced, The Netherlands is of the opinion that the privileges to a DOA holder should be as integral as possible. This means that if a DOA organisation may approve a change to a TC by itself and it must also be competent to approve the related change to the OSC. This also means that the criteria for 'minor change' have to be expanded to include the OSC changes.

comment *743* comment by: *Cessna Aircraft Company*

Cessna is concerned that there could be significant issues for non-European based OEMs for the issuance and maintenance of the OSC beyond the impact on European based organizations that will have certain opportunities under their DOA. Although a bilateral may have consideration for accepting an FAA process that could be considered an equivalent, we suggest that the 21.03a needs to have a hook or high-level statement that points to an equivalent process that can be developed.

comment *749* comment by: *Boeing*

Page 14
"***Question 1"***

BOEING RESPONSE:
DOA privileges will be needed by OSC and Supplemental OSC (SOSC) holders to efficiently handle their applications and changes of their certificates. However, realizing the large variation of potential applicants, the DOA privilege

should be considered as optional.

In addition, special privileges or arrangements should be offered to non-EU applicants as long bilateral agreements do not address OSC and SOSC, in order to compensate for the "unequal playing field" situation.

comment *799* comment by: *Walter Gessky*

- Question 1:

  The OSC concept is not supported, because no power is given by the basic regulation to the Agency to issue this kind of certificate. Power is given to the COM that the minimum syllabus for maintenance certifying staff type rating training, pilot type rating training, MMEL and additional CS for a given type of operation. In Article 20 except the type certificate no power to issue this kind of certificate.

  The concept should be changed, include requirements for an OEB including establishment of the MMEL and define the outcome of the process an approved document. Application of retroactive requirements through SD not supported by BR and shall be regulated according Art 22/1 in the OPS approval rules.

comment *828* comment by: *FAA*

- **Question 1, Page 14**

Question 1: Stakeholders are invited to comment on the possible requirement for all OSC applicants to extend their DOA to OSC aspects.

Comment:
The FAA is opposed to a requirement that would mandate OSC applicants to obtain a DOA. Under the current bilateral and the proposed BASA between the EU and the U.S., there is not a requirement for U.S. design approval holders to obtain a DOA. This proposal is mixing airworthiness approvals with operational approvals. This proposal mixes the responsibilities of the State of Design with the State of Registry.

Recommendation:
A separate operational organization approval should be developed as a means to reinforce the roles of State of Design and State of Registry. A mechanism that would permit the FAA to act on behalf of the State of Registry in this area should also be developed. This needs to be part of the implementing rule transition measures until such time as the U.S. – E.C. agreement on cooperation in regulation of civil aviation safety can be revised to address this issue.

comment *925* comment by: *GAMA*

GAMA supports the existing proposal that a DOA is not required for applicants for an OSC or SOSC.

The NPA proposal allows for DOA organizations to choose to extend their DOA to obtain the privilege for approval of minor changes to the OSC. Those

community TC holders who have a need to make many minor changes will most certainly choose to extend their DOA as this provides significant benefit and efficiencies (cost and fees). Therefore, GAMA does not see any value for EASA to consider a possible requirement for all OSC applicants that hold a DOA to extend their DOA to OSC aspects.

With respect to community TC holders of other than complex aircraft, a possible requirement for them to obtain a DOA for OSC aspects when they currently operate under alternative procedures (non-DOA) would only impose significant burden upon both the TC holder and EASA. This is because the level of design and airworthiness activity performed by the TC holder was more appropriately addressed through alternative procedures so requiring a DOA simply for OSC does not make sence.

With respect to non-community TC holders, particularly those located in bilateral countries (i.e. US and Canada), it would not at all be appropriate to require DOA to address OSC aspects. In fact, this would be contrary to the international cooperation approach where the aviation agencies recognize each others systems to the maximum extent possible. GAMA believes that such a requirement would ultimately undermine a bilateral Agreement as once the investments are made to establish and provide oversight for a DOA located in a non-community country, both the design organization and the Agency will continuously explore opportunities to further leverage the benefits and efficiencies of utilizing the DOA to perform additional airworthiness tasks. Therefore, GAMA would find it completely unacceptable for a non-Community manufacturer located in a bilateral country to be required to obtain a DOA for any reason. In order to maintain the level of international cooperation and effectiveness between aviation safety authorities and to minimize the impact upon industry, it is extremely important that bilateral arrangements be amended to address possible acceptance of foreign authority certificates or findings such as a technical assistance that the foreign authority's system can accomplish to determine compliance with OSC requirements.

A. Explanatory Note - Content of the draft opinion and decisions - E. Transfer of JAR-26 into the Community regulatory framework: Safety Directives p. 14

comment *55* comment by: *Bombardier Aerospace*

To Section 49: EASA admits that the new Safety Directive (SD) is similar in most and identical in some aspects to the Airworthiness Directive (AD). We are aware of internal Agency jurisdictional concerns and "traditional" limitations on the applicability and effectiveness of AD's in the Operations world. However, we kindly ask EASA to summarize why a new Aviation Document, the SD, was created instead of broadening the use of the AD.

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory

amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:

21A.3C Safety Enhancement Directives

21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *640* comment by: *SOCATA*

No particular objection to extension of DOA to OSC aspects.

We wonder if the OSC and OSC DS will be in certain cases (non-complex aircraft) included in the TC and TCDS.

comment *727* comment by: *Aviation Working Group*

Aviation Working Group Comments

I

It is expected that when Certification Specification-26 will be introduced, most of JAR-26 and several CFR 14-121 design requirements will be superseded. To

avoid the need for recertification of existing materials and equipment, CS-26 should make reference to these JAR-26 and CFR 14-Part 121 requirements (when applicable.) This should reduce the need for recertification.

The requirement for issuance of SDs adds an additional level of compliance that may be redundant and burdensome to lessors. Currently, if there is a design flaw that compromises airworthiness or safety of flight, an Airworthiness Directive is issued which mandates a corrective action be implemented. If the defect requires immediate attention, an Emergency AD can be issued. These are issued in an abridged manner without the need of a notice and comment period. Therefore, with the OSC elements now under Airworthiness, the SD does not offer any additional protection above an AD. The SD may cause Lessors and Lessees alike additional administrative burdens in having to maintain two separate and distinct tracking and compliance files.

For the correct implementation of all SDs, it will become important that the OSC data sheet (SOSC data sheet) correctly reflects the compliance needed for meeting the applicable SDs and CS-26. This will require EASA to build a rigid system that provides up-to-date data sheets to stakeholders and other parties. Current experience with Type Certificate Data Sheets indicates that EASA systems are not yet capable of this fidelity.

comment *800* comment by: *Walter Gessky*

- Item 48:
  The transfer of JAR 26 retroactive requirements to Safety Directives is also not supported. JAR 26 items are not linked to a product and becomes effective for the hole fleet. As explained in item 13 and 14 for this kind of retroactive requirements the Agency cannot set generally applicable binding standards.

  We disagree with the framework of the SD system becaue it also perpetuates the split between Subpart K, L and S verses JAR 26 for retroactive requirements. As retroactive operation requirements are tied to specific kinds of operation, the appropriate way for them to be published in within the Operating rules, this will add international harmonisation (FAA already uses this system).
  The technical details to the requirement could be regulated in a CS.

  - Proposal:
    1. Any retroactive requirements shall be implemented within the IR-OPS.

A. Explanatory Note - Content of the draft opinion and decisions - E. Transfer of JAR-26 into the Community regulatory framework: Safety Directives -i. The requirements that in the JAA system were or would have been included in JAR-26 p. 14-15

comment *56* comment by: *Bombardier Aerospace*

To Section 52: Should the new Safety Directive survive the NPA review process, we support the EASA statement of advantage that all provisions of a retroactive requirement will go through the rulemaking process. Should the SD disappear and an enhanced AD process becomes the replacement, it is

hoped that this advantage would remain.

comment *164* comment by: *UK CAA*

Page No: 14/15

Paragraph No: 53

Comment: The paragraph suggests that the Agency will determine, for each new CS-26 amendment, whether it is practical for the certificate holder to comply with it or not, and notes that when it is not practical the requirement to comply should be transferred to the operators/owners. The legal basis for placing obligations on owners of aircraft is not specified and a requirement to comply may be difficult to enforce.

Justification: Regulation (EC) 216/2008 places no obligations on owners, although operators have various obligations under Article 8. The Regulation does not stipulate who is responsible for complying with the airworthiness requirements in Article 5, other than "the applicant", although it is noted that Part M already places obligations on owners (e.g. M.A. 201). In practice, CAA considers that it might not always be straightforward, in the absence of legal obligations, for the Agency to determine whether an obligation to comply with CS-26 should be placed on the certificate holder or the operator/owner.

comment *319* comment by: *ERA*

Paragraph 49
The mechanism needs to be repeated and be as simple as possible. There must be a way of seeing other comments [as per FAA procedures] during the comment phase.

comment *568* □ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those

measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *754* comment by: *Boeing*

Page 15
Item 54.

BOEING COMMENT: It is unclear how EASA can issue a SD that is mandatory to all affected parties and not to just one single entity; the basic argument for the OSC is that EASA cannot issue a standard that is applicable to more than one stakeholder. We request that EASA reconsider this issue and either clarify it or revise it to be congruent.

JUSTIFICATION: Clarification and/or revision is necessary for appropriate understanding by the affected parties.

A. Explanatory Note - Content of the draft opinion and decisions - E. Transfer of JAR-26 into the Community regulatory framework: Safety Directives - ii. Correction of shortcomings to the OSC p. 15-16

comment *57* comment by: *Bombardier Aerospace*

To Section 61: Our comments against Section 49 regarding similarities to the AD process are equally applicable to this Section. EASA are requested to comment why the AD mandate was not broadened to correct shortcomings to the OSC

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

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The above proposal would require splitting 21A.3C into:

21A.3C Safety Enhancement Directives

21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *740* comment by: *Pilatus*

§ 60 ii Correction of shortcoming to the OSC.
This heading may be an incorrect statement.
The OSC will only have reference to documents and it is these documents that must be updated and changed, not the OSC.

comment *811* comment by: *Walter Gessky*

o Item 61:
Safety Directives might be used for operation similar to ADs for airworthiness but the driver for this Directive will be Art 22/1 and not Art 5/5(e). SDs therefore has to be regulated under the new OPS rules and not under Part 21.

A. Explanatory Note - Content of the draft opinion and decisions - E. Transfer of JAR-26 into the Community regulatory framework: Safety Directives - iii. Flexibility provision p. 16

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

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  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *731* comment by: *Pilatus*

§ 63 iv SD enforcement
The NPA is not very clear on the use of a SD. In one case a SD will be issued to the OSC holder to take action and correct an unsafe situation. Then the SD must mandate the implementation action by operators to comply with the SD. The OSC holder may choose for an alternative means of compliance and then the SD is no longer valid for the implementing operators.

comment *806* comment by: *Walter Gessky*

- Item 63:
  Flexibility provisions are regulated in Art 14 and only applicable for the NAAs. EASA cannot grant an deviation under flexibility provisions, another tool has to be used.

A. Explanatory Note - Content of the draft opinion and decisions - E. Transfer of JAR-26 into the Community regulatory framework: Safety Directives - iv. SD enforcement p. 16

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

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were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

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The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *664* comment by: *ETF*

64. The ETF supports that enforcement is based on IR for continuing airworthiness, Part OPS, Part CC, and Part OR.

comment *957* comment by: *kapers Cabin Crew Union*

64. The ETF supports that enforcement is based on IR for continuing airworthiness, Part OPS, Part CC, and Part OR.

A. Explanatory Note - Content of the draft opinion and decisions - F. Grandfathering and Transition measures p. 16-17

comment *37* comment by: *EUROCOPTER*

Comment on item n° 66: the cover regulations are not part of the NPAs, and so are not subject to public comments. So it is not exact to write that the grandfathering provisions of existing approvals will be submitted to consultation through the relevant NPAs.

comment *58* comment by: *Bombardier Aerospace*

To Section 70: We encourage EASA to maximize the grandfathering of existing JOEB approvals into the OSC and to keep the mechanism simple and timely. It is also appreciated that existing approvals and certificates for unchanged operational elements will continue to be honored

comment *62* comment by: *EUROCOPTER*

In addition to the grandfathering and transition measures developed in this section F., EASA should propose to the Commission that the OSC Concept/Regulations do not apply to old aircraft types, not anymore in production (Type Certificate obtained before a date to be defined). For these aircraft types the current situation (NAAs approvals) should continue without any requirement that the MELs and Training Courses are developed in accordance with any OSC element.

comment *187* comment by: *EUROCOPTER*

Comment on item n° 70: in addition to the automatic grandfathering of existing JOEB reports as elements of the OSC, EASA should also propose to grandfather all NAAs' approved existing operations with existing aircraft types.

comment *340* comment by: *Airbus*

Relevant text: Page 16 § Grandfathering and transition measures

Comment 1:

EASA has clearly indicated the will to grandfather existing operations, training programs and MELs. This is in fact at operator / training organisation levels.

However, with regard to OSC, the only data that could be "automatically" grandfathered are the JOEB reports as elements of the OSC. Airbus agreed with the intend but would like to stress that it cannot be considered as "automatic" grandfathering due to the new format imposed in the OSC. The only document that, at least for Airbus, will not be affected, is the MMEL. However it is to be noted that ownership of JOEB reports belongs to JAA/EASA, while in the context of OSC only the data sheet that will contain the reference of ALL documents is owned by EASA. Consequently work will be required to transfer JOEB report content into the new format.

Comment 2:

Airbus considers that the grandfathering aspects and the transitions measures are key elements for the success of implementation of the new OSC concept, and its acceptance by all stakeholders. Not impacting the current operations is a pre-requisite understood and taken on board. However, imposing an OSC scope far beyond what was initially covered with the JOEB process would create major difficulties to many stakeholders, who have never undergone a JOEB process.

The notion of an OSC for which no JOEB report exists and in which only the CS are referred to does not make sense, and it is not easy to comment as the CS are still unknown.

In addition, as the minimum syllabus for maintenance certifying staff was NOT in the initial scope of the JOEB there should not be any catch-up required. This should only be required for amended/new TC.

Proposals:

- Airbus recommends that OSC applicability be limited to aircraft certificated after date TBD, (any new or derivative aircraft). Consequently there would be no need for grandfathering provisions.
- If this approach cannot be followed, then Airbus recommends to opt for an approach consistent with the transition approach used for airworthiness, meaning that existing NAA approved elements are deemed to be EASA approved, and then nothing should be required for a "new EU operator" using an aircraft already in service within EU.
- The less preferred but still potentially acceptable solution for Airbus is to consider a voluntary catch-up process only for elements that were part of former JOEB process (excluding the minimum syllabus for maintenance certifying staff type rating). It should be left to the TC Holder appreciation, what would be the aircraft for which the TC Holder would elect a catch-up process

comment *410* comment by: *Cargolux Airlines International S.A.*

Relevant Text:
NPA 2009-1 (Catch Up Processes)
The OSC may be established either by :
•The aircraft manufacturer based on JOEB recommendations if existing, or
•An operator if the aircraft manufacturer does not exist anymore and based on JOEB recommendations if existing.
Comment:
This questions the added value to require any catch up. Grandfathering rights should be considered for all existing aircraft types including all modifications to existing aircraft types.

The catch up process is tailored to a desire to shift the burden from the TC holders to the operators. This is unacceptable since it raises the problem of operators that are using aircraft for which no JOEB outcomes (or with partial JOEB outcomes) are available or for which no manufacturer exists any more. The operator will then be deemed to ask for a supplemental OSC to perform the work normally done by the aircraft manufacturer!

This approach does not seems realistic. It is also not in line with the basic regulation (216/2008) which clearly spells out the responsibility of the TC holders to develop an OSC as a condition for maintaining the TC.

Proposal:
Reconsider the catch up process. We propose that the already delivered approvals for MMEL and type traing should remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports should remain a basis for type rating approval..

In any case if there would be a requirement for catch-up (which we oppose as outlined above) then it should be the sole responsibility of the TC holder even for aircraft where there is no JOEB report.

comment 688 comment by: *ETF*

F. As the Agency proposes in paragraph 70, the ETF supports that JOEB reports be grandfathered as elements of an OSC. This is in particular important as to the results of the OEB cabin crew subgroup.

This would facilitate a harmonised approach to cabin crew training.

comment 718 comment by: *Cessna Aircraft Company*

Cessna is comfortable with including the Maintenance Course certification for future OSC evaluations. We are concerned regarding the level of work required to include existing approved courses under the OSC umbrella. Cessna would recommend that all existing EASA approved courses be accepted into the respective maintenance JOEB/OSC report. This inclusion could occur when the existing JOEB reports are converted to OSCs. This would satisfy the requirements of the OSC. The approved courses in existence today were approved with EASA oversight.

comment 719 comment by: *Cessna Aircraft Company*

Cessna is comfortable with this timeline as long as a reasonable grandfathering process is agreed to. If a more burdensome process is required to transition existing JOEBs and aircraft without JOEBs, this timeline may not be acceptable.

comment 755 comment by: *Boeing*

Page 16
Item 69.

BOEING COMMENT: The argument for not grandfathering OSC elements that are approved/accepted by the NAAS up to now, is not accurate. A number of the existing TCs that were grandfathered by Ec 1702/2003 by EASA were based upon national requirements; there was not always a common or standardized requirement basis. The proposed text should be corrected.

Additionally, Boeing recommends that the NPA should specifically "grandfather" existing OSC elements that have been previously approved by the NAAs or other equivalent aviation authority. The need for approval of OSC elements should be limited to new aircraft receiving a type certificate after publication of this rule/change.

JUSTIFICATION: Unless specific reasons are provided that previous (NAA) approvals somehow degrade safety, the OSC elements previously found acceptable by competent authorities should continue to be acknowledged by EASA as acceptable.

comment 790 comment by: *Gulfstream Aerospace Corp*

o Paragraphs 65 through 70:
Similar to the loosely defined grandfather provisions of existing approvals, by merely making reference to other NPA's, and a lack of insight into the

proposed transition measures, Gulfstream voices concern regarding the Agency's position that these measures will only be included in the final Agency's Opinion.

comment *808* comment by: *Walter Gessky*

- Item 69:
  Grandfathering of existing MMEL approved by JAA or NAAs and trainings syllabus approved by NAAs shall be granted. For some approvals a transition report like used for Part 66 might be required.

comment *926* comment by: *GAMA*

It is not possible to provide an adequate assessment of the OSC proposal without having an understanding of the specific technical details for the transition & grandfathering provisions because this is the single greatest factor which will determine the overall burden/impact upon the various industry sectors.

GAMA recognizes that the transition measures for the entry into force of the OSC provisions will be established in the cover regulation of Part 21 which is promulgated by the European Commission. However, the importance of these transition measures to the overall ability for industry and EASA to successfully implement the new OSC requirements can not be understated. Therefore, GAMA strongly recommends that as EASA consult with the 21.039 drafting group as it works with the EC on the development of transition provisions.

comment *958* comment by: *kapers Cabin Crew Union*

F. As the Agency proposes in paragraph 70, the ETF supports that JOEB reports be grandfathered as elements of an OSC. This is in particular important as to the results of the OEB cabin crew subgroup.

This would facilitate a harmonised approach to cabin crew training.

A. Explanatory Note - Content of the draft opinion and decisions - F. Grandfathering and Transition measures - i. Options for transition measures p. 17

comment *165* comment by: *UK CAA*

Page No: 17

Paragraph No: 71 and 72

Comment: Whether voluntary catch-up or mandatory catch-up is the chosen option, the consequences for the TC/OSC holders (mentioned in paragraph 72) are not self-explanatory at all.

A catch-up programme has the potential to absorb large resources; hence the Agency should develop its ideas for transitional arrangements as soon as possible, including timing. For many EASA aircraft the JOEB process has not been used at all. New procedures will be required and they should be subject to impact assessments because it may be that, in some cases, there is no

safety case to be made for mandatory catch up.

comment *411* comment by: *Cargolux Airlines International S.A.*

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. If the OPS regulation is not realigned with the existing practices than it will be essential that EASA introduces a mandatory catch up process for TC holders to update the preamble of their MMEL ref RIE.

Proposal:
The best way forward is to amend the existing EU-OPS regulation (to allow an extension of the Rectification Intervals even if there is no statement in the MMEL) and to realign it with JAR-OPS and the practices used by all worldwide safety Authorities. If the current OPS regulations are not changed than there is a need to introduce a mandatory catch up for TC holders to update all their MMEL to include a statement on Rectification Interval Extensions in the preamble.

comment *502* comment by: *ECA - European Cockpit Association*

The distinction between option b. and c., although it sounds convincing, is arbitrary: an aircraft could still be in production in very small numbers, whereas another one is in wide use, but out of production: pilot/maintenance-training takes part, but there is no standardization/common safety if these remain unregulated or regulated to a sub-optimal national standard.
Therefore ECA urges EASA to promote option b. In any case, there should be a thorough safety assessment regarding the need for an OSC for all existing aircraft types.

comment *549* comment by: *DGAC France*

1 AFFECTED PARAGRAPH:

paragraphs 71 to76
question 2

2. PROPOSED COMMENT:

DGAC France supports the harmonisation among operators' usage of aircraft due to those "Operational Suitability Data".
It is therefore obvious that future aircraft type must be operated with such data available.
We can also imagine some operating benefits for aircraft already type certificated, and still in production.

But DGAC France does not consider that data availability catch up for older aircraft will add to current aircraft operation safety. Old aircraft are currently operated with various strategies among operators of various countries:

- If (see NPA point 76) each operator shall apply for the NPA proposed OSC according to his own data and way of practice, it does not meet the harmonisation criteria, nor adds any safety benefit. It's only paperwork.
- If an authority or agency, or someone, builds the minimum common part among all data from all European operators, this data would be by construction common, but eventually, it does not add any benefit to a particular European operator that conforms to it "by construction of the OSC".
- If the EASA were to approve one OSC based on one operator own data, it will be burden and paperwork for other operators to show their own OSC is consistent with the first one approved by the Agency.

The concept of OSD proposed by DGAC France as a general comment removes that burden to have an applicant for an OSC, in case the TCH does not intend to apply for it.

DGAC considers that "OS Data" shall be required only for future type certification.

For existing operated types of aircraft, the agency shall gather all pieces of information used by operators and provide for information NAAs and operators with that package so that each airline can amend its already approved operational data based on those "equivalent OS data".
Therefore, DGAC position is that there shall be no mandatory catch up for existing fleet.

comment *915* comment by: *AEI*

AEI supports option C.

AEI believe this is the only rational option available to maintain a safe common European standard without burdening industry/ operators with expensive, inoperable and unrealistic regulations.

comment *942* comment by: *NFO Technical Commitee*

NFO support Option C.

This appears to be the most viable and rational option to progress while maintaining a common EU standard.

A. Explanatory Note - Content of the draft opinion and decisions - F. Grandfathering and Transition measures - ii. Consequences for TC/OSC holders p. 17

comment *59* comment by: *Bombardier Aerospace*

To Section 72: This comment also applies to Section 75. On face value, it would seem that a voluntary catch-up for TC Holders to obtain OSC for existing

Types would have the least impact. During the March to May 2009 briefings, EASA admitted that much of the decisions in reality regarding TC Holder application for an OSC will be determined by market forces. Bombardier Aerospace agrees with this suggestion - to a point where a new opportunity for commercial gain will likely be realized in short order by many training organizations and others in related areas should the OSC proceed to final rule. This is discussed further in Section 73. For this Section, our comment focuses on the legal and liability aspects of Option a, which may change the NPA statements on impact to the TC Holder.

In fact, if an Operator is left with no choice but to apply for a SOSC due to a missing OSC element and this is repeated in the EU without commercial or technical ties between the training programs that result, there will potentially be a wide range of "minimum" syllabi in force (notwithstanding the EASA need to achieve a respectable minimum across all the Certificates). While this situation may exist today with a voluntary JOEB, the fact that the TC Holder had the opportunity to set minimum Standards for the training of flight and maintenance crew on its products - and did not set those minima by not volunteering to 'catch-up'- could be seen as a liability. Perhaps, as a result of this potential liability, the need to set a minimum Standard for the safe operation of its products, a TC Holder may be more compelled to volunteer!

It is understood that, as a Regulator of technical standards, EASA should not be as concerned with liability burdens of the Certificate Holders as compared to ensuring compliance with those standards. On the other hand, by requiring the same Holders to establish minimum criteria for new products, yet allowing market forces to drive that activity for existing products, EASA has not considered the liability implications and has taken away the voluntary catch-up option. EASA is requested to comment that, if it wants to be sincere and offer a voluntary option, EASA would be willing to revise language that insists on a "minimum" standard to be set by the OSC Holders.

comment *67* comment by: *CAA-Norway TFH*

Option c.

comment *549* ☐ comment by: *DGAC France*

1 AFFECTED PARAGRAPH:

paragraphs 71 to76
question 2

2. PROPOSED COMMENT:

DGAC France supports the harmonisation among operators' usage of aircraft due to those "Operational Suitability Data".
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But DGAC France does not consider that data availability catch up for older aircraft will add to current aircraft operation safety. Old aircraft are currently operated with various strategies among operators of various countries:

- If (see NPA point 76) each operator shall apply for the NPA proposed OSC according to his own data and way of practice, it does not meet the harmonisation criteria, nor adds any safety benefit. It's only paperwork.
- If an authority or agency, or someone, builds the minimum common part among all data from all European operators, this data would be by construction common, but eventually, it does not add any benefit to a particular European operator that conforms to it "by construction of the OSC".
- If the EASA were to approve one OSC based on one operator own data, it will be burden and paperwork for other operators to show their own OSC is consistent with the first one approved by the Agency.

The concept of OSD proposed by DGAC France as a general comment removes that burden to have an applicant for an OSC, in case the TCH does not intend to apply for it.

DGAC considers that "OS Data" shall be required only for future type certification.

For existing operated types of aircraft, the agency shall gather all pieces of information used by operators and provide for information NAAs and operators with that package so that each airline can amend its already approved operational data based on those "equivalent OS data".
Therefore, DGAC position is that there shall be no mandatory catch up for existing fleet.

comment *927* comment by: *GAMA*

GAMA strongly supports the automatic grandfathering for TC holders, any JOEB report and MMEL developed through JAA procedures.

A. Explanatory Note - Content of the draft opinion and decisions - F. Grandfathering and Transition measures - iii. Consequences for organisations in the fields of air operations and flight crew licensing p. 17-18

comment *127* comment by: *Bombardier Aerospace*

For Section 73 scenario b and in the second sub bullet in Section 74, where there is no approved (OSC) element, EASA have correctly stated the options for the operator to obtain EASA approval for flight crew training, MEL and Maintenance certifying staff. However, it is not clear if all the realities of trade into and within the EU have been taken into consideration in the rulemaking. Like Bombardier, we are sure that EASA can foresee aircraft types changing hands between those operators who have grandfathered training programs and MELs (and no OSC elements in place) and those who are taking the type for the first time, who do not have grandfather rights. In this case, the proposed regulation requires the receiving new operator to apply for a SOSC for one or more of these elements. This would seem an unnecessary burden on the new operator to establish new minima and MEL, or to seek out other minima and MELs already established for the type, considering that EASA is accepting the grandfathered training program and MELs as alternate approved data. It may seem that this comment relies on similar themes to that submitted against Section 72, in that the use of 'minima' is the troublesome factor. In this case,

the solution would be simpler, in that EASA need only to allow the trade of existing types without the need for OSC or SOSC – and to continue with the flexibility permitted in today's environment where the new operator would still need to develop or adopt a training program and MEL that satisfies EASA, presumably by comparison with existing approved programs and documents. Here there would be no minima established, nor would there be the need for a SOSC.

comment *166* comment by: *UK CAA*

Page No: 17

Paragraph No: 73

Comment: This paragraph implies that the effect on existing aircraft will be small because, if an operator already holds an approved MEL for his aircraft, then that MEL remains valid for the aircraft and that operator. But an MEL is not transferable to a new operator if the aircraft is sold. If there is no MMEL approved or accepted by EASA, then the new operator will have to pay the TC Holder to create one. This may substantially affect the re-sale value of aircraft currently operating. Also, what if the TC Holder refuses, (or is no longer in business)? Can the operator go to any DOA and pay the DOA to write an MMEL? At present there is only one MMEL for each product and this is produced by the TC Holder. Under these proposals will it be acceptable to have several different, but EASA-approved, MMELs for a product each compiled by a different DOA?

Justification: Clarification

comment *320* comment by: *ERA*

Paragraph 73
We find this is confusing. Should this be for new builds and new types added to existing operators fleets?

Paragraph 73, sub b *There will be a problem when a TC holder does NOT voluntary perform (applies for) a catch up. In that case an operator has to apply for an S-OSC in order to get the approval of the necessary elements under an S-OSC. On what basis shall the operator apply? There is no OSC developed by the TC-holder. As there is no basis, no legal certainty can be provided.*

EASA need to clarify exactly what they mean by this. The impression is that the SOSCs will be published on the EASA web site, operators can use SOSCs developed by others at no development cost to themselves. Is this true or not?

comment *503* comment by: *ECA - European Cockpit Association*

ECA requests clarification. The absence of approved elements will make the operator responsible for the developing of those elements and for ensuring approval by the Agency. This statement (and the procedure before) contradicts the statement of the first paragraph of background paragraph 73 sentence 2,

that existing operators are not obliged to comply with OSC-elements.

comment *549* comment by: *DGAC France*

1 AFFECTED PARAGRAPH:

paragraphs 71 to76
question 2

2. PROPOSED COMMENT:

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DGAC considers that "OS Data" shall be required only for future type certification.

For existing operated types of aircraft, the agency shall gather all pieces of information used by operators and provide for information NAAs and operators with that package so that each airline can amend its already approved operational data based on those "equivalent OS data".
Therefore, DGAC position is that there shall be no mandatory catch up for existing fleet.

comment *629* comment by: *Luftfahrt-Bundesamt*

Item 73, case b: Concerning the obligation of the operator to get OSC elements approved if the TC holder does not provide such elements it is questionable whether the operator can manage to achieve this goal. For instance for MMEL, as item 5.1.3 of the RIA rightly explains, the insight in type certification documents is necessary. Hence, what will happen if the TC holder

does not want to provide support? There could be strong commercial implications.

comment *642* comment by: *REGIONAL (gilles VITROU)*

It is not acceptable that new costs are added to operators (as it could be the case if no approved elements of OSC already exists and have to be applied for by operator because TC holder can not or does not want to do itself).

The only acceptable option by operators is : "no catch up at all : OSC disposals mandatory only for newly certified aircrafts".

comment *715* comment by: *ETF*

E. 71. In reply to question 2 the ETF cannot endorse that a voluntary catch up process will satisfy as a catch up process for OSC. In order to create harmonisation ETF opts for 71.c. As JOEB elements will be grandfathered the change should be minimal.

comment *732* comment by: *Pilatus*

§ 73 How does the OSC holder have control over SOSC applied for by operators with new elements and when there is problems with the SOSC, then it might result that the OSC holder should address the issue.

This NPA is not very clear on allocation of responsibility. Who is responsible to ensure that training organisations comply with the OSC requirements as the approved material will be interpreted differently by different organisations and different processes may be developed internally to perform the required training.
If a safety issue is then identified or reported, is it then up to the OSC holder to investigate the reason? This investigation cannot follow the normal occurrence reporting system, for in this case firstly an audit must be conducted at the operator to investigate if the approved syllabi was followed or whether changes was incorporated because of interpretation and further process development and what influence these additional changes have to the original approved procedures.

comment *871* comment by: *General Aviation Manufacturers Association / Hennig*

The requirement for providing "the minimum syllabus of maintenance certifying staff type rating training" for aircraft other than complex motor-powered aircraft should receive specific consideration from the agency and the EC with respect to grandfathering of existing type (group) training courses.

A significant number of the aircraft that meet the definition of aircraft other than complex motor-powered aircraft rely on maintenance training programs that are long established and where it is likely not cost-beneficial to develop a new course to meet a generic OSC.

This leaves EASA two options with respect to the generic elements for the syllabus of maintenance certifying staff type rating training:

1) Provide guidance to the 21.039 working group that develops the generic elements for the syllabus of maintenance certifying staff type rating training that the generic elements must be broad enough to capture, if not all, the vast majority of existing type (group) training courses.

2) Establish a grandfathering provision for the maintenance certifying staff type rating training requirement for aircraft other than complex motor-powered aircraft which would grandfather all existing type (group) training courses.

If EASA, working with the EC, does not embrace GAMA's proposed Option 1 or 2 outlined above, we expect this specific requirement for maintenance certifying staff type rating training to be prohibitively burdensome which would result in a large portion of the GA fleet likely not having access to properly trained maintenance staff.

comment *876* comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

Grandfathering existing approvals (Question 2, Paragraph 73 and Article 4b1.b.)

The EASA intent to grandfather existing approvals without the need for further application or approval is good. Embraer is concerned that the proposal to require any changes to these existing approvals to be approved through either development/revision of an OSC by the TC holder or approval of a supplemental OSC by the operator (or third party) will result in the need for a large number of change applications. When you consider that EASA proposes that even if the element itself is not changed, but it merely applied to a new operator or an existing operator adding a new model to his fleet, it is clear that the result would be a flood of OSC and supplemental OSC applications for which EASA is not adequately staffed to handle. The result would be, effectively, a halt on the transfer of many used aircraft within the EU. The NPA does not evaluate this economic effect.

Embraer does not agree with the EASA position in paragraph 69 that it is not feasible to accept elements already approved by an NAA for use by a new operator. The fact that technical differences exist between similar elements approved by different NAAs is no different than type certificates where the design and minimum equipage requirements were different for various NAAs, yet EASA has grandfathered any type certificate approved by an EU NAA as approved everywhere within the EU. If, by some unusual circumstance, a previously approved element was found to be deficient, EASA has the ability to mandate changes through a safety directive.

Embraer believes that it is essential for EASA to work further with the Commission to identify a less onerous transition to OSC than the requirement for existing approved elements to be reapproved through the issuance of an OSC or supplemental OSC.

comment *928* comment by: *GAMA*

GAMA strongly supports the automatic grandfathering for operators, any existing approved operational element.

However, GAMA strongly disagrees with the EASA statement in Section 69 that "the automatic grandfathering of existing [NAA] approvals for OSC… will not be possible." In fact, Section 70 clearly provides an example where this is possible; "The only 'approval' that is close to the approval concept of the OSC is the JOEB report. Therefore, the Agency will propose automatic grandfathering of existing JOEB reports as elements of the OSC." It is GAMA's understanding that those NAAs who are leading participants in the JOEB process utilize very similar process for NAA approvals of the same operational elements. Therefore, GAMA strongly recommends that EASA assess the NAA procedures for the approval of certain operational elements to identify those that are close to the JOEB process so that those elements can also be automatically grandfathered as approved under the OSC consistent with JOEB elements that were approved using a similar process.

Considering the sheer number of operators and approved operational elements that are currently operating safely throughout Europe and proposed to be acceptable as a transition measure for each specific operator, GAMA strongly recommends that EASA consider an additional grandfathering provision for operational elements previously approved by NAAs. This will be particularly important for legacy type aircraft for which there is a limited number operating in the fleet. There will be significant economic burden upon operators of legacy aircraft if EASA does not identify an adequate provision to grandfather previously approved and safe operating elements. This is because there is very limited (to no) market for training organizations to develop an SOSC to address the operational elements of a legacy aircraft with very small fleet sizes which will severely impact the resale value of these aircraft because they will not be able to be utilized by another community operator unless they invest in the development of approved OSC elements and training programs that meet those elements.

comment *959* comment by: *kapers Cabin Crew Union*

E. 71. In reply to question 2 the ETF cannot endorse that a voluntary catch up process will satisfy as a catch up process for OSC. In order to create harmonisation ETF opts for 71.c. As JOEB elements will be grandfathered the change should be minimal.

A. Explanatory Note - Content of the draft opinion and decisions - F. Grandfathering and Transition measures - iv. Consequences for organisations approved in accordance with EC Regulation 2042/2003 p. 18

comment *127* comment by: *Bombardier Aerospace*

For Section 73 scenario b and in the second sub bullet in Section 74, where there is no approved (OSC) element, EASA have correctly stated the options for the operator to obtain EASA approval for flight crew training, MEL and Maintenance certifying staff. However, it is not clear if all the realities of trade into and within the EU have been taken into consideration in the rulemaking. Like Bombardier, we are sure that EASA can foresee aircraft types changing hands between those operators who have grandfathered training programs and MELs (and no OSC elements in place) and those who are taking the type for the first time, who do not have grandfather rights. In this case, the proposed

regulation requires the receiving new operator to apply for a SOSC for one or more of these elements. This would seem an unnecessary burden on the new operator to establish new minima and MEL, or to seek out other minima and MELs already established for the type, considering that EASA is accepting the grandfathered training program and MELs as alternate approved data. It may seem that this comment relies on similar themes to that submitted against Section 72, in that the use of 'minima' is the troublesome factor. In this case, the solution would be simpler, in that EASA need only to allow the trade of existing types without the need for OSC or SOSC – and to continue with the flexibility permitted in today's environment where the new operator would still need to develop or adopt a training program and MEL that satisfies EASA, presumably by comparison with existing approved programs and documents. Here there would be no minima established, nor would there be the need for a SOSC.

comment *321* comment by: *ERA*

Paragraph 74
It is of considerable concern that the rule has got into area of duration This should be avoided because of the discrete nature of the training involved between shorthaul, intra european minimum crew operations and longhaul over water multi crew operations. This is also a classic case of relating to an earlier NPA when the implications and influence of that NPA on a future unknown NPA were unknown.

comment *341* comment by: *Airbus*

Relevant text:Page 17 § 74 Consequences for organisations approved in accordance with EC regulation 2042/2003

"The transitioning and possible grandfathering of type training courses for maintenance certifying staff differs from the other elements of the OSC for two reasons. First of all, none of the JOEB reports have so far included the minimum syllabus for type training of maintenance certifying staff so the intended grandfathering of these JOEB reports will not lead to grandfathered minimum syllabi....."

Comment:

Within this paragraph, transition/grandfathering of the type training courses for maintenance certifying staff is referred to. Airbus considers that this is an incorrect statement, as training courses can ONLY be grandfathered at Training organisation/operator level. The confusion is created by the misleading wording introduced in the Basic Regulation "minimum syllabus". A TC Holder is not the owner of training courses, the ATOs are.

In addition, as the minimum syllabus for maintenance certifying staff was NOT in the initial scope of the JOEB, there should not be any catch-up required. This should only be required for amended/new TC.

Proposals:

- Airbus recommends that OSC applicability be limited to aircraft certificated after date TBD (any new or derivative aircraft). Consequently there would be no need for grandfathering provisions.
- If this approach cannot be followed, then Airbus recommends to opt for an approach consistent with the transition approach used for airworthiness, meaning that existing NAA-approved elements are deemed to be EASA-approved, and then nothing should be required for a "new EU operator" using an aircraft already in service within EU.

The less preferred but still potentially acceptable solution for Airbus is to consider a voluntary catch-up process only for elements that were part of former JOEB process (excluding the minimum syllabus for maintenance certifying staff type rating). It should be left to the TC Holder appreciation, what would be the aircraft for which the TC Holder would elect a catch-up process

comment *346* comment by: *EAMTC*

Concerning:
74. .....Type rating courses approved before the end of the transition period will have to be amended in accordance with the outcome of NPA 2007-07. This will be a condition for the courses to be considered "grandfathered" for the purpose of the OSC.

There is a cost involved to the training provider to amend courses in accordance with the outcome of NPA 2007-07. Would it not be preferable to permit continued use of existing syllabi until a course update that requires a re-approval of the respective syllabus?

comment *549* □ comment by: *DGAC France*

1 AFFECTED PARAGRAPH:

paragraphs 71 to76
question 2

2. PROPOSED COMMENT:

DGAC France supports the harmonisation among operators' usage of aircraft due to those "Operational Suitability Data".
It is therefore obvious that future aircraft type must be operated with such data available.
We can also imagine some operating benefits for aircraft already type certificated, and still in production.

But DGAC France does not consider that data availability catch up for older aircraft will add to current aircraft operation safety. Old aircraft are currently operated with various strategies among operators of various countries:

- If (see NPA point 76) each operator shall apply for the NPA proposed OSC according to his own data and way of practice, it does not meet the harmonisation criteria, nor adds any safety benefit. It's only

paperwork.
- o If an authority or agency, or someone, builds the minimum common part among all data from all European operators, this data would be by construction common, but eventually, it does not add any benefit to a particular European operator that conforms to it "by construction of the OSC".
- o If the EASA were to approve one OSC based on one operator own data, it will be burden and paperwork for other operators to show their own OSC is consistent with the first one approved by the Agency.

The concept of OSD proposed by DGAC France as a general comment removes that burden to have an applicant for an OSC, in case the TCH does not intend to apply for it.

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For existing operated types of aircraft, the agency shall gather all pieces of information used by operators and provide for information NAAs and operators with that package so that each airline can amend its already approved operational data based on those "equivalent OS data".
Therefore, DGAC position is that there shall be no mandatory catch up for existing fleet.

comment *645* comment by: *EUROCOPTER*

In accordance with Eurocopter general comment n° 61 questioning the relevance of keeping a requirement for maintenance certifying staff minimum syllabus into the OSC scope, this paragraph iv could be not applicable.

comment *665* comment by: *EAMTC*

NPA 2009-01 item No

iv. Consequences for organisations approved in accordance with EC Regulation 2042/2003
74. .....Type rating courses approved before the end of the transition period will have to be amended in accordance with the outcome of NPA 2007-07. This will be a condition for the courses to be considered "grandfathered" for the purpose of the OSC.

Question 1

There is a cost involved to the training provider to amend courses in accordance with the outcome of NPA 2007-07. Would it not be preferable to permit continued use of existing syllabi until a course update that requires a re-approval of the respective syllabus?

Question 2

how can courses considered "grandfathered" when the outcome of NPA 2007-07 is still open? What time is left for the industry between NPA 2007-07 and the end of transition period?

comment 918 comment by: *AEI*

AEI support the proposed mechanism for maintenance Type Training courses as it is written in this Proposal and agree that the transition period should be aligned with that of NPA 2007-07.
Catchup should in the first instance be the responsibility of the OSC holder as approved under Part 21 subpart C.

comment 943 comment by: *NFO Technical Commitee*

NFO approve of this propossal as it is written and agree the transition period should align with NPA 2007-07 for practical purposes. The responsibility for catchup should lie initially with the holder of the OSC as per Part 21 subpart C.

A. Explanatory Note - Content of the draft opinion and decisions - F. Grandfathering and Transition measures - v. Proposed option p. 18-19

comment 59 ☐ comment by: *Bombardier Aerospace*

To Section 72: This comment also applies to Section 75. On face value, it would seem that a voluntary catch-up for TC Holders to obtain OSC for existing Types would have the least impact. During the March to May 2009 briefings, EASA admitted that much of the decisions in reality regarding TC Holder application for an OSC will be determined by market forces. Bombardier Aerospace agrees with this suggestion - to a point where a new opportunity for commercial gain will likely be realized in short order by many training organizations and others in related areas should the OSC proceed to final rule. This is discussed further in Section 73. For this Section, our comment focuses on the legal and liability aspects of Option a, which may change the NPA statements on impact to the TC Holder.

In fact, if an Operator is left with no choice but to apply for a SOSC due to a missing OSC element and this is repeated in the EU without commercial or technical ties between the training programs that result, there will potentially be a wide range of "minimum" syllabi in force (notwithstanding the EASA need to achieve a respectable minimum across all the Certificates). While this situation may exist today with a voluntary JOEB, the fact that the TC Holder had the opportunity to set minimum Standards for the training of flight and maintenance crew on its products - and did not set those minima by not volunteering to 'catch-up'- could be seen as a liability. Perhaps, as a result of this potential liability, the need to set a minimum Standard for the safe operation of its products, a TC Holder may be more compelled to volunteer!

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comment *251* comment by: *NHAF Technical committee*

Comment:

§ 76, page 19

Answer for question 2:

NHF thinks the preferred option is the OSC process proposed by EASA. For the transition measures NHF strongly recommend option b. Mandatory catch-up of all existing types. the proposed lenght of the transition period is supported by NHF, but should not be extended.

Justification:

Regarding the transition measures option b is the only reasonable alternative. All TC holders should be mandated to develop an OSC which can then be used by the operators to develop training programs and MEL. If the responsibility is put on the many operatorsto apply for SOSCs in stead, we will not achieve standardisation and is it not very effective when the process could have been done once by the TC holder. Since the lifespan of aircrafts is very long it is also important that the requirements includes all exsisting types in operation.

comment *549* □ comment by: *DGAC France*

1 AFFECTED PARAGRAPH:

paragraphs 71 to76
question 2

2. PROPOSED COMMENT:

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comment *928* ☐ comment by: *GAMA*

GAMA strongly supports the automatic grandfathering for operators, any existing approved operational element.

However, GAMA strongly disagrees with the EASA statement in Section 69 that "the automatic grandfathering of existing [NAA] approvals for OSC… will not be possible." In fact, Section 70 clearly provides an example where this is possible; "The only 'approval' that is close to the approval concept of the OSC is the JOEB report. Therefore, the Agency will propose automatic grandfathering of existing JOEB reports as elements of the OSC." It is GAMA's understanding that those NAAs who are leading participants in the JOEB process utilize very similar process for NAA approvals of the same operational elements. Therefore, GAMA strongly recommends that EASA assess the NAA procedures for the approval of certain operational elements to identify those that are close to the JOEB process so that those elements can also be automatically grandfathered as approved under the OSC consistent with JOEB elements that were approved using a similar process.

Considering the sheer number of operators and approved operational elements that are currently operating safely throughout Europe and proposed to be acceptable as a transition measure for each specific operator, GAMA strongly recommends that EASA consider an additional grandfathering provision for operational elements previously approved by NAAs. This will be particularly important for legacy type aircraft for which there is a limited number operating in the fleet. There will be significant economic burden upon operators of legacy aircraft if EASA does not identify an adequate provision to grandfather previously approved and safe operating elements. This is because there is very limited (to no) market for training organizations to develop an SOSC to address the operational elements of a legacy aircraft with very small fleet sizes which will severely impact the resale value of these aircraft because they will not be able to be utilized by another community operator unless they invest in the development of approved OSC elements and training programs that meet those elements.

A. Explanatory Note - IV. Content of the draft opinion and decisions - F. p. 19

Grandfathering and Transition measures - Question 2

comment *36* comment by: *EUROCOPTER*

Regarding the completion of the OSC with missing elements, Eurocopter has the preference for **option a (voluntary catch-up).** We have the opinion that it has to be left to the OEM appreciation what would be the support that the OEM wants to offer to its customers.

comment *59* ☐ comment by: *Bombardier Aerospace*

To Section 72: This comment also applies to Section 75. On face value, it would seem that a voluntary catch-up for TC Holders to obtain OSC for existing Types would have the least impact. During the March to May 2009 briefings, EASA admitted that much of the decisions in reality regarding TC Holder application for an OSC will be determined by market forces. Bombardier Aerospace agrees with this suggestion - to a point where a new opportunity for commercial gain will likely be realized in short order by many training organizations and others in related areas should the OSC proceed to final rule. This is discussed further in Section 73. For this Section, our comment focuses on the legal and liability aspects of Option a, which may change the NPA statements on impact to the TC Holder.

In fact, if an Operator is left with no choice but to apply for a SOSC due to a missing OSC element and this is repeated in the EU without commercial or technical ties between the training programs that result, there will potentially be a wide range of "minimum" syllabi in force (notwithstanding the EASA need to achieve a respectable minimum across all the Certificates). While this situation may exist today with a voluntary JOEB, the fact that the TC Holder had the opportunity to set minimum Standards for the training of flight and maintenance crew on its products - and did not set those minima by not volunteering to 'catch-up'- could be seen as a liability. Perhaps, as a result of this potential liability, the need to set a minimum Standard for the safe operation of its products, a TC Holder may be more compelled to volunteer!

It is understood that, as a Regulator of technical standards, EASA should not be as concerned with liability burdens of the Certificate Holders as compared to ensuring compliance with those standards. On the other hand, by requiring the same Holders to establish minimum criteria for new products, yet allowing market forces to drive that activity for existing products, EASA has not considered the liability implications and has taken away the voluntary catch-up option. EASA is requested to comment that, if it wants to be sincere and offer a voluntary option, EASA would be willing to revise language that insists on a "minimum" standard to be set by the OSC Holders.

comment *322* comment by: *ERA*

The proposed Option 4 does not comply with the Basic Regulation. Only Options 5-6 (part of the TC) comply with the Basic Regulation. These options are however rejected as too much burden on the OEM. It is however not acceptable to simply transfer this burden to the operators and training organisations.

If the burden outweighs safety, than there should be no additional requirement

and this NPA is void. If the burden does not outweigh safety, than the requirements of shall be part of the TC as required per BR art.5. Consequently, Option 6 is the only valid option, which will be superseded by Option 5 once there is an international consensus, if any. What do we propose for transition measures and length of transition period ?

comment *366* comment by: *Austro Control GmbH*

ACG agrees with voluntary catch-up.

comment *418* comment by: *IACA International Air Carrier Association*

The OSC is incorrectly proposed as the only acceptable option. Any potential shortcomings with existing aircraft types will be identified and corrected applying an SMS, potentially leading to the issuance of a Safety Directive. Therefore the proposed (S)OSC is not appropriate for aircraft types already in operation, and this NPA – and the transition measures and period – are void for existing TCs.

Considering the OSC concept is not fully understood and an "opt-out" being suggested, Question 2 is difficult to answer. As explained under "Executive Summary", the proposed Option 4 does not comply with the Basic Regulation.

Only Options 5-6 comply with the Basic Regulation. These options are however rejected as too much burden on the OEM. It is however not acceptable to simply transfer this burden to the operators and training organisations.

If the burden so outweighs any intended safety benefits, than there should be no additional requirement and this NPA is void. If the intended safety benefits outweighs the burden, than the requirements shall be part of the TC as required per BR art.5. Consequently, Option 6 is the only valid option, which will be superseded by Option 5 once there is an international consensus, if any.

Considering the additional requirements of art.5.5.(e) of the BR are part of the TC, and further that there are no identified safety concerns with existing TCs, there should be no transition measures or transition period other than to be applied to new TC to be issued after adoption of this proposed rule.

The OSC requirements should only become applicable to newly certified aircraft. Existing JOEB reports should remain directly applicable for existing aircraft. Therefore the question concerning transition measures and period becomes void. This would also solve the liability concerns associated with existing aircraft.

comment *549* □ comment by: *DGAC France*

1 AFFECTED PARAGRAPH:

paragraphs 71 to76
question 2

2. PROPOSED COMMENT:

DGAC France supports the harmonisation among operators' usage of aircraft

due to those "Operational Suitability Data".
It is therefore obvious that future aircraft type must be operated with such data available.
We can also imagine some operating benefits for aircraft already type certificated, and still in production.

But DGAC France does not consider that data availability catch up for older aircraft will add to current aircraft operation safety. Old aircraft are currently operated with various strategies among operators of various countries:

- If (see NPA point 76) each operator shall apply for the NPA proposed OSC according to his own data and way of practice, it does not meet the harmonisation criteria, nor adds any safety benefit. It's only paperwork.
- If an authority or agency, or someone, builds the minimum common part among all data from all European operators, this data would be by construction common, but eventually, it does not add any benefit to a particular European operator that conforms to it "by construction of the OSC".
- If the EASA were to approve one OSC based on one operator own data, it will be burden and paperwork for other operators to show their own OSC is consistent with the first one approved by the Agency.

The concept of OSD proposed by DGAC France as a general comment removes that burden to have an applicant for an OSC, in case the TCH does not intend to apply for it.

DGAC considers that "OS Data" shall be required only for future type certification.

For existing operated types of aircraft, the agency shall gather all pieces of information used by operators and provide for information NAAs and operators with that package so that each airline can amend its already approved operational data based on those "equivalent OS data".
Therefore, DGAC position is that there shall be no mandatory catch up for existing fleet.

comment *635* comment by: *Luftfahrt-Bundesamt*

Question 2: The Agency would like to know the stakeholders' opinion on the preferred option, their preferred option for transition measures and the length of the transitional period needed.

Although the LBA is not a "stakeholder" we would herewith propose not to discuss implementation issues before a general decision has been taken as regards the applicability of the intended rule. In our view, a "generic" OSC does not make much sense for smaller aircraft, even a C 172. As discussed above, this will implement a bureaucratic measure without enhancing safety. For large aircraft and helicopters, the JOEB / OSC process definitely makes sense, however the application for smaller aeroplanes, gliders and helicopters is questionable.

comment *659* comment by: *CAA-NL*

Question 2: the Agency would like to know stakeholders' opinion on the preferred option, their preferred option for transition measures and the length

of the transitional period needed.

Answer 2.1, preferred option: The Netherlands would prefer an amended option 5 as explained above.
Answer 2.2, transition measures: The Netherlands prefers the option of 'Voluntary catch-up'. The proposed regulation mainly introduces the currently used concept into the legislation and mandatory catch up would add much to the administrative burden without a safety benefit.
Answer 2.3, transitional period: If the 'Voluntary catch-up' is applied a transition period is not necessary.
The obligation to apply for an OSC may only be introduced for new applications for a TC/STC after the application date of the new regulation. Ongoing certification processes may be finalised without OSC, this as a point of legal certainty for the applicant.

comment *729* comment by: *Aviation Working Group*

Aviation Working Group Comments

The grandfathering provisions of EC 1702/2003, applicable at the start of the EASA, created significant burden and additional costs to the leasing industry due to the requirement to (re)validate existing STCs and aircraft modifications before entry into the EU. Historically, a number of aircraft were unable to enter the EU market due to the lack of EASA validation of existing STCs and design modifications done on such aircraft.
The introduction of the OSC may increase this burden, as aircraft with existing EASA TCs/STCs might be denied to EU markets when some OSC elements are unavailable. Based upon the experience with the existing grandfathering provision of EC 1703/2003, AWG objects to grandfathering provisions that would require (re)validation work on existing TCs and STCs, especially those approved by previously competent EU aviation authorities. AWG supports a grandfathering concept of automatic EASA acceptance/approval of all National Aviation Authority approved or accepted elements for all existing EASA TCs and STCs.

comment *751* comment by: *Boeing*

Page 19
"Question 2"

BOEING RESPONSE:

The transition should be handled with extreme care. The transition measures will affect the way people can continue their current businesses, as well as the way they can start a new business or profession. We consider that the requirements of the new rule must address not only the existing operators and license holders, but future new operators and licensees as well. These future stakeholders should be given the same opportunities as the existing stakeholders.

EASA's proposal makes a distinction between a start-up operator and an operator already using the aircraft type. The start-up operator will have to implement the applicable OSC elements, while the operator already using the type can continue its existing practice. We consider this unequal treatment.

Due to the difference in history of the various elements of the OSC, different transition schedules are proposed. These proposals take into account, to the maximum extent possible, the approvals already issued by the competent authorities of the member states. This provision was also used in Ec 1702/2003 and recognized the various TCs and STCs already issued by the member states, using national requirements.

1. The minimum syllabus of pilot type rating training, including determination of type rating:
JOEB available: The JOEB recommendation to be taken over as EASA-approved; individual training syllabi not based upon these JOEBs should be transferred within a certain amount of time; we suggest 5 years.

No JOEB: Any existing NAA-approved syllabus should be deemed EASA-approved as a minimum. It will have to be approved by the NAA again for the applicability for the specific new operator. This will avoid the use of inappropriate training syllabus.

2. The aircraft reference data to support the qualification of associated simulator(s):
This set of data have never been produced and provided to the authorities for their approval and is, therefore, not available for all current aircraft types and models. TC holders do not have the ability to obtain this data for the existing types and models. Therefore, we proposed that this element be for new types and derivatives only. Dedicated arrangements will be necessary for the EASA approval of new simulators for these existing types and models.

3. The minimum syllabus of maintenance certifying staff type rating training including determination of type rating:
These minimum syllabi have never been produced and provided to the authorities for their approval. In principle, OSC without approved elements ("empty OSCs") can be voluntarily filled by the TC holder. Any existing syllabus approved by the NAA of a member state is deemed to be EASA-approved; it will have to be approved by the NAA again for the applicability for the specific new operator. This will avoid the use of inappropriate training syllabi.

4. Determination of type or variant for cabin crew:
Up to now, this determination was done by the NAAs of the member states. It is proposed that the empty OSC principle is being followed, with the opportunity for the TC holders to assign one or more approved (by EU member state) ratings as their EASA approved elements.

5. Type specific data for cabin crew training:
This set of data have never been produced and provided to the authorities for their approval. TC holders do not have the ability to obtain that data for all the existing aircraft types and models. Therefore, we recommend that this element should be required for new types and derivatives only.

6. The master minimum equipment list:
JOEB available: The JOEB recommendation to be taken over as the EASA approved MMEL -- individual MELs not based upon these JOEBs should be transferred within a specific period -- we recommend 5 years.

No JOEB: In principle, an empty OSC TC holder can assign a MMEL, approved/accepted by a EU member state, as their EASA-approved OSC elements. This will be listed in the OSC Data Sheet. Individual MELs not based upon this MMEL should be transferred within a specific period – we suggest 5 years.

We recommend that the transition method should be based upon the provisions as listed above.

comment *809* comment by: *Walter Gessky*

- Item 76: Question 2
  We do not agree with the proposed structure of OSC. The whole OSC concept is not supported because according to the basic regulation the tasks are part of the type certificate and there exist not power in the basic regulation that an additional individual OSC can be issued by the Agency. If an OSC would be required, than this would be a task of the NAA to be issued for each individual aircraft.
  The basic regulation gives under Art 5(e) (iv), (v) and (vi) the COM the power to establish implementing rules.
  The bureaucracy created by the proposed OSC structure is unacceptable. Rather than creating a parallel TC structure, individual document approvals are adequate.
  Proposal:
  5. Define the following document approvals:
     1. MMEL
     2. STD ref data set.
     3. Flight crew training syllabus
     4. Maintenance training syllabus

comment *830* comment by: *FAA*

- **Question 2, Page 19**

Question 2: the Agency would like to know stakeholders' opinion on the preferred option, their preferred option for transition measures and the length of the transitional period needed.

Comment:
The FAA supports Option (a), voluntary catch-up by the OSC holders, as defined in paragraphs 71 through 76 of the NPA.

comment *909* comment by: *Fokker Services*

- Keep catch-up voluntary for holders of existing TCs and STCs, including possibility to develop only some elements of the OSC.

comment *917* comment by: *AEI*

Option a. or b. are only relevant to Operators, however AEI support option a. as the prefered option for "grandfathering".

a. If there is an approved element, either grandfathered from a JOEB report,

introduced in the OSC through mandatory or voluntary catch up or, for new types, approved under the OSC in accordance with Part 21 Subpart C, the operator must use this element as the basis for developing its own MEL or customised training course. The operator can deviate from or change the minimum only after having obtained an SOSC issued by the Agency to cover this deviation.

comment *929* comment by: *GAMA*

Although EASA has proposed option A "voluntary catchup" which has the least impact on TC holders, from a practical perspective for both aircraft manufacturers and community operators, GAMA recommends Option C – mandatory catchup limited to existing aircraft models still in production. This would ensure common operational standards are available throughout the Community for all current make/model aircraft which can be expected to be operated for the longest period of time.

In terms of the length of transitional period needed, it is not possible to provide an adequate assessment of the OSC proposal and to provide a recommendation without having an understanding of the specific technical details for the transition & grandfathering provisions as well as the envisioned certification specifications (CS) for each element for both complex motorpowered aircraft and aircraft other than complex motorpowered aircraft. This is because transition & grandfathering provision is the single greatest factor which will determine the overall burden/impact upon the various industry sectors and the content of the CS standard will ultimately determine the ongoing impact upon the development of operational elements and whether the existing processes and standards that have previously been acceptable will have to change under the new OSC.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 p. 20

comment *167* comment by: *UK CAA*

Page No: 20

Paragraph No: Appendix I

Comment: In general UK CAA welcomes the introduction of Safety Directives, which it considers to be an effective method of enforcing safety improvements. However, greater clarity is needed as to how the Safety Directives described in this NPA relate both to the Agency's powers in Article 22.1 and to Member States' powers in Article 14.1 of the Basic Regulation. The former empowers the Agency to react to a problem affecting the safety of air operations by determining corrective action and by disseminating related information; the latter empowers Member States to react to safety problems, urgent operational circumstances or operational needs of a limited duration.

Justification: It is vital that there is no confusion on this matter.

comment *908* comment by: *Fokker Services*

o With respect to Safety Directives, include a provision to exclude unnecessary work by the TC holder (in developing modifications that might be required by the Safety Directive) when the aircraft type is no longer operating in Europe (and thus no actual mandatory introduction of the modification will take place by airlines operating under EASA rules).

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 -A. Safety Directives - 79. 21A.3C Additional airworthiness specifications for operations and safety directives p. 20

comment *742* comment by: *Cessna Aircraft Company*

The proposed Safety Directive (SD) process is a concern for two reasons. First, a potential gap could easily exist between data Cessna has access to, and operational data that may be required to generate a SD (i.e.-- The details for all operations and procedures of operators of our products). Secondly, at present the control and enforcement of operations is something that is accomplished by the respective airworthiness authority. The operation of the aircraft is something that OEMs do not directly control. The OEM will now be considered the owner of the certificate that authorizes the operation, and will now be held responsible for something that is not completely under their control.

As owners of the OSC, EASA needs to contact and communicate issues for an SD with the OEMs.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 -A. Safety Directives - 80. Reacting to general safety problems p. 20

comment *505* comment by: *ECA - European Cockpit Association*

Subparagraph (f) explains that the Agency can also issue an SD without direct involvement of the holder. ECA requests to give examples of this, especially in relation to 21A.3c j)

comment *756* comment by: *Boeing*

Page 20
Item 80.

BOEING COMMENT: We have the same concern with subparagraph (f) as we have with Item 54: It is unclear how EASA can issue a SD that is mandatory to all affected parties and not to one single entity. The basic argument for the EASA OSC is that EASA cannot issue a standard applicable to more than one stakeholder.

JUSTIFICATION: Clarification and/or revision is necessary for appropriate understanding by the affected parties.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 -A. Safety Directives - 81. Corrections to already issued OSC or SOSC p. 21

comment *129* comment by: *Bombardier Aerospace*

This subparagraph is necessary to specify the conditions where EASA will issue an SD to correct a deficiency in an existing OSC or SOSC. However, Bombardier requests EASA to comment if a Safety Directive will be used when a deficiency in one or more SOSCs is discovered by a subsequent catch-up effort by the Type Certificate Holder to obtain an OSC for one or more elements. In this scenario, the OEM would establish minima for training or develop a Master MEL where a previously issued SOSC or MEL did not meet the new requirements. Of course, initially the determination of this deficiency will be at the discretion of EASA and the burden placed on the Agency to compare OSC and SOSC performance. In this case, the Agency may declare that more than one minimum is acceptable. In the same judgment, the OEM may disagree and determine the previous SOSC element is inappropriate and potentially unsafe.

EASA may wish to pass an opinion on how the Agency would handle this situation and what information would be made available to each party.

A less likely but foreseeable scenario exists, where a subsequent SOSC to an already approved OSC element would highlight deficiencies in the original OSC minimum. In theory, EASA could issue an SD to correct the OSC element. Bombardier can imagine a straightforward technical situation complicated by legal repercussions in both these scenarios.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 -A. Safety Directives - 82. General SD provisions p. 21

comment *507* comment by: *ECA - European Cockpit Association*

Subparagraph (j) provides for the possibility to apply for the approval of a deviation to any SD. The Agency will approve such deviation if it provides an acceptable level of safety. ECA requests examples for when it is not feasible not to go to the holder of the OSC/SOSC to propose deviations and use 'any persons' expertise instead. ECA cautions about the risk of 'watering down' standards by allowing 'any persons', meaning persons not holding the OSC or the SOSC to establish deviations to detected operational shortcomings in existing OSC or SOSC

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates p. 21

comment *359* comment by: *Austro Control GmbH*

- Austro Control does not agree with the proposed structure of the OSC. The bureaucracy created by the proposed OSC structure is unacceptable. Rather than creating a parallel TC structure, individual

document approvals are adequate.
Proposal:
1. Define the following document approvals:
1. MMEL
2. STD ref data set.
3. Flight crew training syllabus

- Maintenance training syllabus

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 84. Regulation 1702/2003 article 1 p. 21

comment *323* comment by: *ERA*

Paragraph 103. 21A.81
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major.

We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 86. Part-21 Subpart C p. 21

comment *130* comment by: *Bombardier Aerospace*

Bombardier agrees that Part-21 Subpart C should not contain the technical standards for the approval of OSC elements. However, the scale and significance of those technical standards is such that there is an instinctive hesitation to accepting the Part-21 process if we are unsure what final technical standard is imposed by that process. As a result, as stated in our comments against the Executive Summary, our comments against Part-21 through this NPA may be amended by comments against the relevant CSs.

comment *508* comment by: *ECA - European Cockpit Association*

This paragraph shows how difficult it is to comment on fragmented regulation. ECA may be in favor of the idea of the OSC and SD, but without knowing what the process for the approval is, steps to follow, prerequisites to comply with, and the bases for such approval, ECA is cautious about whether it can open the door for procedures. Such procedures could potentially lead to deregulation and non harmonization for such an important safety safeguard like training for personnel.

comment 930 comment by: GAMA

It is not possible to provide an adequate assessment of the OSC proposal and part 21 procedural requirements without having an understanding of the specific technical details for the transition & grandfathering provisions as well as the envisioned certification specifications (CS) for each element for both complex motorpowered aircraft and aircraft other than complex motorpowered aircraft.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 87. 21A.62 Scope p. 21-22

comment 347 comment by: EAMTC

On what basis will the Agency establish the maximum variation possible from the reference outline course in the applicable OSC data sheet?
In which senses will the maximum variation established be applicable to achieve the flexibility mentioned in the NPA?
Case1: There are variations mentioned in relation to student prerequisites, using more advanced training devices, method or tools. Does the Agency foresee these as the only areas where variations may be permissible?
Case 2: Would variations in the order of presentation of the various ATA chapters comprising a course be taken into account for the use of the OSC Syllabi? (NPA 2007-07 presents a list of ATA chapters, sub-chapters etc which, if not clearly explained in the Requirements, AMC or GM, could lead to different NAA interpretations when considering courses for approval).
Case3: Will the minimum syllabus take time into account with respect to the different elements of the course (by ATA chapter, by "groups of ATA chapters", by sub-divisions of, for example, Airframe, Engine, Avionics sections of the aircraft? Or, does the time allowed for the minimum duration only apply to the overall course duration?

There must be sufficient clarity in the requirements to avoid different NAA interpretations.

comment 351 comment by: EAMTC

How does EASA propose to address an OSC syllabus that includes Training Devices when the majority of the industry may not want or be able to afford such devices?

comment 352 comment by: EAMTC

How will EASA ensure that OSC syllabi are not more complicated than necessary?

The OSC holder syllabus should be sufficiently generic to enable it to be made freely available via the EASA web-site to all training industry providers

comment 666 comment by: EAMTC

NPA 2009-01 item No

87. 21A.62 Scope
..... The proposal contains the notions of prerequisites or previous experience and knowledge and the concept of minimum duration. ..... The minimum duration is part of the reference outline course (the training course used for the OSC evaluation) which specifies the elements to be trained and associated training methods, tools and training devices. To enable flexibility, the Agency will establish the maximum variation possible from the reference outline course in the applicable OSC data sheet. This will allow operators and training organisations to make variations from this minimum duration in their training courses. These variations are .....Last but not least, operators' and training organisations' competent authorities are still responsible for the approvals of the customised training courses.

On what basis will the Agency establish the maximum variation possible from the reference outline course in the applicable OSC data sheet?
In which senses will the maximum variation established be applicable to achieve the flexibility mentioned in the NPA?
Case1: There are variations mentioned in relation to student prerequisites, using more advanced training devices, method or tools. Does the Agency foresee these as the only areas where variations may be permissible?
Case 2: Would variations in the order of presentation of the various ATA chapters comprising a course be taken into account for the use of the OSC Syllabi? (NPA 2007-07 presents a list of ATA chapters, sub-chapters etc which, if not clearly explained in the Requirements, AMC or GM, could lead to different NAA interpretations when considering courses for approval.
Case3: Will the minimum syllabus take time into account with respect to the different elements of the course (by ATA chapter, by "groups of ATA chapters", by sub-divisions of, for example, Airframe, Engine, Avionics sections of the aircraft? Or, does the time allowed for the minimum duration only apply to the overall course duration?

There must be sufficient clarity in the requirements to avoid different NAA interpretations.

comment *757* comment by: *Boeing*

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Item 87.

BOEING COMMENTS:

Scope: Element 21.A62(a)(3) is not listed in the BR.

Article 5(5)(e)(IV). No arguments are provided in the NPA as to why this element is included. It should either be explained or deleted altogether.

"Concept of minimum duration": This concept is not in line with the principle that EASA leadership promoted at the recent EU-US International Safety conference (June 2-4, 2009; Athens, Greece). Leadership stated that EASA

would strongly support the introduction of performance-based regulations. Introducing a minimum training time is contrary to the principle of performance-based regulation. Boeing strongly supports performance-based regulation, and considers that the minimum training time should not be included in regulation and guidance material.

JUSTIFICATION: These issues should either be deleted, or revised to specifically explain the rationale behind their inclusion and how they will contribute to an overall increase in safety.

comment *931* comment by: *GAMA*

GAMA understands that in some cases not all operational elements are required and that this is covered by the words "when applicable". However, it is important that TC holders and operators have a clear understanding of what the mandatory contents are for each aircraft type. Therefore, GAMA requests that EASA clarify the specific requirements under which each operational element would and would not be required for various aircraft types.

For example, when is minimum syllabus for pilot type training required/not required? For maintenance certifying staff? Simulator data? It is GAMA's position that simulator data is never required (i.e. it is optional) as it is only necessary to support the approval of a simulator for the purposes of training and not for safe operation of the aircraft type.

comment *950* comment by: *TURBOMECA*

Turbomeca owns different engine type certificate and is approved Part 147.
Our comment concerns the § 21A.64 Eligibility, we propose to add engine after the word aircraft.
The reason is: we consider that the OSC able to determine the minimum syllabus of maintenance certifying staff type rating training including
determination of type rating is the holder of type certificate (for us the holder of engine type certificate).
The holder of aircraft type certificate cannot define the minimum syllabus for holder of engine type certificate.

Subpart C – Not applicable Operational Suitability Certificates and Supplemental
Operational Suitability Certificates
21A.62 Scope
(a) The scope of the operational suitability certificate covers the following elements when
applicable:
1. the minimum syllabus of pilot type rating training, including determination of type rating and the aircraft reference data to support the qualification of associated simulator(s);
2. the minimum syllabus of maintenance certifying staff type rating training including determination of type rating;
3. Determination of type or variant for cabin crew and type specific data for cabin crew training and;
4. the master minimum equipment list;
(b) The scope of a supplemental operational suitability certificate covers changes to one or more of the elements as listed in subparagraph (a).

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 88. 21A.64 Eligibility p. 22

comment *758* comment by: *Boeing*

Page 22
Item 88.

BOEING COMMENT: The minimum training syllabus for certifying maintenance staff not only addresses the airframe, but also the engine and APU. This should be clarified.

Following the EASA principle that the TC holder is the most appropriate party to produce the minimum training syllabi, Boeing recommends that the terms of OSC eligibility be revised so that the engine and APU TC/TSO holders will become responsible for obtaining their own OSC for this element as well.

JUSTIFICATION: These issues should be revised accordingly to ensure that the most appropriate parties produce the necessary training syllabi.

comment *949* comment by: *TURBOMECA*

Turbomeca owns different engine type certificate and is approved Part 147.

Our comment concerns the § 21A.64 Eligibility, we propose to add engine after the word aircraft.
The reason is: we consider that the OSC able to determine the minimum syllabus of maintenance certifying staff type rating training including determination of type rating is the holder of type certificate (for us the holder of engine type certificate).
The holder of aircraft type certificate cannot define the minimum syllabus for holder of engine type certificate.

21A.64 Eligibility
(a) Only the holder of or applicant for an aircraft/engine type certificate or restricted type certificate may apply for an operational suitability certificate for the aircraft covered by the respective certificate.
(b) Any natural or legal person may apply for a supplemental operational suitability certificate.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 89. 21A.65 Application for Operational Suitability Certificate and Supplemental Operational Suitability Certificate p. 22

comment *131* comment by: *Bombardier Aerospace*

See the Bombardier comment submitted against the Executive Summary on

how our position on this NPA regarding the Validation process and EASA involvement for new or amended OSC/SOSC requested by Non-EU Applicants will depend on the Certification Processes established for non-EU Holders.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 91. 21A.67 Designation of Operational Suitability Certification basis p. 23

comment *132* comment by: *Bombardier Aerospace*

In Subparagraph (a)(1), EASA will allow the use of alternative specifications to the CS. Bombardier requests EASA to comment if and how the specification or approval basis for training or MMEL elements used for their initial acceptance in the EU (prior to adoption of the CS) can be accepted as the alternative.
For example, consider a non-EU Holder of an EASA TC issued in 2003 who applies for an OSC in 2012. Part-21A.67 implies that the OSC Certification Basis would be the applicable CS effective in 2012. However, the Holder may already have many versions of the Type operating in the EU and the JOEB training programs and MELs (based on the Holder MMEL) have been grandfathered. It would be prudent for the Applicant to request that the Certification Basis for the OSC be identical to that used for the existing programs and documents – ie for crew training, the JOEB report representing acceptable minima and the EASA or NAA National guidance material used as the basis for MMEL approval.
If this is what is intended for this Subparagraph, EASA is requested to elaborate if the OSC Certification Basis would reflect the initial specifications or approval basis, or if those standards would be judged as an "Equivalent Level of Safety" *per se*.
If this is not what was intended by the Subparagraph, then it would seem unwarranted to impose a different standard on a set of previously acceptable and probably now mature criteria just in order to obtain the OSC.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 92. 21A.68 Compliance with the operational suitability certification basis p. 23

comment *133* comment by: *Bombardier Aerospace*

There are no provisions for non-EU Applicants who may be able to take advantage of their State of Design Organizational or Design Approval capability, whereby the involvement of EASA and the provision of the declarations of compliance may deviate from what is written. We realize that the proposed regulation considers that non-EU Applicants will not be able to take advantage of existing Bilaterals and/or Treaties with the EU. However, it is assumed that this regulation may change when EASA responds to the non-EU Industry comments.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 94. 21A.70 Issue of the Operational p. 24

Suitability Certificate for aircraft other than complex motor-powered aircraft

comment *360* comment by: *Austro Control GmbH*

- o Implementation of the OSC concept for all A/C overkill for large segments of GA. The generic CS's for non-"complex motor powered" is a Bureaucratic act of little value for large sections of GA (For example gliders). Given the EASA systems inability to create a generic maintenance program for light A/C as has been practiced for decades in the form or FAR 43 Appendix D, it is highly unlikely that any meaningful result would come of the enormous bureaucratic effort involved with creating the generic CS's required by NPA 2009-01. Proposal:
- o Cut off for mandatory OEB at complex motor driven aircraft.

- If a TC holder wan't to implement elements of the OEB blow this cut off, voluntary (Works for the MRB).

comment *781* ☐ comment by: *General Aviation Manufacturers Association / Hennig*

GAMA believes that the proposal for a "generic OSC" for aircraft other than complex motor-powered aircraft is a good step forward and addresses one of industry's key concerns that were raised in the letter from industry to Mr. Goudou on May 29, 2008 related to the scope of the OSC.

However, EASA should recognize that the establishment of this generic OSC should be considered carefully as it significantly expands the regulatory requirements placed on light general aviation.

The basic concept of a CS containing generic elements is difficult to evaluate without being able to review the CS for aircraft other than complex. GAMA and our members look forward to working with the agency to develop the relevant CS for aircraft other than complex aircraft.

As the agency develops the Terms of Reference for this tasking under rulemaking group 21.039, GAMA recommends EASA should be recognized that "other than complex motor-powered aircraft" captures a broad and diverse segment of aviation. This diversity may drive a set of targeted CSs for the generic OSC for different types of aircraft and operations conducted by aircraft other than complex motor-powered aircraft.

comment *788* ☐ comment by: *General Aviation Manufacturers Association / Hennig*

GAMA believes that EASA should further clarify the circumstances which would make an aircraft other than complex motor-powered aircraft subject to additional requirements beyond the generic elements as generally outlined in 21A.70(a)1. in the NPA.

The NPA states that "…the TC holder does not need to develop the elements

except for the case where the generic elements contained as published in the applicable CS are not sufficient to ensure the safe operation of the particular aircraft type."

GAMA recommends that the agency further specify the process through which the determination whether the generic elements are sufficient to ensure safe operation of a specific aircraft model. Is the aircraft subject to a full OEB evaluation until it can be proven that the generic is enough or does the burden lie with the agency for doing the evaluation? If the burden lies with the agency, then EASA needs to clarify the process which it would use for making this determination.

comment *871* ☐ comment by: *General Aviation Manufacturers Association / Hennig*

The requirement for providing "the minimum syllabus of maintenance certifying staff type rating training" for aircraft other than complex motor-powered aircraft should receive specific consideration from the agency and the EC with respect to grandfathering of existing type (group) training courses.

A significant number of the aircraft that meet the definition of aircraft other than complex motor-powered aircraft rely on maintenance training programs that are long established and where it is likely not cost-beneficial to develop a new course to meet a generic OSC.

This leaves EASA two options with respect to the generic elements for the syllabus of maintenance certifying staff type rating training:

1) Provide guidance to the 21.039 working group that develops the generic elements for the syllabus of maintenance certifying staff type rating training that the generic elements must be broad enough to capture, if not all, the vast majority of existing type (group) training courses.

2) Establish a grandfathering provision for the maintenance certifying staff type rating training requirement for aircraft other than complex motor-powered aircraft which would grandfather all existing type (group) training courses.

If EASA, working with the EC, does not embrace GAMA's proposed Option 1 or 2 outlined above, we expect this specific requirement for maintenance certifying staff type rating training to be prohibitively burdensome which would result in a large portion of the GA fleet likely not having access to properly trained maintenance staff.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates -96. 21A.71 Operational Suitability Certificate p. 24

comment *932* comment by: *GAMA*

GAMA requests clarification regarding the intent of the statement: "The approval covers only what is required in the applicable CSses for these elements. Any further information provided by the OSC holder in the documents that are made available to operators is not considered approved."

Can the TC holder also include any other additional information within the EASA approved document for each of the OSC elements? If so, does EASA envision separate sections of the document identified as EASA approved versus not approved? GAMA recommends that all information that is EASA approved must be clearly identified as such so as to ensure that there is no confusion as to what information is part of the required standard and what is not.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 96. 21A.73 Occurrences p. 24

comment *134* comment by: *Bombardier Aerospace*

The need for OSC Holder involvement in occurrences that may jeopardize the validity of the OSC is understood. Our experience to date with the equivalent and, in theory, mature reporting process against the TC leaves Bombardier with the belief that, if not described and managed carefully, there will be an overwhelming surge of reporting that requires a Holder to respond much of which relating to how the training was implemented and not relating to the minimum criteria. The proposed regulation clearly describes that the Holder has the burden of determining if each occurrence is as a result of a shortcoming in the approved element under the OSC. Bombardier questions if EASA has correctly understood what is required to comply with this proposal and if the RIA, Section 5.2.2.1.2 truly reflects the resource need.

comment *343* comment by: *Airbus*

Relevant text: Page 24 § 24 Occurrences

Comment:

Airbus would like to stress that EU OPS 1 makes occurrence reporting mandatory for the operators, and that procedures are already in place for analysing the events with different filters: operator level, NAA, TC Holder. TC Holder was up to now required to analyse any impact related to continued airworthiness. By this new requirement, TC/OSC Holder is now required to assess as well possible shortcomings in OSC elements, BUT this analysis should be made initially by the operator, and then reported to TC/OSC Holder if applicable.

Proposal:

EASA need to clarify, when transposing EU OPS occurrence reporting rules, the various steps needed not only with regard to continued airworthiness, but also with regard to OSC elements, and this should be adequately reflected in IR-AR and IR-OR.

comment *571* comment by: *Airbus*

§ 21A.73 on analysis of occurrence reports should be deleted. Its intent should be captured in 21A.3(c), which is the general provision on Investigation of

Reported Occurrences, by modifying 21A.3(c)(1) as follows:
"1. When an occurrence reported under paragraph (b), or under 21A.129(f)(2) or 21A.165(f)(2) results from a deficiency in the design, or a manufacturing deficiency, ***or a deficiency in the operational suitability elements,*** the holder …"

Adjustments to AMC 20-8 on Occurrence reporting could be considered.

comment *759* comment by: *Boeing*

Page 24
Item 96.

BOEING COMMENT: The statement that no system is required for collecting, investigating, and analyzing data when there is a link to the OSC elements is not accurate or supported by the requirements. The unique EASA requirements for these occurrences will require that the TC holder install an additional system that handles and administers the occurrences reported, the investigations performed, and the decisions taken including their justifications.

JUSTIFICATION: For clarity and accuracy, this issue should be revised in this section. This issue should be accurately clarified and accounted for, as well, in the RIA.

comment *791* comment by: *Gulfstream Aerospace Corp*

This paragraph states that the TC holder will receive reports of OSC occurrences from operators. Although this NPA indicates that there will be new [reporting] requirements in the applicable Implementing Rules for Air Operations and Organizations; EASA NPA 2009-02, there was only one reference found that specifically indicates "report to the manufacturer". Gulfstream contends that there is no current formal reporting mechanism in place to report OSC occurrences directly to the TC holder.

comment *941* comment by: *GAMA*

It is GAMA's understanding from the NPA that the requirements for the TC holder to maintain the "continued validity" of OSC elements are to address reported occurrences as specified in 21A.73 and to respond to any additional airworthiness specifications for operations (CS-26) or safety directives as specified in 21A3C.

GAMA requests that EASA confirm that these are the only requirements for TC holders to maintain the continued validity of the OSC elements.

GAMA recommends that the term "continued validity" be removed from paragraph "21A.78 duration and continued validity" and inserted into paragraph 21A.73 to read "Occurrences and continued validity". This is necessary because paragraph 21A.78 relates only to the duration of an OSC and does not include any provision regarding the TC holder responsibility for continued validity of the OSC elements which are fully contained within

paragraph 21A.73 on occurrences.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 98. 21A.76 Documents p. 25

comment *761* comment by: *Boeing*

Page 25
Item 98.

BOEING COMMENT: The text states that " *… [documents] shall be made available to any person required to comply*." However, there are various legal, security, and proprietary-based reasons for the TC/OSC holder not to provide the documents to certain parties. The rule should specifically allow for such restrictions.

JUSTIFICATION: This section must be revised to take this issue into account and avoid any legal ramifications.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 100. 21A.78 Duration and continued validity p. 25

comment *941* ☐ comment by: *GAMA*

It is GAMA's understanding from the NPA that the requirements for the TC holder to maintain the "continued validity" of OSC elements are to address reported occurrences as specified in 21A.73 and to respond to any additional airworthiness specifications for operations (CS-26) or safety directives as specified in 21A3C.

GAMA requests that EASA confirm that these are the only requirements for TC holders to maintain the continued validity of the OSC elements.

GAMA recommends that the term "continued validity" be removed from paragraph "21A.78 duration and continued validity" and inserted into paragraph 21A.73 to read "Occurrences and continued validity". This is necessary because paragraph 21A.78 relates only to the duration of an OSC and does not include any provision regarding the TC holder responsibility for continued validity of the OSC elements which are fully contained within paragraph 21A.73 on occurrences.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 101. 21A.79 Classification of changes p. 25

comment *344* comment by: *Airbus*

Relevant text: Page 25 § 101 Classification of changes

Comment1:

The notion of classification of changes has been derived from the one used for minor/major changes to type design. For operational elements, Airbus does consider that "a simple copy/paste" of the existing process cannot fit for OSC. Moreover until all elements are available , meaning CS and AMC/GM, it is very difficult to assess what will be exactly the content of those OSC elements. For example the definition of minimum syllabus is very confusing and may have to be adjusted in the CSs. Consequently determining what may be major/minor, and what should be the classification of changes for OSC, cannot be done at this point in time.

Comment 2: It is also to be noted that changes to elements of OSC are not defined. What will be the trigger for a change?

Proposal:

First, the notion of change to OSC should be defined. Then, when all CSs are available, the possible process for approval of changes to the OSC should be discussed. Airbus strongly recommends to keep the process simple and manageable. The approach currently suggested in the NPA is NOT an acceptable way, as potentially too cumbersome for very little added safety value, compared to today's current practice where JOEB reports are amended/updated most often upon TC Holder request, based on in-service experience feedback, or based upon introduction of a derivative aircraft.

comment *792* comment by: *Gulfstream Aerospace Corp*

This NPA indicates that there will be detailed guidance material providing classification criteria or examples of the various elements in a forthcoming NPA. Gulfstream requests that EASA make this expanded material available prior to the effective date of the rule.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 102. 21A.80 Approval of changes proposed by the holder of the operational suitability certificate p. 25

comment *135* comment by: *Bombardier Aerospace*

Proposed 21A.80 Subparagraph (c)2 allows Minor changes to be approved by an appropriately approved design organization. In the explanation of the NPA, it is unclear if design organizations can be approved for this privilege by means other than stipulated in Subpart J.
Clarity on this issue is requested as, in the March to May 2009 briefings, EASA explained that it does not expect that non-EU design organizations may be approved in the short-term as the Subpart J approach was the only route envisaged. However, the NPA does not specifically limit the means to approve any design organization for the purpose of Classification or Approval of Minor changes to the OSC.
As EASA will recall and see from non-EU Industry comments, the ability to

minimize the burden of the OSC, should that option prevail, is of the utmost priority for EASA to consider. As has and will be commented on, the need for a non-EU DOA approval in accordance with Subpart J is plagued with administrative and practical difficulties.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 103. 21A.81 Changes approved under a supplemental operational suitability certificate p. 26

comment *136* comment by: *Bombardier Aerospace*

The Bombardier comment for the determination of the OSC Certification Basis also applies to the proposed 21A.81. Furthermore, it is unclear if EASA mean to apply the CS in force at the date of SOSC application or, as with STC, will apply the CS or whatever specification is determined at the time/date of the initial OSC.

A. Explanatory Note - Appendix I Explanatory Memorandum for proposed amendments to Regulation (EC) No. 1702/2003 - B. New Subpart C: Operational Suitability Certificates - 104. Subpart J – Design organisation approval p. 26

comment *572* comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

comment *939* comment by: *GAMA*

There have been concerns expressed by both industry and foreign civil aviation authorities that because this "new certificate" is unique to EASA and is not addressed in existing cooperation agreements, there may be significant issues with the ability to continue efficient international cooperation for product validation and related initial and continuing airworthiness activities. GAMA shares these concerns, but through discussion on the 21.039 drafting group and review of the NPA believes they are addressed and requests that EASA confirm GAMA's understanding as discussed below.

<u>EASA intends to mirror the current JOEB process</u>
With respect to the various options proposed to transpose the JOEB process into Community Regulations; GAMA does not believe that the level of impact upon non-community manufacturers and international cooperation between EASA and bilateral partners (FAA/TCCA) would be any different between the preferred option 4 OSC and any other option such as listing the operational elements directly on the TCDS.

As stated in the RIA with regards to regulators outside the Community that

have similar OEB evaluations
(FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation). For a majority of the operational elements that are currently developed under an OEB process (joint/not-joint evaluation), GAMA understands that implementation of the EASA OSC concept will not require any changes to the current OEB process and will have very little impact upon non-community manufacturers and their respective Authorities in terms of developing the acceptable standards. Since the OSC procedures have not yet been developed, GAMA requests that EASA confirm that very little change to existing OEB processes will be necessary to implement the OSC concept.

However, since "approval" of these elements under the OSC concept does not exist in any other aviation regulatory system, carrying out this activity will be the determining factor in the overall level of impact OSC will have upon non-community manufacturers and their respective Authorities. In order to maintain the level of international cooperation and effectiveness between aviation safety authorities and to minimize the impact upon industry, it is extremely important that bilateral arrangements be amended to address possible acceptance of foreign authority certificates or findings such as a technical assistance that the foreign authority's system can accomplish to determine compliance with OSC requirements.

It is GAMA's understanding that the primary impact upon non-community manufacturers and international cooperation between EASA and bilateral partners (FAA/TCCA) would be the "approval" of these operational elements regardless of which administrative mechanism is selected to document these approvals and make them available to those that are required to comply with them (i.e. OSC versus listing them directly on the TCDS). However, if this understanding is not correct then GAMA would respectfully request reconsideration of the options to ensure that the appropriate choice is made with respect to the impact upon non-community manufacturers and international cooperation with foreign aviation authorities.

<u>OSC is NOT a completely new "Certificate"</u>
GAMA recommends that EASA clarify that the OSC is not a completely "new certificate" that would necessitate a new process to manage and maintain. In fact, GAMA believes that the basic regulation (BR) and proposed regulations clearly define the OSC as fundamentally equivalent to an STC and if treated as such, should minimize the impact of not being harmonized with non-community aviation regulations and international cooperation in accordance with existing Agreements with FAA and TCCA.

BR Article 5, Airworthiness establishes the fundamental requirement for type-certification and approval of all aviation products, parts and appliances when they are shown to conform with the essential requirements for airworthiness. Section 5(5)(e) further stipulates that additional specifications for the operation of a given aircraft (i.e. minimum syllabus for pilot/maint cert staff, qualification of simulators, MMEL, etc) as "conditions for issuing, maintaining, amending, suspending, or revoking type-certificates, restricted type-certificates, approval of changes to type-certificates…" Furthermore, the proposed amendment to regulation EC 1702/2003, Article 1 definitions states that "'Operational Suitability Certificate (OSC)' is considered a change associated to a type certificate…"

An OSC and STC are both defined as a change to the type-certificate with

procedures established in part 21 making them fundamentally equivalent. Therefore, GAMA believes that existing agreements that allow for the development of implementing procedures for cooperation in the areas of airworthiness (i.e. TC, STC) should be equally applicable to OSC activities providing the basis for development of implementing procedures as deemed appropriate by the respective authorities. GAMA requests that EASA provide a response from its perspective as to whether the Agency and its bilateral partners would agree with this view.

A. Explanatory Note - Appendix II Explanatory Memorandum for proposed amendments to Regulation (EC) No. 2042/2003 - 108. Occurrence reporting to support the continued validity of the OSC or SOSC p. 27

comment *343* ☐ comment by: *Airbus*

Relevant text: Page 24 § 24 Occurrences

Comment:

Airbus would like to stress that EU OPS 1 makes occurrence reporting mandatory for the operators, and that procedures are already in place for analysing the events with different filters: operator level, NAA, TC Holder. TC Holder was up to now required to analyse any impact related to continued airworthiness. By this new requirement, TC/OSC Holder is now required to assess as well possible shortcomings in OSC elements, BUT this analysis should be made initially by the operator, and then reported to TC/OSC Holder if applicable.

Proposal:

EASA need to clarify, when transposing EU OPS occurrence reporting rules, the various steps needed not only with regard to continued airworthiness, but also with regard to OSC elements, and this should be adequately reflected in IR-AR and IR-OR.

comment *941* ☐ comment by: *GAMA*

It is GAMA's understanding from the NPA that the requirements for the TC holder to maintain the "continued validity" of OSC elements are to address reported occurrences as specified in 21A.73 and to respond to any additional airworthiness specifications for operations (CS-26) or safety directives as specified in 21A3C.

GAMA requests that EASA confirm that these are the only requirements for TC holders to maintain the continued validity of the OSC elements.

GAMA recommends that the term "continued validity" be removed from paragraph "21A.78 duration and continued validity" and inserted into paragraph 21A.73 to read "Occurrences and continued validity". This is necessary because paragraph 21A.78 relates only to the duration of an OSC and does not include any provision regarding the TC holder responsibility for continued validity of the OSC elements which are fully contained within

paragraph 21A.73 on occurrences.

A. Explanatory Note - Appendix III Explanatory Memorandum for additional requirements to Part-OR, Part-OPS and Part-CC p. 28

comment *510* comment by: *ECA - European Cockpit Association*

See comment 514. ECA cannot accept the shift of an integral element of pilot qualification, as a type rating, to a maintenance-centered document. This is especially important so long as there is no definition of the procedure published (CS-pilot type rating training)

A. Explanatory Note - Appendix IV Operational Suitability Certification Flow chart p. 29

comment *363* comment by: *Austro Control GmbH*

The certification basis type system proposed by the NPA 2009-01 is not required for the type of output expected from the OEB type system. Change product rule not applicable to MMEL, Training syllabus, STD ref data as the product configuration drives the content.

comment *631* comment by: *Luftfahrt-Bundesamt*

Item 110: The process visualised in the flow chart results in an Air Operator Certificate (AOC). An AOC is normally granted for commercial air transport operations only. The NPA does not describe what happens for non-commercial operations, particularly privately owned and operated aeroplanes where there is no AOC. The NPA seems to be written with commercial operations in mind and much less adapted to the non-commercial aviation and small aeroplanes. Undue additional burden for TC holders and operators of non-commercial aviation and small aeroplanes should be avoided.

comment *812* comment by: *Walter Gessky*

- Item 61:
  Safety Directives might be used for operation similar to ADs for airworthiness but the driver for this Directive will be Art 22/1 and not Art 5/5(e). SDs therefore has to be regulated under the new OPS rules and not under Part 21.

A. Explanatory Note - Appendix V CS-MMEL Table of Contents EASA Certification Specifications for Master Minimum Equipment List CS-MMEL p. 30

comment *3* comment by: *Francis Fagegaltier Services*

Appendix V
The format for numbering the paragraphs is based on the use of 100, 105, 110, etc. With the experience of CS-E, which originally used a 10, 20, 30, etc.

numbering system, it is suggested introducing some margins in case additional paragraphs become necessary in the future. Indeed, in CS-E, it was necessary to add paragraphs such as 15 or 25 in between two previous paragraphs. In addition, there might be a need, some day, for additional paragraphs in a Subpart. The suggestion is then to use the numbering system as in CS-E, CS-P and CS-APU (consistency within documents issued by EASA), with an increment of 10 and the use of "10 to 90" series for subpart A, "100 to 190" series for Subpart B and "200 to 290" series for Subpart C.

comment *168* comment by: *UK CAA*

Page No: 33

Paragraph No: 2.1, last paragraph, 2nd line.

Comment: Reference to "minimum equipment list" is incorrect.

Justification: Incorrect document quoted.

Proposed Text (if applicable): …the aircraft type related master minimum equipment list…

comment *419* comment by: *IACA International Air Carrier Association*

This table of contents suggests that GM and AMC are included in CS material.
Is this correct. IACA understand that GM, AMC and CS are non-binding "soft" law of the same level.

comment *420* comment by: *IACA International Air Carrier Association*

As explained by EASA during the workshop, NPA 2009-01 OSC only includes the approval of the MMEL, but excluding the related O & M procedures. The Operational and Maintenance Procedures, CS–MMEL.130 to be developed, shall be part of the approved elements: see EASA NPA EASA 2009-02c:

GM OR.OPS.020.MLR(g) Minimum Equipment List

OPERATIONAL AND MAINTENANCE PROCEDURES

- Operational and maintenance procedures are an integral part of the compensating conditions needed to maintain an acceptable level of safety, enabling the competent authority to approve the MEL. The competent authority may request presentation of fully developed (O) and/or (M) procedures in the course of the MEL approval process.

comment *816* comment by: *Walter Gessky*

- Appendix V, EASA Certification specification for MMEL

CS-MMEL is are requirements to establish a MMEL and isapplicable for all MMEL approval procedures. This is a typical requirement and has to be adopted as Implementing Rule. According to Item 14, CS-MMEL is effective for all applicants and not only related to a product. According to the interpretation of the Treaty this has to be regulated in the Implementing Rules and not by a CS.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment p. 32

comment *762* comment by: *Boeing*

Page 32
Appendix VI Regulatory Impact Assessment.

BOEING GENERAL COMMENTS:

1. The introduction of the OSC principle into the BR, as currently published in NPA 2009-1, has never been consulted with the stakeholders, nor has any regulatory impact assessment been made on the introduction of the OSC elements in to Article 5 of the BR. Boeing, therefore, strongly advises that EASA consider the possibility of reassessing this introduction into the BR following the comments received.

In particular, the global disharmony introduced by the introduction of the OSC will create a significant burden to Industry and the operators, who are working on an international basis and who would now be faced with new and non-standardized requirements. The additional costs related to this disharmony are difficult to precisely determine; however, based upon experience with other non-harmonized requirements, the costs will likely be significant.

2. NPA 2009-1 is introducing new principles. To understand the consequences of these new principles, it is important also to understand the related ”underlying” regulations, such as the Certification Specifications and related guidance material. Unfortunately, the CSs and guidance material are not yet available. This makes it impossible to produce realistic comments on the RIA.

Realizing the time schedules for producing these CSs, the planned consulting on these CSs, and the time schedule for commenting on NPA 2009-1, Boeing considers it inappropriate for EASA to publish its final opinion without additional consultation on the complete set of NPA 2009-1 and the related CSs and guidance material.

Therefore, due to the groundbreaking novel requirements in the NPA and the unavailability of the related CSs, we request that EASA consider this NPA 2009-1 in its current stage as an “Advance-NPA,” and have an additional consultation in the future on a new NPA resulting from the first consultation exercise, together with the NPAs for the related CSs and guidance material.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 1. Introduction p. 32-33

comment *87* comment by: *AEA*

Relevant Text:
General Comment on RIA

Comment:
There is NO place in this RIA where a justification for

incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Proposal:
The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *88* comment by: *AEA*

Relevant Texts:
1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties*."

4th para.: "*Therefore it is very difficult to make accurate predictions of some of the economic impacts*."

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules*."

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature."*

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

comment 90 comment by: AEA

Relevant Text:
1.2 introduction for RIA related to the SD
"*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders*"

Comment:
This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the EU airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes.

Proposal:
In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

comment 137 comment by: Deutsche Lufthansa

General comment

There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Conclusion:
Delete all rules associated with cabin crews from the whole NPA

1 Introduction

related to 1.1

Relevant Text:
1st para:
"According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties."

4th para, last sentence:
"Therefore it is very difficult to make accurate predictions of some of the economic impacts."

5th para, first sentence:
"Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules."

last para:
"As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as

proposed in this NPA and is mostly of a qualitative nature."

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge for EASA that they prefer to go the easy way by producing an RIA based on assumptions only, without consulting the stakeholders. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

The absence of a proposal for transition and grandfathering provisions makes it completeley impossible to produce sound comments to this NPA. It is like expressed many times before by many stakeholders to several EASA representatives at many occasions: without knowing the whole picture, we cannot produce constructive comments. And now EASA themselves say that without knowing the complete picture, they cannot produce a RIA. And just

assess the "preferred ... option" is not a way to increase trust into the Agency.

Why shall industry do something, when EASA does not show any willingness to do in the same way?

Conclusion:
Under this RIA, there is no justification for any of the proposed rules in this NPA.

comment *199* comment by: *Icelandair*

General Comment on RIA

Comment:
There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Proposal:
The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *200* comment by: *Icelandair*

1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties.*"

4th para.: "*Therefore it is very difficult to make accurate predictions of some of*

the economic impacts."

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules*."

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature."*

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

comment *201* comment by: *Icelandair*

Relevant Text:
1.2 introduction for RIA related to the SD
"*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders*"

Comment:
This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the EU airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes.

Proposal:
In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

comment *256* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
General Comment on RIA

Comment:
There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Proposal:
The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *257* comment by: *KLM EASA DOA 21J.012*

Relevant Texts:
1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties*."

4th para.: "*Therefore it is very difficult to make accurate predictions of some of the economic impacts*."

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules*."

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature."*

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

comment 258 comment by: KLM EASA DOA 21J.012

Relevant Text:
1.2 introduction for RIA related to the SD
"*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders*"

Comment:
This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the EU airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes.

Proposal:
In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

comment 301 comment by: Virgin Atlantic Airways

Relevant Texts:
1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties.*"

4th para.: "*Therefore it is very difficult to make accurate predictions of some of the economic impacts.*"

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules.*"

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature.*"

Comment:

These "particular difficulties" result in the RIA being based on assumptions only and therefore we reccomend that more time be taken in its preperation. When proposing such significant changes, it is of utmost importance to have pre-analyzed and benchmarked the impact of a new concept. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it will not have a sound basis.

Without knowing the whole picture, we cannot produce constructive comments. In this case the Agency is saying that without knowing the complete picture, they cannot produce a RIA, and are therefore instead only assess the "preferred option".

Proposal:

Under this RIA, there is no apparent justification for any of the proposed rules in this NPA. We therefore propose the option of using OEB approved Ops Data as an acceptable means of compliance for the NAA's to approve type training programmes.

comment *324* comment by: *ERA*

The decision not to perform a RIA for the Safety Directives is mainly motivated by the observation that the SD rules will not create obligations for the certificate holders. Insufficient consideration is given to the possible impact for "users" of the certificates which may be affected by a Safety Directive. Similar to the AD process certificate users will have to implement procedures to monitor, trace and implement SD's in order to show compliance with the regulation. For organisations using EASA approved certificates the introduction of SD rules will result in a higher workload and most likely the need for more indirect staff. Therefore the full impact of the proposed SD rules should be assessed.

comment *362* comment by: *Austro Control GmbH*

- Commission letter from 12.03.2009 requires ASA perform more precise RIA than currently performed. How is the safety impact of this NPA substantiated? What is the expected safety improvement? NPA 2009-01 5.1 inadequate basis to drive radical increase in bureaucracy.

comment *388* comment by: *British Airways Flight Operations*

Relevant Texts:
1st para.: '*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties*.'

4th para.: '*Therefore it is very difficult to make accurate predictions of some of the economic impacts*.'

5th para.: '*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules*.'

Last para.: '*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature.'*

Comment:
As for NPA 2008-22, the 'particular difficulties' referred to seem to be such a challenge that the RIA is based on assumptions only. Instead of working with assumptions, EASA should take more time, analyse, consult and work with facts. When proposing such significant changes, it is of the utmost importance to have pre-analyzed and benchmarked the impact for a new concept for the proposals to be rendered valid. With such an introduction to an RIA, further analysis of it becomes meaningless, because the conclusions drawn from it do

not have a sound basis, being opinion and supposition.

As expressed many times before by various stakeholders to several EASA representatives on several occasions: without knowing the whole picture, it is not possible to produce constructive comments. In this case the Agency says that without knowing the complete picture, it cannot produce a RIA, and just assesses the 'preferred option'. Operators' preferred option would be for the background work to be done before an option is presented.

Proposal:
Under the RIA included, there is no justification for any of the proposed rules in the NPA. We therefore propose another way forward: by using JOEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes and MMEL.

comment *389* comment by: *British Airways Flight Operations*

Relevant Text: 1.2 introduction for RIA related to the SD
'*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders.'*

Comment:
The statement above again highlights the fact that the NPA was written with no due consideration for the impact on the EU airline industry, and is based on a flawed RIA. Although certificate holders would not be impacted, Safety Directives could have a huge economic impact on the airline industry - without having to go through normal rulemaking processes.

comment *421* comment by: *IACA International Air Carrier Association*

The Basic Regulation does not require a minimum syllabus for cabin crew, and the RIA does not cover this also. How can this NPA incorporate the requirement for a syllabus for cabin crew?

comment *461* comment by: *Cargolux Airlines International*

Relevant Text:
General Comment on RIA

Comment:
There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Proposal:
The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *462* comment by: *Cargolux Airlines International*

Relevant Texts:
1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties*."

4th para.: "*Therefore it is very difficult to make accurate predictions of some of the economic impacts*."

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules*."

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature."*

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

comment *463* comment by: *Cargolux Airlines International*

Relevant Text:
1.2 introduction for RIA related to the SD
"*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders*"

Comment:
This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the EU airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes.

Proposal:

In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

comment 588 comment by: *International Air Transport Association (IATA)*

General Comment on RIA

Comment:
There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Proposal:
The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment 589 comment by: *International Air Transport Association (IATA)*

1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties.*"

4th para.: "*Therefore it is very difficult to make accurate predictions of some of the economic impacts.*"

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules.*"

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature.*"

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just

assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

comment *590* comment by: *International Air Transport Association (IATA)*

1.2 introduction for RIA related to the SD
"*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders*"

Comment:
This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes.

Proposal:
In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

comment *693* comment by: *Swiss International Airlines / Bruno Pfister*

General Comment on RIA

Comment:
There is NO place in this RIA where a justification for incorporation of cabin crew training is given. As the Basic Regulation and the RIA do not address it, why has this concept been incorporated into the text proposals?

Proposal:
The reference to cabin crew should be deleted from the OSC. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *697* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Texts:
1st para.: "*According to the Rulemaking Procedure of the Agency, a full regulatory impact assessment (RIA) is a mandatory part of any NPA. However, the development of the RIA for this rulemaking task 21.039 has presented particular difficulties*."

4th para.: "*Therefore it is very difficult to make accurate predictions of some of the economic impacts*."

5th para.: "*Finally, to make a full RIA, the magnitude of most of the impacts should be evaluated and balanced depending on the exact transition and grandfathering measures for the new rules*."

last para.: "*As a result of the above difficulties the RIA as described below concentrates on the expected impacts of the preferred rulemaking option as proposed in this NPA and is mostly of a qualitative nature.*"

Comment:
As already for NPA2008-22, these "particular difficulties" seem to be such a challenge that the RIA is based on assumptions only. We'd recommend to take more time, instead. When proposing such significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

significant changes, it is from utmost importance to have pre-analyzed and benchmarked the impact for a new concept as EASA proposed in the NETS report. With such an introduction to an RIA, further analysis of it becomes useless because the conclusions drawn from it do not have a sound basis.

As expressed many times before by various stakeholders to several EASA representatives at several occasions: without knowing the whole picture, we cannot produce constructive comments. In this case the Agency sais that without knowing the complete picture, they cannot produce a RIA, and just assess the "preferred option".

Proposal:
Under this RIA, there is no justification for any of the proposed rules in this NPA. We therefore propose another way by using OEB approved Ops Data as an acceptable means of compliance for the NAA to approve the type training programmes.

comment *698* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:

1.2 introduction for RIA related to the SD
"*Similar to the RIA for the OSC rules a full RIA for the SD rules would have limited value…. The SD rules will not create obligations for certificate holders*"

Comment:
This statement again highlights the fact that this NPA was written with no due consideration with regard to the impact on the EU airline industry and based on a flawed RIA. Although certificate holders would not be impact, Safety Directives could have huge economic impact on the airline industry and without having to go through normal rulemaking processes.

Proposal:
In case where there is a need for a SD (which may be called Ops Directive to differentiate it with the Airworthiness Directives) to ask for the modification of the type training programme approved by the NAA, a quick consultation should be done to allow the Agency to better assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

assess the practical implementation measures of this SD and to avoid further discussion and thus loss of time.

comment *700* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment The RIA remains a problematic question as it was in the previous NPAs. This study should be complete, realistic and adapted. The "particular difficulties" that EASA mentions lead to a RIA only based on assumptions which are not acceptable. We request:

(1) This NPA to be considered as an Advanced NPA;
(2) The OSC proposal to be revisited by EASA;
(3) A new NPA to be published, including a sound and appropriate RIA, as requested by law.

Comment Nothing justifies the incorporation of cabin crew training as Basic Regulation 216/2008 and RIA do not address it. The reference to cabin crew should be deleted from OSC and may be replaced by optional data package for cabin crew type rating training to be approved by NAAs. This would ensure flexibility for operators to go for alternative means of compliance meeting the same safety objectives.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by

law and flexibility is controlled.

4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

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We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *832* comment by: *Walter Gessky*

o Appendix VI: RIA
Commision letter from12.03.2009 requires EASA to perform more precise RIA than currently performed.
NPA 2009-01 5.1 is an adequate basis to drive radical increase in bureaucracy.
The transfer of JAR-26 to a generic Safety Directive, binding for all aircraft registered in EU and not linked to the type certificate is not acceptable. The SD shall solve OPS related safety problems. A link to the product, which would require for each product an independent rulemaking process, would be a bureaucratic activity.
This requires a very complicated process. This is not evaluated in the RIA, the result would show that the process would very complicated and expensive, and incorporation of JAR-26 in the implementing rules for OPS would be less bureaucratic and the result would be a binding requirement.

comment *878* comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

Appendix VI, Regulatory Impact Assessment, Paragraph 3

Other involved parties have expressed a preference for the OSC to be added as a mandatory part of the TC process, which is identified in the NPA as either Option 5 or 6. EASA says that Option 5 was rejected by the rulemaking group because of excessive burden on the TC holder. Embraer believes that Option 5 was rejected because of the impact it would have on European manufacturers where they would be obligated to develop and have EASA approve all of the OSC elements even for aircraft models or modifications that were destined for non-EU operators. This would be a tremendous waste of both resources from

both the European operators and for EASA.

As accurately described in the NPA, Option 6 is not practical because of the impact it would have on international relationships. If an EASA TC were to cease to be valid because of failure of a TC holder to develop the necessary OSC elements, what would be the effect on otherwise unaffected foreign-registered airplanes of the same model that were type certificated by the importing country based on a validation of the EASA type certificate. Legally that unaffected airplane and operator (unaffected because the lack of EASA approved OSC elements does not matter to a foreign operator and foreign airworthiness authority) would lose the basis for its validated TC.

Embraer continues to believe that Options 5 and 6 are not feasible.

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comment *68* comment by: *CAA-Norway TFH*

Agree with option 4.

comment *89* comment by: *AEA*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact.*"

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.

comment *138* comment by: *Deutsche Lufthansa*

2. Purpose and Intended Effect

related to 2.2 Scale of the issue

Relevant text:
"Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Conclusion:
Objective missed.

comment *148* comment by: *Bombardier Aerospace*

Bombardier has made several comments on the use of the "minima" concept for the OSC. Whether the final rule is based on the OSC (option 4) or other options (such as option 3, using the existing TC), the appropriateness of the TC Holder and EASA agreeing on a *minimum* standard for the type-rating programs and MMEL will require some new thinking.
For sure, clear minima can be established, such as "minimum of 2 landings in abnormal flap configurations on a Level 3 FTD". This would presumably translate well whereby no actual training program would or could offer less than 2 landings or use an FTD with lower fidelity or features. Similarly, if an MMEL would allow dispatch with one of three VHF radios inoperative for 3 days, then an operators MEL would not be approved if it proposed dispatch for 10 days (notwithstanding the operators request to use alternate means as an equivalent safety level). However, not all aspects of the OSC elements are anticipated to be as clear in establishing minima, unless EASA can clarify what is exactly meant by this term.
One possibility for a definition of minima could be that the scope, depth and level of detail (technical content) of the operators training programs and MEL must at least contain all the features of the approved OSC elements. With this view, an MEL must contain all the items and their limitations, operational and maintenance procedures from the MMEL without change – or be shown to be more "conservative" (by restricting the dispatch with the single inoperative radio to 1 day, for example). Pictorially, it means that the MEL would 'envelope' the MMEL, as all the approved content of the MMEL would be apart of the MEL.
If this interpretation of minima is close to the EASA expectation, then the question must be answered if more than one minimum can be permitted – can an SOSC change the minimum? If it is possible, then use of the term is incorrect. Even if EASA anticipates that an SOSC can provide an 'alternate' to the minimum standard established by the OSC, then there will be difficulty in accepting the initial OSC as a minimum standard – it would be considered only one of many acceptable standards.

To prevent prolonged comments at this stage, EASA are invited to explain what the Agency means by minima and what, if any, opportunities an SOSC applicant would have in changing an OSC-established minimum standard.

comment *202* comment by: *Icelandair*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact.*"

Comment:

The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.

comment *259* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.

comment *302* comment by: *Virgin Atlantic Airways*

Relevant Text:
2.2 Scale of the Issue

"Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact."

Comment:
The current NPA goes far beyond the "existing processes", it does not continue as much as is possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB process has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to current practices.

comment *390* comment by: *British Airways Flight Operations*

Relevant Text: 2.2 Scale of the Issue
'*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*.'

Comment:
The current NPA goes far beyond the 'existing processes' and does not continue as much as possible with them.

Proposal:
The objective to have a simple transfer of the JOEB has not been fulfilled. The NPA should therefore be considered as an A-NPA and should not be used for the basis of rulemaking.

comment *464* comment by: *Cargolux Airlines International*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.

comment *699* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.

comment *707* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA

should therefore be reconsidered, and we propose another principle which is closer to the today practices.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 3. Options p. 33-37

comment *11* comment by: *Francis Fagegaltier Services*

Appendix VI, Regulatory Impact Assessment, paragraph 3.1.2

The last sentence of second sub-paragraph (« This would be against the principle that the TCDS reflects the approved content of the TC as issued to the TC applicant ») is interesting because this is the first known attempt at defining what a TCDS is.
Indeed, TCDS is part of the type certificate (Part 21, § 21A.41) but nowhere this document is defined.
It is considered that this RIA is not the appropriate place for defining the content and role of the TCDS. Therefore, it is suggested introducing a definition of the TCDS somewhere. The logic "a wording used in Part 21 should be defined in Part 21" would lead to a change to Part 21 itself. But, if lawyers agree, a GM to Part 21A.41 might be another solution.

comment *69* comment by: *CAA-Norway TFH*

Agree with option 4.

comment *91* comment by: *AEA*

Section:
3.1.3, Option 3 Voluntary Inclusion in the TC
Relevant Text:
"*If the elements are not included in the application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs*"

Comment:
This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options.

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Proposal:
Reconsider the NPA which is based on a flawed RIA. EASA should not use arguments based on assumptions on the shape of a future regulation, which

a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment 92 comment by: AEA

Section:
3.1.5 Option 5 :mandatory part of TC for all applicants requesting EASA STC
Relevant Text:
"*This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type.*
This option was rejected by the rulemaking group as it put too much burden on the existing TC approval process."

Comment:
This statement highlights the fact that this NPA was written to fit the agenda of certain TC holders with no due regard to the impact on EU airlines.

If an OSC is required for EU airlines to be able to operate the aircraft, than it should become an integral part of the TC and no EASA TC should be issued before all relevant information is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, than it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all this relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines.

Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option is therefore against EU law.

Proposal:
Our preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part of TC for ALL applicants requesting an EASA TC.

comment 93 comment by: AEA

Section:
3.1.7 Option 7:Elements issued as AMC
Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:
This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the AEA point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *139* comment by: *Deutsche Lufthansa*

3. Options

related to 3.1.3 Option 3

Relevant text:
2nd para, first sentence:
"If the elements are not included in the application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs."

Comment:
This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options.

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Conclusion:

Do not use arguments based on assumptions on the shape of a future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment 149 comment by: *Bombardier Aerospace*

In our comment against the Executive Summary, Bombardier has suggested that option 3 be explored further as a preferred solution to the OSC. As a result, Bombardier will refrain from detailed comments at this stage in the anticipation that more discussion will follow, through the CRD or other mechanisms. Suffice to say that Bombardier is not in agreement with the EASA rationale for rejection of this option, based on the information in the NPA or provided at the March to May 2009 briefings.

Furthermore, the EASA statements in the RIA, Section 5.5 regards harmonization with non-EU regulations does little to minimize the impact of an option 4 solution to non-EU TC holders.

comment 203 comment by: *Icelandair*

Section:
3.1.3, Option 3 Voluntary Inclusion in the TC
Relevant Text:
"*If the elements are not included in the application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs*"

Comment:
This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options.

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Proposal:
Reconsider the NPA which is based on a flawed RIA. EASA should not use arguments based on assumptions on the shape of a future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment 204 comment by: *Icelandair*

Section:
3.1.5 Option 5 :mandatory part of TC for all applicants requesting EASA STC
Relevant Text:
"*This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type.*
This option was rejected by the rulemaking group as it put too much burden on the existing TC approval process."

Comment:
This statement highlights the fact that this NPA was written to fit the agenda of certain TC holders with no due regard to the impact on EU airlines.

If an OSC is required for EU airlines to be able to operate the aircraft, than it should become an integral part of the TC and no EASA TC should be issued before all relevant information is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, than it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all this relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines.

Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option is therefore against EU law.

Proposal:
Our preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part of TC for ALL applicants requesting an EASA TC.

comment *205* comment by: *Icelandair*

Section:
3.1.7 Option 7:Elements issued as AMC
Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:
This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the AEA point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved

standardization without burdening the industry with rigid requirements which have no safety justification.

comment *261* comment by: *KLM EASA DOA 21J.012*

Section:
3.1.3, Option 3 Voluntary Inclusion in the TC
Relevant Text:
"*If the elements are not included in the application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs*"

Comment:
This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options.

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Proposal:
Reconsider the NPA which is based on a flawed RIA. EASA should not use arguments based on assumptions on the shape of a future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment *262* comment by: *KLM EASA DOA 21J.012*

Section:
3.1.5 Option 5 :mandatory part of TC for all applicants requesting EASA STC
Relevant Text:
"*This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type.*
This option was rejected by the rulemaking group as it put too much burden on the existing TC approval process."

Comment:
This statement highlights the fact that this NPA was written to fit the agenda of certain TC holders with no due regard to the impact on EU airlines.

If an OSC is required for EU airlines to be able to operate the aircraft, than it should become an integral part of the TC and no EASA TC should be issued before all relevant information is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, than it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all this relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines.

Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option is therefore against EU law.

Proposal:
Our preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part of TC for ALL applicants requesting an EASA TC.

comment *264* comment by: *KLM EASA DOA 21J.012*

Section:
3.1.7 Option 7:Elements issued as AMC
Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:
This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the AEA point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *303* comment by: *Virgin Atlantic Airways*

Section:
3.1.7 Option 7: Elements issued as AMC

Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:

This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the Operators point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic process proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data is an acceptable means to enable the type rating to be approved by the authority but leaving the possibility to have some flexibility for an alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *325* comment by: *ERA*

The evaluation of the different options is not complete and not all questions are answered for each option:

The evaluation only focuses on new aircraft, to be understood as aircraft who's TC has not been issued yet. There are no options for aircraft with existing TC. Each option should include additional to "option a: for new aircraft", an "option b: for aircraft with existing TC".

The 21.039 drafting group agreed that there will be no catch-up process for aircraft with existing TC. It is not acceptable to simply transfer the burden is simply transferred to the operators and training organisation without any evaluation of the different options. If not provided by the TC holder, operators and training organisations will have to provide the "elements"

and apply for a Supplemental OSC: supplemental to an OSC that is not existing !?

The description of the different options is not always clear, simple and precise: if under "Option 3: Voluntary inclusion in the TC" the elements are included in the TC, but the validity of the TC is not dependent on the "elements": Option 3 is identical to Option 2.

Option 4 OSC is not compliant with the BR. Article 5.5.(e) clearly stipulates that the minimum syllabus of maintenance certifying staff type rating training, the minimum syllabus of pilot type rating and the qualification of associated simulators, the master minimum equipment list and additional airworthiness

specifications are part of the (restricted) type-certificates and changes hereto, individual (restricted) CoAs.

Of the seven proposed options, only Options 5-6 comply with the Basic Regulation. "Option 5 Mandatory part of the TC" is the correct Option to comply with the BR. Article 5.5.(e) hereof shall be complied through cooperation and harmonisation with foreign aviation authorities through ICAO. EASA fails to include any check with ICAO and foreign authorities in the RIA. Until there is an international consensus on the requirements of article 5.5.(e) of the BR, EASA can only propose "Option 6 Mandatory linked to TC for EU-registered aircraft". Although this will still complicate the import in and the export out the EU Community of operated aircraft, the burden is much smaller than with the proposed OSC.

The TC holder is best placed to develop the elements required by art.5 of the BR. Strange enough, the only possible Options 5-6 are rejected as too much burden on the OEM. The burden transferred to the operators and training organisations is however not evaluated in this NPA (see above). If the burden outweighs safety, than there should be no additional requirement and this NPA is void. If the burden does not outweigh safety, than the requirements of shall be part of the TC as required per BR art.5.

Consequently, Option 6 is the only valid option, which will be superseded by Option 5 once there is an international consensus, if any.

comment *348* comment by: *EAMTC*

Concerning: -

3.1.4 Option 4: Operational Suitability Certificate (OSC) ..... Only the TC holder/applicant can apply for an OSC. .....
The results of the approval ....., minimum syllabi for type rating training) are kept by the
OSC holder but shall be made available to those who are required to use them (operators) via a requirement

Comment:
Why is it only the "operators" that is in parenthesis? Should there not be mention of all organisations that need to use the syllabi etc?

comment *391* comment by: *British Airways Flight Operations*

Relevant Text:
'I*f the elements are not included in the application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs'*

Comment:
This is a circular argument! Much depends upon the final shape of the Ops rules (referred to here) as to whether such a requirement will exist or not. To use such assumptions as an excuse for disregarding individual options indicates that the preferred options are based on individual supposition and

prejudice .

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Proposal:
Reconsider the NPA which is based upon a flawed RIA. EASA should not use arguments based on assumptions on the shape of future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has not yet gone through the rulemaking process.

comment *392* comment by: *British Airways Flight Operations*

Relevant Text:
'*This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type.*
This option was rejected by the rulemaking group as it put too much burden on the existing TC approval process.'

Comment: This statement highlights the fact that this NPA has been written with little regard to the impact on EU airlines.

If an OSC is required for EU airlines to be able to operate the aircraft, it should become an integral part of the TC and no EASA TC should be issued before all relevant information is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all the relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines.

Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option appears to be in contradiction with that requirement.

Proposal: The preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part of the TC for ALL applicants requesting an EASA TC.

comment *422* comment by: *IACA International Air Carrier Association*

Attachment #8

When all considered Options are summarised in a matrix (attached hereto), one realises that the evaluation of the different options is not complete and not all questions are answered for each option:

The evaluation only focuses on new aircraft, to be understood as aircraft whose TC has not been issued yet. There are no options for aircraft with existing TC. Each option shall include two options:
- option a: for new aircraft
- option b: for aircraft with existing TC

The 21.039 drafting group agreed that there will be no catch-up process for aircraft with existing TC (options b here above). It is not acceptable to simply transfer the burden to the operators and training organisation without any evaluation of the different options. If not provided by the TC holder, operators and training organisations will have to provide the "elements" and apply for a Supplemental OSC: supplemental to an OSC that is not existing !?

The description of the different options is not always clear, simple and precise: if under "Option 3: Voluntary inclusion in the TC" the elements are included in the TC, but the validity of the TC is not dependent on the "elements": Option 3 is identical to Option 2.

Option 4 OSC is not compliant with the BR. Article 5.5.(e) clearly stipulates that the minimum syllabus of maintenance certifying staff type rating training, the minimum syllabus of pilot type rating and the qualification of associated simulators, the master minimum equipment list and additional airworthiness specifications are part of the (restricted) type-certificates and changes hereto, individual (restricted) certificates of airworthiness.

Of the seven proposed options, only Options 5-6 appear comply with the Basic Regulation. However, compliance with art.5.5.(e) of the Basic Regulation, causes EASA to diverge from international acceptable procedures, resulting in a lack of international harmonisation.

The TC holder is best placed to develop the elements required by art.5.5.(e) of the BR. Strange enough, the only possible Options 5-6 are rejected as too much burden on the OEM. The burden transferred to the operators and training organisations is however not evaluated in this NPA (see above). If the burden so outweighs any intended safety benefits, than there should be no additional requirement and this NPA is void. If the intended safety benefits outweighs any burden, than the requirements shall be part of the TC as required per BR art.5.5.(e).

Consequently, Option 6 (Mandatory linked to TC or EU-registered aircraft) and/or Option 5 (Mandatory part of EASA TC) are the only valid options. These should become obsolete once there is a global consensus – if any - on including OSC requirements into the TC.

comment *423* comment by: *IACA International Air Carrier Association*

Option 7: Elements issued as AMC

Publishing elements as AMCs is probably the best (and only) way forward meeting the intent of the BR, without disrupting global harmonisation.
Minimum training syllabi produced by the TC holder as AMC, still provide airlines and training organisations with the required flexibility. Training courses can be adapted with operational experience and latest developments, while the proposed process for alternate means of compliance ensures that an equivalent safety is maintained.
For safety reasons, training programs need to be linked to the operations and cannot be fully developed by TC holders. While EASA is promoting performance based regulations, by imposing the development of minimum training syllabi by TC holders and OEM, EASA prevents the industry moving forward to performance based training,
EASA shall review its conclusion on Option 7 in line with EASA's explanation

how AMCs guarantee an harmonised implementation with controlled flexibility, as presented at the latest workshop " Locally Approved, Globally Accepted" of 23rd June 2009.

comment *465* comment by: *Cargolux Airlines International*

Comment:
This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options.

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Proposal:
Reconsider the NPA which is based on a flawed RIA. EASA should not use arguments based on assumptions on the shape of a future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment *466* comment by: *Cargolux Airlines International*

Section:
3.1.5 Option 5 :mandatory part of TC for all applicants requesting EASA STC
Relevant Text:
"*This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type.*
This option was rejected by the rulemaking group as it put too much burden on the existing TC approval process."

Comment:
This statement highlights the fact that this NPA was written to fit the agenda of certain TC holders with no due regard to the impact on EU airlines.

If an OSC is required for EU airlines to be able to operate the aircraft, than it should become an integral part of the TC and no EASA TC should be issued before all relevant information is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, than it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all this relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines.

Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option is therefore against EU law.

Proposal:
Our preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part

of TC for ALL applicants requesting an EASA TC.

comment *467* comment by: *Cargolux Airlines International*

Section:
3.1.7 Option 7:Elements issued as AMC
Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:
This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the AEA point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *591* comment by: *International Air Transport Association (IATA)*

Section:
3.1.3, Option 3 Voluntary Inclusion in the TC
Relevant Text:
"*If the elements are not included in the application and subsequently not in the TC, operation by Community operators will not be possible due to a requirement in Part-OPS, Part-FCL, Part-66, Part-CC and Part-OR that mandates the use of the approved elements as basis for training programmes and MELs*"

Comment:
This cannot be an argument, as it strongly depends on what EASA proposes to the listed parts, whether such a requirement will be in place or not. To use such assumptions to wipe away an individual option indicates that there has been a prejudice on the available and preferred options.

Note: the commentator uses this as an example to show that the RIA is flawed, not to indicate that option 3 would be his preferred option.

Proposal:
Reconsider the NPA which is based on a flawed RIA. EASA should not use arguments based on assumptions on the shape of a future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment *592* comment by: *International Air Transport Association (IATA)*

3.1.7 Option 7:Elements issued as AMC
Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:
This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *667* comment by: *EAMTC*

NPA 2009-01 item No

3.1.4 Option 4: Operational Suitability Certificate (OSC) ..... Only the TC holder/applicant can apply for an OSC. .....
The results of the approval are referred to in the OSC Data Sheet. The actual documents themselves (MMEL, minimum syllabi for type rating training) are kept by the
OSC holder but shall be made available to those who are required to use them

(operators) via a requirement in Part21. .....

Why is it only the "operators" that is in parenthesis? Should there not be mention of all organisations that need to use the syllabi etc?

comment 701 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.

comment 708 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
2.2 Scale of the Issue
"*Although the proposed rules will affect many stakeholders, as identified below, the intent is to continue as much as possible with existing processes, for those elements already existing, thus limiting the impact*."

Comment:
The current NPA goes far beyond the "existing processes", i.e. does not continue as much as possible with the existing processes.

Proposal:
The objective to have a simple transfer of the JOEB has been missed. The NPA should therefore be reconsidered, and we propose another principle which is closer to the today practices.use arguments based on assumptions on the shape of a future regulation, which
a) is under EASA's own influence and can therefore be changed, and
b) has by far not yet gone through the rulemaking process.

comment 709 comment by: *Swiss International Airlines / Bruno Pfister*

Section:
3.1.5 Option 5 :mandatory part of TC for all applicants requesting EASA STC
Relevant Text:
"*This option would achieve the objective to ensure that new aircraft are provided in time with all the information, data and instructions, necessary for safe operation. It would also be in line with the BR and would facilitate European standardization by allowing the Agency to set the standard for the operation of a specific aircraft type.*
This option was rejected by the rulemaking group as it put too much burden

on the existing TC approval process."

Comment:
This statement highlights the fact that this NPA was written to fit the agenda of certain TC holders with no due regard to the impact on EU airlines.

If an OSC is required for EU airlines to be able to operate the aircraft, than it should become an integral part of the TC and no EASA TC should be issued before all relevant information is available. If EASA is convinced that the OSC is essential for the safe operation of aircraft, than it should not allow EU manufacturers to deliver any aircraft to non-EU airlines before all this relevant information is available. This is also essential to avoid a distortion of competition between EU and non-EU airlines.

Article 5.5.e of the Basic Regulation clearly states that the OSC is required as a condition to issue an EASA TC. EASA's decision not to follow this option is therefore against EU law.

Proposal:
Our preferred option is to reconsider the OSC concept and replace it with an approved data package to be referred into an AMC. However, if the OSC becomes mandatory for EU airlines than the OSC should be a mandatory part of TC for ALL applicants requesting an EASA TC.

comment *710* comment by: *Swiss International Airlines / Bruno Pfister*

Section:
3.1.7 Option 7:Elements issued as AMC
Relevant Text:
"Such AMC will have to go through the EASA rulemaking process, which is not the most suitable way to establish minimum standards linked to a particular aircraft type."

Comment:
This is a flawed argument. EASA's decision to refer the OSC in the relevant Implementing Rules is a way of indirect rulemaking without consulting (through an NPA) those affected by those rigid and inflexible rules. This is not acceptable. Option 7 is the preferred option from the AEA point of view since an Acceptable Means of Compliance would include the necessary flexibility for the airlines / MROs / training organizations to ask for an alternative AMC based on equivalent safety and without having to go through the bureaucratic monster proposed by EASA.

Proposal:
We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved

standardization without burdening the industry with rigid requirements which have no safety justification.

comment *733* comment by: *Aviation Working Group*

Aviation Working Group Comments

Any coupling of the OSC to the Type Certificate that might jeopardize the validity of a TC due to non-existence or due to suspension of the OSC, is not supported by AWG. Option 4 limits the OSC to a required option for EU operation only. Therefore this is the preferred AWG option.

comment *746* comment by: *Cessna Aircraft Company*

Cessna accepts Appendix VI 3.1.4 Option 4 as a plausible process.

comment *836* comment by: *Walter Gessky*

o RIA, 3.2:
Option 2 and 3 are the conclusions which are in line with the basic regulation.
Option 4, OSC is the most complicated process requires an additional certificate and supplemental certificates for each design change. The issue of this individual certificate by the Agency is not mentioned in Article 20 of the basic regulation.
The essential requirements does not require that the trainings courses are based on a syllabus approved by the Agency and that the MEL is based on an Agency approved MMEL. Therefore an OSC or approval of these tasks is not required to be finalised together with the type certificate. After application the Agency can start to initiate the EOB process. In the initial phase trainings syllabus and can be approved by the NAAs until the documents are available. When no MEL is available, operation with instruments and systems inoperative is not allowed. The FM can include informations which instruments and systems installed are not required for the operation and may therefore be not operative.

comment *919* comment by: *AEI*

AEI support Option 4, however AEI have resevations about the minimum syllabi for Type Rating Training and the

possibilty of OSC (or SOSC) deviating from the minimum requirements as set in Part 66.

comment *923* comment by: *GAMA*

The 21.039 drafting group held extensive discussions in support of the principle to close the gap between aircraft design and operation. However, the explanatory note and corresponding discussion in the RIA does not adequately explain that the language in the BR severely restricted the ability of the 21.039 drafting group to consider all possible options to transpose the JOEB process for these operational elements into the community regulatory context in the most effective and efficient manner because it pre-determined that these

operational elements be conditions for the issuance of a certificate. This approach to addressing these operational elements within the community regulatory context was determined without adequate consideration and consultation with directly affected stakeholders such as manufacturers, operators, and foreign civil aviation authorities.

Article 5(5)(e) of the Basic Regulation (BR) establishes the requirement that additional specifications for the operation of a given aircraft be conditions for the issuance of a certificate. Therefore, the only viable options that could even be considered by the 21.039 drafting group in the RIA would be to make these operational elements a condition for the issuance of a type-certificate, certificate of airworthiness, or to create a "new" certificate. Options 1 (do nothing), 2 (voluntary attachment to TCDS) and 7 (elements issued as AMC) are not in line with the BR so they are not viable options.

The trade associations representing aviation design & manufacturing industry members from Brazil, Canada, European Union and United States (AIA, AIAB, AIAC, ASD, GAMA) have consistently expressed concerns about any approach that would require operational elements to be determined as part of the certification of the product impacting the type certification process. Manufacturers have stated that it would be unacceptable for operational elements to become a precondition to obtain a TC and to maintain the validity of the TC. Therefore, Options 3, 5 and 6 were rejected by the rulemaking group because they make these operational elements directly linked to the TC process and the product TC.

The Option to make operational elements as a condition for issuance of an airworthiness certificate was not included in the RIA. This option was discussed by the 21.039 drafting group and ultimately rejected. Unfortunately, the assessment and justification for this decision is not captured in the RIA for consultation.

Since all other options were rejected, the manufacturing industry generally endorsed "Option 4: Operational Suitability Certificate" as the only widely supported orientation for transposition of JOEB into the community regulatory context and have communicated this support to EASA and the 21.039 drafting group in a joint letter signed by AIA, AIAB, AIAC, ASD, GAMA. However, the manufacturing industry also stated that some very important issues remained to be resolved in order for this Option to be acceptable, particularly with respect to transition and grandfathering measures. Specific comments on these issues are provided in the appropriate sections.

comment *944* comment by: *NFO Technical Commitee*

NFO support 3.1.4 Option 4 but believe the OSC and SOSC must fulfill the obligations of Part 66 for maintenance personell.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 4. Sectors Affected p. 37-39

comment *94* comment by: *AEA*

Section:
4.1.3 Cabin Crew

Comment:
There is no legal basis to link cabin crew matters to the OSC.

Proposal:
Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *206* comment by: *Icelandair*

Section:
4.1.3 Cabin Crew

Comment:
There is no legal basis to link cabin crew matters to the OSC.
Proposal:
Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *265* comment by: *KLM EASA DOA 21J.012*

Section:
4.1.3 Cabin Crew

Comment:
There is no legal basis to link cabin crew matters to the OSC.
Proposal:
Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *304* comment by: *Virgin Atlantic Airways*

Section:
4.1.3 Cabin Crew

Comment:
There is not currently any legal basis to link cabin crew matters to the OSC.

Proposal:

Reconsider the entire NPA. Instead it could be replaced by an optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance which also meets equivalent safety objectives as currently approved by NAA's.

comment *326* comment by: *ERA*

4.1.3 Cabin crew
It is stated that from 16 July 2009 all cabin crew in the Community shall hold an attestation. This, again is an assumption and not correct. According to EU-OPS 1.995 c and 1.005d an attestation shall only be delivered to a cabin crew member after he/she has completed the initial safety training. Therefore, only cabin attendants who have completed this initial safety course after the introduction of EU-OPS on July 16th, 2008, shall hold an attestation. Cabin crew members who have completed this course prior to the introduction of EU-OPS do not necessarily have to hold this attestation. This statement and all the conclusions based on this should be deleted from the RIA.

comment *468* comment by: *Cargolux Airlines International*

Section:
4.1.3 Cabin Crew

Comment:
There is no legal basis to link cabin crew matters to the OSC.
Proposal:
Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *593* comment by: *International Air Transport Association (IATA)*

4.1.3 Cabin Crew

Comment:
There is no legal basis to link cabin crew matters to the OSC.
Proposal:
Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

comment *711* comment by: *Swiss International Airlines / Bruno Pfister*

Section:
4.1.3 Cabin Crew

Comment:
There is no legal basis to link cabin crew matters to the OSC.
Proposal:
Reconsider the entire NPA. In-stead it could be replaced by optional data package for cabin crew type rating training which could be used as an acceptable means of compliance for the type rating training to be approved by the NAA. This would ensure that flexibility is kept for airlines that wish to go for an alternative means of compliance that meets the same safety objectives to be approved by the NAA.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts p. 39

comment *560* comment by: *Evektor*

5.1 Safety

There is no any evidence about significant safety benefit related to aircraft other than complex motor-powered aircraft.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.1 Safety p. 39-40

comment *95* comment by: *AEA*

Section:
5.1 Safety
Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL.*"

Comment:
Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Proposal:

Reconsider the entire NPA

comment *96* comment by: *AEA*

Section:
5.1.2 Safety
Relevant Text:
"*Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety*."

Comment:
There is no evidence that "*Such differences do not contribute to a uniform high level of safety*." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.** We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *140* comment by: *Deutsche Lufthansa*

5.1 Safety

related to 5.1.2

Relevant Text:
"Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety."

Comment:
There is no eveidence that "Such differences do not contribute to a uniform high level of safety." A high level of safety can be achieved thorugh different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry.

Conclusion:
Statements based on neither evidence nor expertise must not serve as justification for extensive rulemaking.

comment *141* comment by: *Deutsche Lufthansa*

5.1 Safety

related to 5.1.1

Relevant text:
"The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL."

Comment:
Again, if it is "difficult" to link the occurrence to the underqualification, it cannot be the solution to invent a

regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

While requiring extensive hazard identification and risk mitigation measures by the organizations (refer to NPA 2008-22), EASA fails to apply the same

principles to their own work. The RIA to NPA 2008-22 was flawn as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Conclusion:
If it isn't broken, don't fix it.
If unclear, whether it is broken, first check it.
Don't require others to do things which you are not prepared to do equally.

comment *150* comment by: *Bombardier Aerospace*

EASA are careful not to directly cite EU National differences in training or MEL standards as generating a safety reason for the OSC proposal. There is no evidence provided in the NPA for this and Bombardier agrees to avoid the comparisons. Similarly, Bombardier agrees that by introducing a mandatory and Community level Standard for the type rating and MEL operational elements, a more uniform level of safety can be expected, whether 'high' or not. However, what remains to be proven is whether creating the Certificate itself, with all the administration surrounding that document, is the most effective and only solution open to the EU.

comment *169* comment by: *UK CAA*

Page No: 39 et seq

Paragraph No: 5

Comment: The "Impacts" section does not address the transitional costs of familiarisation with the requirements. It appears that every TC Holder, STC Holder, (both inside and outside the EU), DOA, operator/owner will have to read and understand the new requirements and determine whether or not they have to make changes to their aircraft, practices, or procedures in order to comply. This is a very significant cost impact on all areas of the industry and aircraft community. What is the safety benefit that balances this?

Justification: Proper determination of cost impact.

comment *207* comment by: *Icelandair*

Section:
5.1.2 Safety
Relevant Text:
"*Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety*."

Comment:
There is no evidence that "*Such differences do not contribute to a uniform high level of safety*." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical

identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.** We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *208* comment by: *Icelandair*

Section:
5.1 Safety
Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL*."

Comment:
Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification

and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Proposal:
Reconsider the entire NPA.

comment *267* comment by: *KLM EASA DOA 21J.012*

Section:
5.1 Safety
Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL*."

Comment:
Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Proposal:
Reconsider the entire NPA.

comment *268* comment by: *KLM EASA DOA 21J.012*

Section:
5.1.2 Safety
Relevant Text:
"*Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff*

type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety."

Comment:
There is no evidence that "*Such differences do not contribute to a uniform high level of safety*." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.** We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *305* comment by: *Virgin Atlantic Airways*

Section:
5.1.2 Safety

Relevant Text:
"Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety."

Comment:
There is no evidence that "Such differences do not contribute to a uniform high level of safety." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. This does not imply that training courses must be identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Please reconsider the entire NPA and the principle of the OSC**.** We would

propose deleting the OSC concept and replacing it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data is an acceptable means by which type rating training can be approved by the authority but leaving a possibility to have some flexibility for an alternative means (providing the equivalent level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardisation without burdening the industry with rigid requirements which have no safety justification.

comment *393* comment by: *British Airways Flight Operations*

Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL*."

Comment: If it is 'difficult' to link occurrences to under-qualification, where is the justification for inventing a regulation? If data are not available, data collection should be the first step, instead of assuming that some new rules will heal anything. The fundamental question to be answered must surely be: is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to its own work. The RIA to NPA 2008-22 was flawed in itself, because no link could be proved between the proposed measures and an increase of safety. Therefore, that argument cannot be used here.

Proposal: Reconsider the entire NPA.

comment *394* comment by: *British Airways Flight Operations*

Relevant Text:
'Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses

are still present. Such differences do not contribute to a uniform high level of safety.'

Comment:
It would be interesting to see the evidence that "*Such differences do not contribute to a uniform high level of safety*." Otherwise, the statement is conjecture and should not be used as a basis for rulemaking. A high level of safety can be achieved through different means, and performance-based rulemaking should set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry.

Proposal:
These statements cannot serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.**

comment *469* comment by: *Cargolux Airlines International*

Section:
5.1 Safety
Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL*."

Comment:
Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Proposal:
Reconsider the entire NPA.

comment *470* comment by: *Cargolux Airlines International*

Section:
5.1.2 Safety
Relevant Text:
"*Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety*."

Comment:
There is no evidence that "*Such differences do not contribute to a uniform high level of safety*." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.** We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *594* comment by: *International Air Transport Association (IATA)*

5.1 Safety
Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL*."

Comment:

Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Proposal:
Reconsider the entire NPA.

comment *595* comment by: *International Air Transport Association (IATA)*

5.1.2 Safety
Relevant Text:
"*Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety*."

Comment:
There is no evidence that "*Such differences do not contribute to a uniform high level of safety*." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to be achieved. That does not imply that training courses must be identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.** We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment 712 comment by: *Swiss International Airlines / Bruno Pfister*

5.1 Safety
Relevant Text:
"*The overall level of safety for pilot licenses and for air operations in the Community was presented in the RIA of the NPA 2008-22f and will be complemented in the RIA of the upcoming NPA on air operations. Here it would have been more interesting to provide a overview of the occurrences related to deficiencies in personnel training (crews and maintenance certifying staff) and to MMEL (or associated MELs). Even though many of the occurrences are related to human factors issues (e.g. errors of flight crew, maintenance staff), it is quite difficult, with the available data, to determine whether these errors occurred due to underqualification of the personnel on the aircraft type. Although many occurrences have been identified where MEL was one of the contributing factors, it is also difficult to determine whether these were related to a deficiency in the associated MMEL*."

Comment:
Again, if it is "difficult" to link the occurrence to the under-qualification, it cannot be the solution to invent a regulation. If data has not been available, a data collection in the framework of a (until now missing) Strategic Safety Programme and Plan should be the first step instead of assuming that some new rules will heal anything. The fundamental question is: Is there a deficiency at all?

It has to be recalled that NPA 2008-22 requests extensive hazard identification and risk mitigation measures by the organizations, EASA should apply the same principles to their own work. The RIA to NPA 2008-22 was flawed as no link between the proposed measures and an increase of safety could be determined, so this cannot be put in here as an argument.

Proposal:
Reconsider the entire NPA.

comment 713 comment by: *Swiss International Airlines / Bruno Pfister*

Section:
5.1.2 Safety
Relevant Text:
"*Until recently, the applicable Community rules in the fields of flight crew licensing and air operations, although based on commonly agreed*

JAA requirements, were still national. This has lead to differences in approved training courses and MELs. Even in the case of maintenance certifying staff type rating training, where a Community regulation exists (Regulation EC No. 2042/2003), experience shows that differences in approved training courses are still present. Such differences do not contribute to a uniform high level of safety."

Comment:
There is no evidence that "*Such differences do not contribute to a uniform high level of safety*." A high level of safety can be achieved through different means, and performance-based rulemaking shall set objectives for the level to

be achieved. That does not imply that training courses must be identical throughout the industry.

Proposal:
These statements must not serve as justification for extensive rulemaking. Reconsider the entire NPA and the principle of the OSC**.** We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *764* comment by: *Boeing*

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5. Impacts
Sub-Paragraph 5.1.2.

BOEING COMMENT: Boeing does not agree that the word "standardization" is equivalent to "safety;" the two words are not interchangeable. The need for a uniform and standardized EU approach is, in general, based on economical reasons. However, it is not EASA's task to draft regulations solely for that purpose.

There is little in the text that provides data-based reasoning as to why the OSC is necessary to increase the level of safety.

JUSTIFICATION: No rationalization is provided that the non-uniform and non-standardized approach, which has been followed by the EU-member states up to now, is an "unsafe" approach.

It is therefore questionable whether the argument for standardization provides any justification for the introduction of the OSC and the related introduction of the OSC elements into Chapter 5 of the basic rule.

comment *765* comment by: *Boeing*

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5. Impacts
Sub-Paragraph 5.1.3

BOEING COMMENT: To assign one stakeholder as the single responsible entity means that the other stakeholders no longer have a final responsibility. We suggest that EASA reconsider this issue.

JUSTIFICATION: As proposed in the text, this will have serious effects on the (J)OEB process: instead of a shared responsibility process, only the TC holder would be responsible. This will affect the contribution of all the stakeholders and will likely result in a less than optimum result; it might even have a detrimental effect on safety (e.g., objections from the non-responsible stakeholder can be simply overruled by claiming compliance to the minimum EASA requirements).

comment *933* comment by: *GAMA*

GAMA disagrees with the statement that "The Agency considers that the TC holder is best placed to develop these [operational] elements because it has all the necessary background information that is available from the design and airworthiness exercise." The MMEL example used by the Agency to support this statement is correct in that the TC holder's insight in the systems safety analysis of the aircraft supports development of a safe MMEL. However, the TC holder is not in the best place to develop safe minimum syllabus for pilots or maintenance certifying staff as this expertise and experience typically resides with professional training organizations with whom TC holders work in partnership. Some very large TC holder organizations may also have corporate divisions that develop and provide training programs, but this is certainly not representative of the majority of aircraft TC holders such as business and general aviation aircraft manufacturers.

As they transition to comply with OSC requirements, manufacturers will continue to work in partnership with the professional training providers at the same level to ensure the development of training programs that continue to meet the same high safety standards.

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comment *425* comment by: *IACA International Air Carrier Association*

Unless operations, training and maintenance are currently unsafe, it appears that the proposed OSC only results in additional costs and increased burden for the industry (e.g.: OSC development, continued validity, approval, implementation for operators and training organisations, etc.), without any real airworthiness/safety improvements.

comment *736* comment by: *Aviation Working Group*

Aviation Working Group Comment

No impact assessment has been provided applicable to the leasing industry.
At EASA's introduction in 2003, the requirement for an EASA TC and STC for all

aircraft registered in the EU, together with extensive maintenance records requirements, placed significant added burden and costs on the leasing industry, given these requirements for placing airplanes within the EU. Specifically, the (re)validation of existing STCs made it very costly to get airplanes registered. AWG expects that the introduction of the EASA's OSC will cause additional burden to the leasing industry because:

- some aircraft can not be placed within the EU due to the lack of existing OSC elements (even existing EU registered aircraft may be forced to leave the EU instead of being introduced at another EU operator)
- additional EASA validation work may be necessary to obtain EASA approved OSC elements for existing TCs and STCs

Despite the fact that the leasing industry has made EASA aware of these burdens and costs faced by the introduction of the EASA TC and STC, this has not been taken into account when drafting the Regulatory Impact Assessment for this NPA. Therefore AWG urges EASA to consider the adverse impact which implementation of proposed NPA 2009-1, relative to re-evaluation of approved STCs, will have on transferability and the aircraft finance community.

comment *934* ☐ comment by: *GAMA*

OSC is NOT a completely new "Certificate"

There have been many concerns expressed by various industry representatives that because the OSC is a "new certificate" that it will result in significant burden to manage and administer in addition to having to develop/comply with the many new operational element.

GAMA recommends that EASA address these concerns by clarifying that the OSC is NOT a completely "new certificate" that requires completely new company procedures to manage and maintain and that although there are changes in how operational elements are being implemented, most of them are existing requirements that are already being performed today. The primary economic impact or burden imposed upon (S)TC holders and community operators as a result of this NPA will be due to the transition & grandfathering provisions and not the recurring OSC activities. This is because these provisions will determine the extent to which industry manufacturers/operators will be required to develop and obtain redundant approvals under the new OSC process to replace existing approvals already issued by NAAs and safely being utilized by community operators.

As stated in Explanatory Note paragraph 8, currently the approvals of specifications for the operation of a given type of aircraft, such as the minimum syllabus for pilot type rating training, data for cabin crew type training and the MMEL, as well as that of technology linked with a certain type of operation, are the responsibility of the NAA. The OSC approach would in fact reduce the cumulative overall burden upon the industry and authorities by establishing a process by which these elements are approved by EASA for each aircraft type and accepted by NAAs as a common standard for all community operators. Currently, each operator must work independently with each NAA to develop the appropriate standards in order to approve the required operational elements such as a type training programs for pilots.

The OSC and the use of the term "certificate" is an administrative necessity to comply with the BR. However, the term "certificate" does not in and of itself require a whole new process or system to administer and maintain. The OSC is simply a compilation of the various operational standards that are already required to support operational approval of an aircraft. The OSC-DS is merely

a reference document which identifies the current version of the EASA approved standard for each operational element. As stated in paragraph 15, it has always been the Agency's intention to mirror the current JOEB process (as well as those processes used between industry and NAA's to the maximum extent possible) to develop and maintain these operational standards. Therefore, the overall cost or burden associated with the OSC should be limited to the new requirements that do not currently exist such as occurrence reporting and evaluation. Although, due consideration must be given to the shift in cost/burden from one stakeholder group to another such as from operators to (S)TC holders.

comment *935* comment by: *GAMA*

It is not possible to assess the economic impact of the OSC proposal upon each of the affected sectors without having an understanding of the specific technical details for the envisioned certification specifications (CS) and the transition & grandfathering provisions.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic and Social - 5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews) p. 40

comment *97* comment by: *AEA*

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... *unless otherwise determined by the applicable transition measure* ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered.

comment *98* comment by: *AEA*

Relevant Text:
5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)

Comment:
. "... cabin crews" are not addressed by the Basic Regulation
Proposal:
Cabin crew aspects not to be addressed in the RIA since they

should not be included in the OSC.The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

comment *142* comment by: *Deutsche Lufthansa*

5.2 Economic and Social

related to 5.2.1

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
"... unless otherwise determined by the applicable transition measure ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Conclusion:
Misleading statement in RIA.
Stretching of NPAs over the time gives the impression that things shall be hidden.

comment *143* comment by: *Deutsche Lufthansa*

5.2 Economic and Social

related to 5.2.1

Relevant Text: Title of 5.2.1 says
"Community Qualified personnel (maintenance certifying staff, flight and cabin crews)"

Comment:
"... cabin crews" are not addressed by the Basic Regulation

Conclusion:
Cabin crew aspects not to be addressed in the RIA.

comment *209* comment by: *Icelandair*

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... *unless otherwise determined by the applicable transition measure* ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered.

comment *210* comment by: *Icelandair*

Relevant Text:
5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)

Comment:
. "... cabin crews" are not addressed by the Basic Regulation
Proposal:
Cabin crew aspects not to be addressed in the RIA since they should not be included in the OSC. The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

comment *269* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... *unless otherwise determined by the applicable transition measure* ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered.

comment *270* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)

Comment:
. "... cabin crews" are not addressed by the Basic Regulation
Proposal:
Cabin crew aspects not to be addressed in the RIA since they should not be included in the OSC. The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

comment *307* comment by: *Virgin Atlantic Airways*

Relevant Text:

5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)

Comment:
".. cabin crews" are not addressed within Article 5 of the Basic Regulation

Proposal:
Cabin crew aspects ought not to be addressed in the RIA since they should not be included in the OSC. The proposal of an OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

comment *327* comment by: *ERA*

The minimum requirements for the applicability of a Safety Directive need to be restricted to the actual minimum. It is insufficient to say 'commercial air transport'; the applicability will need to address, in its safety justification, aeroplane type, size, type of operations etc. in each case that is considered. The wording in the NPA has been not been drafted so that this important element is clear. The NPA should be revised to ensure that the scope is limited to only what is justified by safety.

comment *345* comment by: *EAMTC*

The sense of the words "owned by" should be clarified as 4 cases could be:-

Case 1: "owned by" in the commercial sense and users may need to purchase the (S)OSC DS

Case 2: "owned by" in the copyright sense and users may need to purchase the (S)OSC DS

Case 3: "owned by" in the document sense and the owner updates the document as required and the use of the document is free and in the public domain
Case 4: "owned by" as in Case 3 but Cases 1 and/or 2 may apply

comment *395* comment by: *British Airways Flight Operations*

Relevant Text:
'Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations.'

Comment:
. "*... unless otherwise determined by the applicable transition measure ...*"
means that the qualified personnel could quite easily be affected, depending upon what is proposed in other regulation. Without seeing the totality of the rulemaking proposals, it is impossible to assess the effect OSC rules. By this statement, the Agency admits exactly the opposite of what it says.

Proposal:
Stretching of NPAs over time leads to difficulty and obfuscation. This NPA

should therefore be reconsidered.

comment *471* comment by: *Cargolux Airlines International*

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... *unless otherwise determined by the applicable transition measure* ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered.

comment *473* comment by: *Cargolux Airlines International*

Relevant Text:
5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)

Comment:
. "... cabin crews" are not addressed by the Basic Regulation
Proposal:
Cabin crew aspects not to be addressed in the RIA since they should not be included in the OSC. The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

comment *596* comment by: *International Air Transport Association (IATA)*

"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... *unless otherwise determined by the applicable transition measure* ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered.

comment *597* comment by: *International Air Transport Association (IATA)*

5.2.1 Community Qualified personnel (maintenance certifying staff, flight and

cabin crews)

Comment:
. "... cabin crews" are not addressed by the Basic Regulation
Proposal:
Cabin crew aspects not to be addressed in the RIA since they should not be included in the OSC. The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

comment *702* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment It seems that the subject is not well mastered. How can we comment an unachieved piecemeal of proposals of the EASA, while the core of the regulation seems not to be even conceived? Does "*unless […] regulation"* mean that everything can still change, not withstanding the content of the proposed regulation?

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

`

We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment 714 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... *unless otherwise determined by the applicable transition measure* ..." means that the subject is completely open. Again, this shows that complete comments can only be made when knowing the whole picture, i.e. ALL NPAs that are intended to replace EU/JAR-OPS.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered.

comment 768 comment by: *Boeing*

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Sub-Paragraph 5.2.1

BOEING COMMENT: The OSC would define the minimum syllabi for flight crew and for certifying maintenance staff, plus the relevant aircraft data needed for the cabin crew training. This does not mean, however, that the authorities of the member states cannot or will not introduce higher and/or additional standards above these minimums. It is therefore questionable that the provisions on this NPA will "facilitate the free movement" of qualified staff, as the text indicates.

We request that EASA reconsider this issue.

JUSTIFICATION: More clarity is needed on this issue and how it would actually operate once implemented.

comment 825 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
5.2.1 Community Qualified personnel (maintenance certifying staff, flight and cabin crews)

Comment:
. "... cabin crews" are not addressed by the Basic Regulation
Proposal:
Cabin crew aspects not to be addressed in the RIA since they should not be included in the OSC. The proposal of the OEB approved operational data package to be used as an acceptable means of compliance would solve this issue.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. p. 40-43

Impacts - 5.2 Economic andSocial - 5.2.2 Aircraft TC and STC holders and applicants (Community and non-Community)

comment *99* comment by: *AEA*

Relevant Text:
5.2.2.1.4 Cost of Increased Liability

"*First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability*."
...
"*Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements*."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Proposal:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *100* comment by: *AEA*

Relevant Text:
5.2.2.5 DOA Holders *"TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*."
Comment:
This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA
Proposal:
Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to

the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *134* ☐ comment by: *Bombardier Aerospace*

The need for OSC Holder involvement in occurrences that may jeopardize the validity of the OSC is understood. Our experience to date with the equivalent and, in theory, mature reporting process against the TC leaves Bombardier with the belief that, if not described and managed carefully, there will be an overwhelming surge of reporting that requires a Holder to respond much of which relating to how the training was implemented and not relating to the minimum criteria. The proposed regulation clearly describes that the Holder has the burden of determining if each occurrence is as a result of a shortcoming in the approved element under the OSC. Bombardier questions if EASA has correctly understood what is required to comply with this proposal and if the RIA, Section 5.2.2.1.2 truly reflects the resource need.

comment *144* comment by: *Deutsche Lufthansa*

5.2 Economic and Social

related to 5.2.2.1.4

Relevant Text:
2nd para
"First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability."

2nd last para, last sentence:
"Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Conclusion:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *151* comment by: *Bombardier Aerospace*

Against Section 5.2.2:

Bombardier is sure that EASA did not intend to imply that "Aircraft TC holders will be required to obtain an OSC for new aircraft types" as stated in this section without the condition "before the EIS by Community Operators", as stated in option 4.

comment *152* comment by: *Bombardier Aerospace*

Against Section 5.2.2.1 & 5.2.2.5:

Bombardier recognizes that EASA has decided to address the Agency fees and charges at a later date, specifically when the next amendment to the fees and charges Regulation is proposed. However, in attempting to discuss impact on costs to TC Holders and applicants for the OSC, EASA must not discount the effect of fees and charges on those applicants' costs.
It is less the obvious fact of this relationship that is our comment here (recovered EASA fees/charges are a direct cost to the applicant); rather, it is the assumption by EASA that introduction of the OSC can be considered a minimal impact, as costs will be similar to the existing costs associated with JOEB and National approvals of MMEL and so-on. While it is hopefully predicted that the cost of approval of today's training programs and MMEL documents will be essentially the same when EASA take over this responsibility from JAA and the NAA, this statement can only be made in regard to the compliance demonstration against the OSC standards (one or more of the five CS). The actual certificate itself will require processes and tools at the Applicant (then Holder) and the Agency will require fees just to administer issuance and maintenance of the document.
Bombardier will provide comment at the time of the fees and charges Regulation amendment. In the meanwhile, EASA are asked to advise if it is the Agency's intent to maintain the *total* cost to Applicants and Holders similar to the current processes – where the total cost includes the cost of demonstrating compliance to the CS and the cost of fee/charge recovery from the Agency in issuing the OSC for the one or more of the elements.
Similarly, Bombardier would prefer that EASA view the non-EU applicant and holder differently than the EU equivalents with respect to fees and charges. It is assumed that this aspect of fees and charges is a much broader subject and will depend somewhat on the Agency's decision regarding Design Organization Approvals for non-EU entities.

comment *153* comment by: *Bombardier Aerospace*

Against Section 5.2.2.1.4:
The EASA commentary on liability validates the Bombardier position that applying for one or more of the OSC elements on a voluntary basis is not a true option.
Regardless of the Agency determination of compliance (to a OSC element standard), the rule of 'deep pocket' will prevail in the world of product liability.

comment *211* comment by: *Icelandair*

Relevant Text:
5.2.2.1.4 Cost of Increased Liability
"*First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability*."
...

"*Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements*."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Proposal:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *212* comment by: *Icelandair*

Relevant Text:
5.2.2.5 DOA Holders *"TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*."
Comment:
This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA
Proposal:
Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *271* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
5.2.2.1.4 Cost of Increased Liability

"*First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability*."
...
"*Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements*."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Proposal:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *273* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
5.2.2.5 DOA Holders *"TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*."
Comment:
This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA
Proposal:
Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *306* comment by: *Virgin Atlantic Airways*

Relevant Text:
"Qualified personnel are not directly affected by the OSC rules. First of all, the personnel already qualified will remain qualified unless otherwise determined by the applicable transition measure of the applicable personnel regulations."

Comment:
. "... unless otherwise determined by the applicable transition measure ..." infers that the subject could be considered open. This once again shows that complete comments can only be made when knowing the entire picture and all NPA's that are intended to replace EU/JAR-OPS are simultaniously available for comment.

Proposal:
Stretching of NPAs over the time gives the impression that things shall be hidden. This NPA should therefore be reconsidered

comment *328* comment by: *ERA*

5.2.2.1.3 Costs of Agency approval of OSC
Has the charges for the issuance of an OSC or changes to the OSC been taken into consideration in any cost benefit analysis? This appears to be a classic case of an industry funded rulemaking exercise.

comment *396* comment by: *British Airways Flight Operations*

Relevant Text:
5.2.2.5 DOA Holders '*TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*.'

Comment:
This statement again highlights that the NPA was written with no due consideration for the potentially devastating impact on the EU airlines, MROs and training industry. If a TC holder made minor changes to an OSC, the reference to the OSC in the hard-law would trigger a need for the airline/MRO/training industry all to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, it would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA

Proposal:
Reconsider the entire NPA.

comment *474* comment by: *Cargolux Airlines International*

Relevant Text:
5.2.2.1.4 Cost of Increased Liability
"*First of all, it should be noted that liability of manufacturers is already*

established by the general doctrine of product liability."
...
"*Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements*."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Proposal:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *475* comment by: *Cargolux Airlines International*

Relevant Text:
5.2.2.5 DOA Holders *"TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*."
Comment:
This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA
Proposal:
Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *558* comment by: *Evektor*

5.2.2.2.1. Costs of OSC development

It is not precise, that "*only a limited cost*" and only "*in exceptional cases*" will be required.

TC holder must incorporate such procedures into DOA handbook and its ability to carry out such procedures must be verified by external and internal audits. These procedures generate additional costs, also probably costs according to Regulations 593/2007.

TC holder is not Agency. TC holder of aircraft other than complex aircraft has moral obligation to explain all new procedures, especially if such procedures are new not previously used.

TC holder must clarify such procedures for all operators, training and maintenance organizations, etc. and these activities generate additional costs.

comment *573* comment by: *Airbus*

Relevant text: page 41, paragraph 5.2.2.1.3

Comment:

Airbus is very concerned about the lack of visibility of the possible costs of Agency approval of OSC. Charging principles and orders of magnitude should at least have been provided, if it was not possible to show a complete proposed amendment to the fees and charges Regulation. A revised RIA showing the missing elements should be produced and submitted to comments.

A way to reduce the additional costs would be to enlarge TC/OSC holder's privileges under DOA to the approval of major changes to the OSC: see our related comment.

comment *598* comment by: *International Air Transport Association (IATA)*

5.2.2.1.4 Cost of Increased Liability
"*First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability*."
...
"*Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements*."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Proposal:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *599* comment by: *International Air Transport Association (IATA)*

5.2.2.5 DOA Holders *"TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*."

Comment:
This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA

Proposal:
Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification.

comment *734* comment by: *Pilatus*

§ 5.2.2.1.2 Cost of continued validity of the OSC elements
Do not agree with the statement that OSC occurrence cost to a DOA (who has nothing to do with the operational application) will be a good investment in prevention of accidents. It is moving the responsibility away from the operator.

comment *735* comment by: *Pilatus*

§ 5.2.2.2.1 Cost of continuing validity of the OSC elements.
Disagree that the existing occurrence reporting system can be used to perform the first filtering of occurrence reports, a complete audit to establish process adherence by the operator is required.

comment *769* comment by: *Boeing*

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Sub-Paragraph 5.2.2.1.1 Costs of OSC development

BOEING COMMENT:
There is a great difference between providing the best data available to support the operators in meeting the applicable requirements, and having the data certified by the authorities.

For example, the data needed for simulator approval are, in today's world, based upon the best engineering data available. These data are collected from the various flight tests and engineering data; not necessarily from certification flight test data and certification compliance data.

In case this, data need to be certified by the authorities and a completely different process has to be followed: a certification plan has to be approved, test plans have to be submitted and approved, plus the test airplane will have to pass the appropriate conformity checks.

This means quite a significant amount of extra work, plus additional flight testing for the various configurations under review. This will raise the costs significantly to produce these data.

In addition, it is expected that EASA will raise fees for their approval of the data. Current experience with the fees afforded for type certification give ground for serious doubts that the costs for the OSC elements will not change significantly.

JUSTIFICATION: The costs pertaining to this issue should be accurately accounted for and explained.

comment *770* comment by: *Boeing*

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Sub-Paragraph 5.2.2.1.2 Costs of continued validity of the OSC elements

BOEING COMMENT: The current FC syllabus resulting from the JOEB process is considered advisory only; it is not an "approved" document that needs to be kept current for the various modifications the airplane will see in production.

In case EASA requires the approval of this syllabus, additional effort is needed to continuously check the validity of the existing documents. This means that additional resources are needed. In addition, resources are needed for the work on the occurrences.

No indication is provided that these additional costs are justified by an identifiable increase in safety.

JUSTIFICATION: Data should be provided to explain how and why the additional costs are justified.

comment 771 comment by: *Boeing*

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Sub-Paragraph 5.2.2.1.4 Costs of increased liability

BOEING COMMENT: The last paragraph incorrectly states that *"… [TC Holders] were already required to produce an MMEL for authority approval ..."* In the United States, the MMEL is the result of a collaborative development effort by Industry regulatory authorities, manufacturer, operators, and unions, with the end result being an FAA publication. The FAA may accept, modify, reject, or completely rewrite the proposals – the FAA is ultimately responsible for the development, approval, release and publication of the requirements defined in MMEL. The OEM serves as a "technical consultant" -- it may develop MMEL proposals of its own, or offer a technical opinion (possibly a NTO) on a proposal developed by another party.

Under the JOEB process, the JAA accepted the FAA MMEL. If necessary, the JAA created a Supplement to identify differences applicable to JAA operators.

Under OSC, the TC holder is assuming responsibility for the development, release, and publication of the MMEL. Accordingly, it appears that the development responsibility has shifted away from Industry/FAA and towards the OEM. Under the conditions of the OSC, the TC holder's responsibilities expand beyond providing a technical opinion to being completely responsible for development, release, and publication of the MMEL. With this increased responsibility it is reasonable to assume there would be a commensurate increase in liability.

We recommend that EASA reconsider this issue.

JUSTIFICATION: More explanation, supported by data, as to why the proposed method is most appropriate should be provided to ensure understanding.

comment 772 comment by: *Boeing*

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Sub-Paragraph 5.2.2.5 DOA holders

BOEING COMMENT: For the non-EU TC holder, in particular those countries with bilateral agreements, additional provisions are necessary to compensate for the lack of an EASA DOA.

Boeing does not consider the so-called "mini-DOA" a viable option, as it would be violating the principle of bilateral safety agreements. The necessity for a (mini-) DOA could easily lead to a situation where the TC holder worldwide will

have to obtain DOAs for each country to which it exports its aircraft. This could lead to a significant and unnecessary additional administrative burden that does not have any safety justification.

We recommend that EASA reconsider this provision.

JUSTIFICATION: The additional OSC related costs due to the lack of a DOA provision are not small, and would be putting the non-EU TC holder in a disadvantaged position.

comment *794* comment by: *Gulfstream Aerospace Corp*

o Paragraph 5.2.2: Aircraft TC and STC holders and applicants (Community and non-Community)

Gulfstream reaffirms its concern regarding the Agency's position that the grandfather provisions and transition measures will only be included in the final Agency's Opinion.

o Paragraph 5.2.2.1.1: Costs of OSC development

Gulfstream disagrees with the EASA conclusion that costs will not change significantly with regard to development of the TC holders' training element.
The OSC as proposed requires the TC holder to develop a minimum training syllabus for the pilot, maintenance type rating and cabin crew training which require employing additional personnel to perform this element design function. Thereby increasing the cost of aircraft development which must then be passed along to the customers and training organizations.

TC holders normally develop these programs in conjunction with their principal training organization. Under this joint venture programs are developed and the training organization assumes responsibility for certification and currency of the program. Work is being duplicated by having the TC holder develop the training syllabus and the training organization requiring certification by the Agency. Currently the operators and TC holder have direct input to the training provider for changes that they feel should be made to the program. Time and money could be saved by allowing the manufacturers principal training organization to maintain the current training element certification process.

o Paragraph 5.2.2.1.2: Costs of continued validity of the OSC elements
Gulfstream recommends that an OEM should only be responsible to investigate valid OSC occurrences where there may be baseline element deficiencies, and should therefore not be mandated to react to potential unwarranted SOSC holder claims to baseline issues.

comment *823* comment by: *FAA*

o **RIA, 5.2.2.1.3**

Comment:
The costs of the OSC approval process will be an issue for operators and

manufacturers, both within and outside the EU. Such costs will certainly be an issue and will possibly impact the way both EASA and manufacturers approach this critical subject of operational suitability.

If a significant amount of EASA funding is generated on a fee for service basis, there is a perception that system may degrade the objectivity and integrity of the analyses. At a minimum, such costs will have an impact on a manufacturer's decision process in evaluating the merits of certification and in its development of individual CS elements.

comment *824* comment by: *FAA*

o **RIA, 5.2.2.1.4**

Comment:
The EASA OSC NPA views the compliance process as resulting in shared liability between the TC holder and the agency. It is highly possible that the manufacturer will perceive the OSC process to increase the liability of the TC/OSC holder.

If a manufacturer does perceive the OSC process to increase the liability of the TC/OSC holder, this might, impact the TC/STC holders approach to development and acceptance of final OSC elements. This perspective will place the manufacturer at odds with the EASA perspective of developing a legitimate minimum safety standard.

comment *827* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
5.2.2.1.4 Cost of Increased Liability
"*First of all, it should be noted that liability of manufacturers is already established by the general doctrine of product liability*."
...
"*Moreover, even without confirmation of the manufacturer's responsibilities in the current regulations, a court of justice could well establish negligence in case the manufacturer would not have produced the necessary training elements*."

Comment:
Everything is regulated by other fields of law. As like for other legal questions, a sound legal review was supposedly not made on this by EASA.

Proposal:
Do not try to complement product liability through ops regulations; it will lead to a conflict of law and therefore anyway not stand any legal review.

comment *831* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
5.2.2.5 DOA Holders *"TC holders who also hold an design organization approval (DOA) may want to obtain the privilege to approve minor changes to the OSC. This will require investments in adapting the DOA organization to address OSC issues but at the same time will bring the benefit of not having to obtain Agency approval of all changes. Moreover, obtaining the privilege is on a voluntary basis*."

Comment:
This statement again points out that this NPA was written with no due consideration of the potential devastating impact on the EU airline, MRO and training industry. If a TC holder would make minor changes to an OSC, the reference of the OSC in the hard-law, would trigger a need for the airline/MRO/training industry to change their own training programmes. If the airline/MRO/training organization would like to take a different approach based on equivalent safety, he would still need to request a Supplemental Operational Suitability Certificate from EASA. This will lead to a huge bureaucratic impact on the airline/MRO/training industry which goes far beyond the intentions of the EU legislator and which can not be justified based on this flawed RIA
Proposal:
Reconsider the entire NPA. We propose to delete the OSC concept and to replace it with an obligation for the TC holders - by adding a new paragraph to the part 21 - (21.A62) to provide operational data related to the type which would be approved by the OEB (MMEL, training data/syllabus, etc.).

A statement could then be added in AMCs of the relevant parts related to type rating training, saying that the operational data are an acceptable means to make the type rating approved by the authority but leaving a possibility to have some flexibility for alternative means (providing the same level of safety) to be

approved by the NAA.

Such an alternative proposal would meet EASA's objective for improved standardization without burdening the industry with rigid requirements which have no safety justification

comment *891* comment by: *General Aviation Manufacturers Association / Hennig*

GAMA has reviewed the agency's discussion in NPA 2009-01 related to "increased liability" in section 5.2.2.1.4 where EASA states that "there are reasons to believe that the OSC requirements will not have a major effect on liability."

In parallel, EASA has recently issued a new contract requirement for the services the agency will perform after the sunset of the Joint Aviation Authorities (JAA) for the Operational Evaluation Board. The contract states in Section 7.5 that:

"The Applicant shall indemnify the Agency, its members and staff against any actions or claims brought against them by any third party in connection with the services provided and against any liabilities, including any legal costs, any damages and any expenses arising from or incurred due to or in connection with such actions or claims." [See EASA "General Terms and Conditions for the Implementation of OEB Activities."]

GAMA would note that the existing practice in most countries is that the operational requirements are today contained in documents held by and the

legal responsibility of the civil aviation authority.

The operation of aircraft is something beyond the direct control of manufacturers, but – through the OSC – the manufacturer becomes the owner of a certificate that specifically authorizes the operation of an aircraft under certain circumstances. At the same time, the control and enforcement of operation is something that is accomplished by the respective civil aviation authority. The manufacturer is now being inserted more directly into that process.

While GAMA does not object to the creation of an OSC to bridge the gap between aircraft design and operations for operational suitability, GAMA recommends that EASA further review and determine the shift in liability and its resulting effects.

comment *934* ☐ comment by: *GAMA*

OSC is NOT a completely new "Certificate"
There have been many concerns expressed by various industry representatives that because the OSC is a "new certificate" that it will result in significant burden to manage and administer in addition to having to develop/comply with the many new operational element.

GAMA recommends that EASA address these concerns by clarifying that the OSC is NOT a completely "new certificate" that requires completely new company procedures to manage and maintain and that although there are changes in how operational elements are being implemented, most of them are existing requirements that are already being performed today. The primary economic impact or burden imposed upon (S)TC holders and community operators as a result of this NPA will be due to the transition & grandfathering provisions and not the recurring OSC activities. This is because these provisions will determine the extent to which industry manufacturers/operators will be required to develop and obtain redundant approvals under the new OSC process to replace existing approvals already issued by NAAs and safely being utilized by community operators.

As stated in Explanatory Note paragraph 8, currently the approvals of specifications for the operation of a given type of aircraft, such as the minimum syllabus for pilot type rating training, data for cabin crew type training and the MMEL, as well as that of technology linked with a certain type of operation, are the responsibility of the NAA. The OSC approach would in fact reduce the cumulative overall burden upon the industry and authorities by establishing a process by which these elements are approved by EASA for each aircraft type and accepted by NAAs as a common standard for all community operators. Currently, each operator must work independently with each NAA to develop the appropriate standards in order to approve the required operational elements such as a type training programs for pilots.

The OSC and the use of the term "certificate" is an administrative necessity to comply with the BR. However, the term "certificate" does not in and of itself require a whole new process or system to administer and maintain. The OSC is simply a compilation of the various operational standards that are already required to support operational approval of an aircraft. The OSC-DS is merely a reference document which identifies the current version of the EASA approved standard for each operational element. As stated in paragraph 15, it

has always been the Agency's intention to mirror the current JOEB process (as well as those processes used between industry and NAA's to the maximum extent possible) to develop and maintain these operational standards. Therefore, the overall cost or burden associated with the OSC should be limited to the new requirements that do not currently exist such as occurrence reporting and evaluation. Although, due consideration must be given to the shift in cost/burden from one stakeholder group to another such as from operators to (S)TC holders.

comment *935* comment by: *GAMA*

It is not possible to assess the economic impact of the OSC proposal upon each of the affected sectors without having an understanding of the specific technical details for the envisioned certification specifications (CS) and the transition & grandfathering provisions.

comment *936* comment by: *GAMA*

CS Needed to assess impact
EASA "concluded that the costs for the TC holders for developing the elements of the OSC will not change significantly" based on the assumption that a majority of applicants also apply for a JOEB evaluation of the OSC elements. The extent to which the CS for the operational elements would require a change to the type, amount and level of detail currently developed for the operational elements is completely dependent upon the level of detail contained within the CS. Since the CSs will establish a single standard equally applicable across all TC holders where no such standard existed before, it is reasonable to expect that there will be an impact upon some, if not most, of the processes as well as changes to the information typically used by manufacturers and their training provider partners. Therefore, it is not possible to assess the impact of the OSC proposal upon TC holders without having an understanding of the specific technical details for the envisioned CSs.

Transition & grandfathering provisions needed to assess impact
The transition & grandfathering provisions will determine the extent to which industry manufacturers/operators will be required to develop and obtain redundant approvals under the new OSC process to replace existing approvals already issued by NAAs and safely being utilized by community operators. Therefore, it is not possible to assess the impact of the OSC proposal upon TC holders without having an understanding of the transition & grandfathering provisions.

GAMA requests that the RIA be updated and re-issued as part of the NPAs for the CSs to ensure adequate consideration of the impact of the OSC concept and costs for each of the affected sectors.

comment *937* comment by: *GAMA*

5.2.2.1.2 and 5.2.2.2.2: Costs of continued validity of the OSC elements for complex and other than complex aircraft

It is GAMA's understanding from the NPA that the requirements for the TC holder to maintain the "continued validity" of OSC elements are to address

reported occurrences as specified in 21A.73 and to respond to any additional airworthiness specifications for operations (CS-26) or safety directives as specified in 21A3C.

GAMA requests that EASA confirm that these are the only requirements for TC holders to maintain the continued validity of the OSC elements. Proper notification through a NPA process and consideration of the RIA would be necessary if there are any additional actions that the TC holders would be required to perform to maintain the continued validity of the OSC elements.

comment *938* comment by: *GAMA*

5.2.2.2 Holders/applicants for TC of aircraft other than complex motorpowered aircraft

EASA states that "Only in exceptional cases the holder of the TC will be required to develop additional
elements to those that are already determined for the class or group of aircraft by the Agency in the applicable CS. This will be necessary only when the aircraft has special characteristics for which the standard OSC elements included in the applicable CS are not sufficient for safe operation of the aircraft. So in most of the cases there will be only a limited cost and even in the special case that the CS are not sufficient the applicant only needs to address the specificities of the design in addition to what is already covered by the CS and the associated cost will be proportionate to this task."

Therefore, the extent to which Holders/applicants for TC of aircraft other than complex motorpowered aircraft will be impacted by the OSC proposal is completely dependent upon the adequacy and applicability of the generic CS to ensure that, in fact, only in exception cases would the holder be required to develop additional elements. GAMA requests EASA to confirm that the intent in development of the generic CSs is to ensure that they are adequate for the vast majority of all existing "other than complex motorpowered aircraft". This would include all current production aircraft as they are delivered with standard equipment such as advanced glass avionics cockpits.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.3 Community operators p. 43-44

comment *101* comment by: *AEA*

Relevant Text:
5.2.3.1 economic impact on community operators of complex motor-powered aircraft
"...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft,

equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Proposal:
The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports remains a basis for type rating approval.

comment *145* comment by: *Deutsche Lufthansa*

5.2 Economic and Social

related to 5.2.3.1

Relevant Text:
1st para
"...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi. ..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Conclusion:
Such plain assumptions compromise the trustworthiness of this RIA.

comment *213* comment by: *Icelandair*

Relevant Text:
5.2.3.1 economic impact on community operators of complex motor-powered aircraft
"...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Proposal:
The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports

remains a basis for type rating approval.

comment *274* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
5.2.3.1 economic impact on community operators of complex motor-powered aircraft
"...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Proposal:
The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports remains a basis for type rating approval.

comment *476* comment by: *Cargolux Airlines International*

Relevant Text:
5.2.3.1 economic impact on community operators of complex motor-powered aircraft
"...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Proposal:
The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports remains a basis for type rating approval.

comment *600* comment by: *International Air Transport Association (IATA)*

5.2.3.1 economic impact on community operators of complex motor-powered aircraft
"...Even if the (S)OSC holders would transfer the cost of the development to

the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Proposal:
The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports remains a basis for type rating approval.

comment *703* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment First of all there is no need for increasing costs of operators, as said previously, as it is said in Commission opinion regarding Basic Regulation 216/2008 (C2009-3220 final). According to this extract, it means that the OSC concept would be costly which is not at all the initial aim of this proposal. Secondly, as operators do not use same products or have different operational strategies, it seems difficult to be associated on such a concept.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:

(i) EASA (b) option: Mandatory catch up of all existing types
(ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

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We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *833* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
5.2.3.1 economic impact on community operators of complex motor-powered aircraft
"...Even if the (S)OSC holders would transfer the cost of the development to the operators, it is expected that this cost will be shared between all the different operators. Moreover, the operators could reduce their own efforts and associated costs for the development of the basis type training syllabi..."

Comment:
Reduction of costs for operators is a plain assumption without evidence. In many cases, the products concerned (aircraft, equipment, systems ...) are not similar from operator to operator due to decisions beyond operations, so a customizing with use of operator's resources will be necessary.

Proposal:
The entire NPA should be considered. It is proposed that the already delivered approvals for MMEL and type traing remain applicable without changes. The production and the use of the new ops data package approved by the OEB would be applicable for new products and already available JOEB reports remains a basis for type rating approval.

comment *934* □ comment by: *GAMA*

<u>OSC is NOT a completely new "Certificate"</u>
There have been many concerns expressed by various industry representatives that because the OSC is a "new certificate" that it will result in significant burden to manage and administer in addition to having to develop/comply with the many new operational element.

GAMA recommends that EASA address these concerns by clarifying that the OSC is NOT a completely "new certificate" that requires completely new company procedures to manage and maintain and that although there are changes in how operational elements are being implemented, most of them are existing requirements that are already being performed today. The primary economic impact or burden imposed upon (S)TC holders and community operators as a result of this NPA will be due to the transition & grandfathering provisions and not the recurring OSC activities. This is because these provisions will determine the extent to which industry manufacturers/operators will be required to develop and obtain redundant approvals under the new OSC process to replace existing approvals already issued by NAAs and safely being utilized by community operators.

As stated in Explanatory Note paragraph 8, currently the approvals of specifications for the operation of a given type of aircraft, such as the

minimum syllabus for pilot type rating training, data for cabin crew type training and the MMEL, as well as that of technology linked with a certain type of operation, are the responsibility of the NAA. The OSC approach would in fact reduce the cumulative overall burden upon the industry and authorities by establishing a process by which these elements are approved by EASA for each aircraft type and accepted by NAAs as a common standard for all community operators. Currently, each operator must work independently with each NAA to develop the appropriate standards in order to approve the required operational elements such as a type training programs for pilots.

The OSC and the use of the term "certificate" is an administrative necessity to comply with the BR. However, the term "certificate" does not in and of itself require a whole new process or system to administer and maintain. The OSC is simply a compilation of the various operational standards that are already required to support operational approval of an aircraft. The OSC-DS is merely a reference document which identifies the current version of the EASA approved standard for each operational element. As stated in paragraph 15, it has always been the Agency's intention to mirror the current JOEB process (as well as those processes used between industry and NAA's to the maximum extent possible) to develop and maintain these operational standards. Therefore, the overall cost or burden associated with the OSC should be limited to the new requirements that do not currently exist such as occurrence reporting and evaluation. Although, due consideration must be given to the shift in cost/burden from one stakeholder group to another such as from operators to (S)TC holders.

comment *935* comment by: *GAMA*

It is not possible to assess the economic impact of the OSC proposal upon each of the affected sectors without having an understanding of the specific technical details for the envisioned certification specifications (CS) and the transition & grandfathering provisions.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.4 Training organisations, simulator manufacturers and operators and approved maintenance organisations (Community and non-Community) p. 44

comment *237* comment by: *Ryanair*

Can you please give an example of what sort of cost would arise from this provision? What authority will control the process?

comment *349* comment by: *EAMTC*

This phrase seems to imply that organisations may have to pay for the OSC syllabi. This appears to give an advantage to the "operators" if read in conjunction with 3.1.4 Option 4: Operational Suitability Certificate (OSC) above.
Is such a move in the best interest of the training industry?

comment *353* comment by: *EAMTC*

What about the pricing for the OSC SOSC? Is tte OSC / SOSC holder able tp holder set the price as he wants?

The OSC holder syllabus should be sufficiently generic to enable it to be made freely available via the EASA web-site to all training industry providers

comment *354* comment by: *EAMTC*

How is ir proposed to cater for any SOSC holder that becomes insolvent or goes bankrupt?

comment *668* comment by: *EAMTC*

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5.2.4 Training organisations, simulator manufacturers and operators and approved
maintenance organisations (Community and non Community)
These organisations will need to base their training courses on the type rating training
syllabi for the aircraft type. They will have to obtain these data either from the (S)OSC
holders, or from the operators. In case they will have to get this information from the
(S)OSC holders, it is expected that the cost would be proportionate to the product, as
regulated by the applicable market mechanisms. It is also expected that this cost will
be compensated by the reduction on efforts and associated costs of the development of
these syllabi. Additionally, they have the possibility to apply for customized training
syllabi (e.g. if they have advanced training devices) that could eventually reduce the
training costs. The process will be nevertheless controlled by one single authority

This phrase seems to imply that organisations may have to pay for the OSC syllabi. This appears to give an advantage to the "operators" if read in conjunction with 3.1.4 Option 4: Operational Suitability Certificate (OSC) above.

comment *795* comment by: *Gulfstream Aerospace Corp*

Provisions under the proposed program allow an entity to add requirements to the OSC without TC holder or training organization input by applying for and receiving an approved SOSC. Gulfstream offers that this has a potential for control of the training program to become somewhat chaotic and costly. Gulfstream contends that specific OSC elements can only be accomplished by the OSC holder due to proprietary data. OEM's must maintain proprietary data as sensitive information and not be mandated to provide data to SOSC applicants.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.5 Simulators manufacturers and operators p. 44

comment *563* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

explanatory note, IV A §9,
appendix VI RIA §5.2.5

2. PROPOSED TEXT/ COMMENT:

STD (Synthetic Training Device) should be replaced by FSTD (Flight Simulation training Device).

3. JUSTIFICATION:

Consistency with FAA/JAA usage since 1st august 2008.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.2 Economic andSocial - 5.2.6 Competent Authorities (EASA and NAA) p. 44

comment *170* comment by: *UK CAA*

Page No: 44

Paragraph No:
A. Appendix V 5.2.6

Comment:
It is stated that 'There would not be any economical impact on NAA'. It should be recognised however that there is an economical impact on DOA and NAAs in the development and acceptance of processes/procedures associated with SD and OSC and the continued surveillance of adherence to these processes / procedures.

It is not evident that the impact of these activities has been taken into account in the consideration of the Options (3.1)

Justification: Proper determination of cost impact

comment *829* comment by: *Walter Gessky*

o Appendix VI: RIA, 5.2.6

NPA 2009-01 5.1 is an adequate basis to drive radical increase in bureaucracy. No impact for the Agency because the costs are recovered.
According 5.2.6 not any economic impact on NAAs. No cost can be reduced and balanced because the NAA has to verify that all amendments to the OSCs and all SOSCs for design changes incorporated are available and taken into consideration. This would be a tremendous administrative work

to have all (S)OSC in an updated version on file and to verify that based on the configuration the adequate (s)OSC are used.

A. Explanatory Note - Appendix VI Regulatory Impact Assessment - 5. Impacts - 5.5 Other impacts: Harmonisation with non-Community aviation regulations p. 44-46

comment *102* comment by: *AEA*

Relevant Text:
"*With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation).*"

Comment:
Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization.

Proposal:
Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.

comment *103* comment by: *AEA*

Relevant Text:
"*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems*."

Comment:
This underlines that the OSC concept is not in line with the ICAO principles.

Proposal:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *104* comment by: *AEA*

Relevant Text:
"*These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems.*"

Comment:
1. Nobody doubts that the FAA system also has a very good

safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety.

Proposal:
This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered

comment *146* comment by: *Deutsche Lufthansa*

5.5 Other impacts: Harmonisation with non-Community aviation regulations

Relevant Text:
1st para
"With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation)."

Comment:
This is statement like "It may or may not rain, depending on the weather."

Conclusion:
Such statement is useless without assessing the conditions.

Relevant Text:
2nd para, first sentence:
"Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems."

Comment:
So, this is a requirement beyond global standards.

Conclusion:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated.

Relevant Text:
7th para:
"These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR *(ed. note: the FAA special certification review)* provision is more reactive whereas the OSC process is aimed at preventing safety problems."

Comment:

1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines
and preventive crewing with 4 pilots will increase safety.

Conclusion:
This RIA lacks the necessary risk assessment and is therefore flawed.

comment *149* ☐ comment by: *Bombardier Aerospace*

In our comment against the Executive Summary, Bombardier has suggested that option 3 be explored further as a preferred solution to the OSC. As a result, Bombardier will refrain from detailed comments at this stage in the anticipation that more discussion will follow, through the CRD or other mechanisms. Suffice to say that Bombardier is not in agreement with the EASA rationale for rejection of this option, based on the information in the NPA or provided at the March to May 2009 briefings.

Furthermore, the EASA statements in the RIA, Section 5.5 regards harmonization with non-EU regulations does little to minimize the impact of an option 4 solution to non-EU TC holders.

comment *214* comment by: *Icelandair*

Relevant Text:
"*With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation).*"

Comment:
Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization.

Proposal:
Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.

comment *215* comment by: *Icelandair*

Relevant Text:
"*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems.*"

Comment:
This underlines that the OSC concept is not in line with the ICAO principles.

Proposal:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *216* comment by: *Icelandair*

Relevant Text:
"*These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems*."

Comment:
1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety.

Proposal:
This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered

comment *275* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"*With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation).*"

Comment:
Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization.

Proposal:
Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.

comment *276* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems*."

Comment:
This underlines that the OSC concept is not in line with the ICAO principles.

Proposal:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *277* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"*These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems*."

Comment:
1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety.

Proposal:
This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered

comment *308* comment by: *Virgin Atlantic Airways*

Relevant Text:
"Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems."

Comment:
This underlines that the OSC concept is not in line with ICAO principles.

Proposal:
Aviation is global. A level playing field must be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *330* comment by: *ERA*

EASA correctly writes that the proposed OSC concept does not (yet) exists and will not lead to better harmonisation. Proposing such diverging initiatives is quite remarkable for an agency that was basically created for standardisation and harmonised implementation of safety regulations.

This impacts OEMs outside the EC [Embraer, Bombardier. Pratt and Whitney]. Might this not be against certain conditions and the obligations of the EU

under international agreements such as the Bilateral Aviation Safety Agreements?

comment *424* comment by: *IACA International Air Carrier Association*

EASA correctly writes that the proposed OSC concept does not (yet) exists and will not lead to better harmonisation. Proposing such diverging initiatives is quite remarkable for an agency that was basically created for standardisation and harmonised implementation of safety regulations.

BR 216/2008 art.5.5.(e) clearly stipulates that the minimum syllabus of maintenance certifying staff type rating training, the minimum syllabus of pilot type rating and the qualification of associated simulators, the master minimum equipment list and additional airworthiness specifications are part of the (restricted) type-certificates and changes hereto, individual (restricted) certificates of airworthiness. Consequently, of the seven proposed options, only Options 5-6 comply with the Basic Regulation, but do not comply with international harmonisation.

Therefore "Option 5 Mandatory part of the TC" is the correct Option to comply with the BR. Article 5.5.(e) hereof shall be complied through cooperation and harmonisation with foreign aviation authorities through ICAO. EASA fails to have included in the Regulatory Impact Assessment any review with ICAO and non-Community authorities.

Until there is an international consensus on the requirements of article 5.5.(e) of the BR, EASA can only propose "Option 6 Mandatory linked to TC for EU-registered aircraft". Although this will still complicate the import/export and lease-in/-out from the EU Community of aircraft, the burden is much smaller than with the proposed OSC.

EASA should review the above and reconsider its recommended option.

comment *477* comment by: *Cargolux Airlines International*

Relevant Text:
"*With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation).*"

Comment:
Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization.

Proposal:
Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.

comment *478* comment by: *Cargolux Airlines International*

Relevant Text:
"*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems.*"

Comment:
This underlines that the OSC concept is not in line with the ICAO principles.

Proposal:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *479* comment by: *Cargolux Airlines International*

Relevant Text:
"*These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems.*"

Comment:
1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety.

Proposal:
This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered

comment *574* comment by: *British Airways Flight Operations*

Relevant Text: '*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems.*'

Comment: This comment from the Agency underlines the fact that the OSC concept does not derive from ICAO sources. Whilst that fact woudl be acceptable for the simple transfer of the JOEB process into the EASA system, the extra material is not justified and should be reconsidered

Proposal: Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *601* comment by: *International Air Transport Association (IATA)*

"*With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint*

evaluation)."

Comment:
Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization.

Proposal:
Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.

comment *602* comment by: *International Air Transport Association (IATA)*

"*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems*."

Comment:
This underlines that the OSC concept is not in line with the ICAO principles.

Proposal:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *603* comment by: *International Air Transport Association (IATA)*

"*These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems*."

Comment:
1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety.

Proposal:
This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered

comment *704* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment The regulation shall be cross-checked to avoid conflicts with obligations of the EU international agreements, especially bilateral agreements and WTO agreements.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

`

We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *705* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Relevant text "*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems.*"

Comment Thus, OSC does not lie on ICAO principles since it has no equivalent…

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB

shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.

4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

`

We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *737* comment by: *Aviation Working Group*

Aviation Working Group Comment

EASA acknowledges that the proposed OSC concept may not exist within other aviation authorities and may not lead to better international harmonization. Instead, it invites other aviation authorities to adopt similar measures and processes. In our view, proposing diverging initiatives is contrary to the objectives for which EASA was created - standardization and harmonized implementation of safety regulations. AWG supports EU harmonization, and is hopeful that a unified Europe will facilitate global standards and practices. In the leasing industry, the absence of, or deviations from, international standards and practices result in additional downtime, burden and cost. These potential impacts are not addressed in this NPA.

comment *773* comment by: *Boeing*

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Appendix IV
5. Impacts
Sub-Paragraph 5.5 Other impacts: Harmonisation with non-Community aviation regulations

BOEING COMMENT: In this paragraph, EASA provides 2 examples of FAA actions that require additional training for specific aircraft.

Although it is understood that EASA needs provisions that will allow it to

address these kinds of potential unsafe conditions, no clarification is given as to how the issuance of an OSC could have precluded the related incident/accident.

For EASA to issue SDs that address operational-related issues, it is not necessary to have the mechanism of OSC available. The SD can already be issued to the existing TCs, or as an SD to the applicable operators [as is proposed in paragraph 21.A.3(C)(f)].

JUSTIFICATION: More clarification of this issue is necessary for understanding.

comment *834* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*With regards to regulators outside the Community that have similar OEB evaluations (FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation).*"

Comment:
Transport Canada has already publicly accused this EASA rulemaking as being against the EU-Canada Bilateral Aviation Safety Agreement and agreements under the World Trade Organization.

Proposal:
Such statement is useless without assessing the conditions. The proposed regulation should be cross-checked against conflicting with the obligations of the EU under international agreements.

comment *835* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*Comparison can not be performed for those elements of the OSC which do not have equivalent in other regulatory systems*."

Comment:
This underlines that the OSC concept is not in line with the ICAO principles

Proposal:
Aviation is global, a level playing field should be ensured, especially when no safety dividend can be estimated. The entire NPA should be reconsidered.

comment *838* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*These examples show that also other authorities have found ways to deal with operational suitability issues, closely linked to the TC process. However, the SCR (ed. note: the FAA special certification review) provision is more reactive whereas the OSC process is aimed at preventing safety problems*."

Comment:

1. Nobody doubts that the FAA system also has a very good safety record, i.e. a high level of safety. So the SCR concept can be assumed to adequately address the associated risks.
2. It is a pure assumption that prevention is always "better" than reaction. Before saying that, a risk assessment must show that the prevention in this special case will indeed increase safety. If the risk is very remote, a safety management process must be triggerd to evaluate risk vs. costs of countermeasures. To introduce preventive measures as a standard could mean that preventive installation of 6 engines and preventive crewing with 4 pilots will increase safety.

Proposal:
This RIA lacks the necessary risk assessment and is therefore flawed. The entire NPA should be reconsidered

comment *939* ☐ comment by: *GAMA*

There have been concerns expressed by both industry and foreign civil aviation authorities that because this "new certificate" is unique to EASA and is not addressed in existing cooperation agreements, there may be significant issues with the ability to continue efficient international cooperation for product validation and related initial and continuing airworthiness activities. GAMA shares these concerns, but through discussion on the 21.039 drafting group and review of the NPA believes they are addressed and requests that EASA confirm GAMA's understanding as discussed below.

<u>EASA intends to mirror the current JOEB process</u>
With respect to the various options proposed to transpose the JOEB process into Community Regulations; GAMA does not believe that the level of impact upon non-community manufacturers and international cooperation between EASA and bilateral partners (FAA/TCCA) would be any different between the preferred option 4 OSC and any other option such as listing the operational elements directly on the TCDS.

As stated in the RIA with regards to regulators outside the Community that have similar OEB evaluations
(FAA and TCCA), it is expected that the OSC may or may not lead to a harmonized situation depending of the process used (Joint/ no-joint evaluation). For a majority of the operational elements that are currently developed under an OEB process (joint/not-joint evaluation), GAMA understands that implementation of the EASA OSC concept will not require any changes to the current OEB process and will have very little impact upon non-community manufacturers and their respective Authorities in terms of developing the acceptable standards. Since the OSC procedures have not yet been developed, GAMA requests that EASA confirm that very little change to existing OEB processes will be necessary to implement the OSC concept.

However, since "approval" of these elements under the OSC concept does not exist in any other aviation regulatory system, carrying out this activity will be the determining factor in the overall level of impact OSC will have upon non-community manufacturers and their respective Authorities. In order to maintain the level of international cooperation and effectiveness between aviation safety authorities and to minimize the impact upon industry, it is extremely important that bilateral arrangements be amended to address possible acceptance of foreign authority certificates or findings such as a

technical assistance that the foreign authority's system can accomplish to determine compliance with OSC requirements.

It is GAMA's understanding that the primary impact upon non-community manufacturers and international cooperation between EASA and bilateral partners (FAA/TCCA) would be the "approval" of these operational elements regardless of which administrative mechanism is selected to document these approvals and make them available to those that are required to comply with them (i.e. OSC versus listing them directly on the TCDS). However, if this understanding is not correct then GAMA would respectfully request reconsideration of the options to ensure that the appropriate choice is made with respect to the impact upon non-community manufacturers and international cooperation with foreign aviation authorities.

OSC is NOT a completely new "Certificate"
GAMA recommends that EASA clarify that the OSC is not a completely "new certificate" that would necessitate a new process to manage and maintain. In fact, GAMA believes that the basic regulation (BR) and proposed regulations clearly define the OSC as fundamentally equivalent to an STC and if treated as such, should minimize the impact of not being harmonized with non-community aviation regulations and international cooperation in accordance with existing Agreements with FAA and TCCA.

BR Article 5, Airworthiness establishes the fundamental requirement for type-certification and approval of all aviation products, parts and appliances when they are shown to conform with the essential requirements for airworthiness. Section 5(5)(e) further stipulates that additional specifications for the operation of a given aircraft (i.e. minimum syllabus for pilot/maint cert staff, qualification of simulators, MMEL, etc) as "conditions for issuing, maintaining, amending, suspending, or revoking type-certificates, restricted type-certificates, approval of changes to type-certificates…" Furthermore, the proposed amendment to regulation EC 1702/2003, Article 1 definitions states that "'Operational Suitability Certificate (OSC)' is considered a change associated to a type certificate…"

An OSC and STC are both defined as a change to the type-certificate with procedures established in part 21 making them fundamentally equivalent. Therefore, GAMA believes that existing agreements that allow for the development of implementing procedures for cooperation in the areas of airworthiness (i.e. TC, STC) should be equally applicable to OSC activities providing the basis for development of implementing procedures as deemed appropriate by the respective authorities. GAMA requests that EASA provide a response from its perspective as to whether the Agency and its bilateral partners would agree with this view.

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comment *105* comment by: *AEA*

Relevant Text:
"*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil*

aviation safety in Europe."

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA.

3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application through standardisation, a power that was missing in the JAA system.

Proposal:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

comment *147* comment by: *Deutsche Lufthansa*

6. Summary and Final Assessment

related to 6.3

Relevant Text:
"The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe."

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central

control as proposed by EASA.

3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application thorugh standardisation, a power that was missing in the JAA system.

Conclusion:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

comment *149* ☐ comment by: *Bombardier Aerospace*

In our comment against the Executive Summary, Bombardier has suggested that option 3 be explored further as a preferred solution to the OSC. As a result, Bombardier will refrain from detailed comments at this stage in the anticipation that more discussion will follow, through the CRD or other mechanisms. Suffice to say that Bombardier is not in agreement with the EASA rationale for rejection of this option, based on the information in the NPA or provided at the March to May 2009 briefings.

Furthermore, the EASA statements in the RIA, Section 5.5 regards harmonization with non-EU regulations does little to minimize the impact of an option 4 solution to non-EU TC holders.

comment *217* comment by: *Icelandair*

Relevant Text:
"*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe.*"

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA.

3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same

level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application through standardisation, a power that was missing in the JAA system.

Proposal:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

comment *278* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe.*"

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA.

3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application through standardisation, a power that was missing in the JAA system.

Proposal:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

comment *331* comment by: *ERA*

Paragraph 6.1
This is not as it is described in the NPA. The NPA first describes all the Options without weighing these options. The Agency then stipulates their preferred option (page 37), the OSC. Then, the Agency looks at sectors impacted, again indicating cost and benefits, but never really comparing the options by weighted numbers, it is all qualitative and therefore subjective.

comment *426* comment by: *IACA International Air Carrier Association*

Except the high level of standardisation, the proposed OSC does not improve safety. The limited resources of the Agency and its stakeholders may be spent better on subjects with a better return in aviation safety than the proposed and controversial OSC. Any financial examples of added cost may help.

comment *481* comment by: *Cargolux Airlines International*

Relevant Text:
"*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe.*"

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA.

3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application through standardisation, a power that was missing in the JAA system.

Proposal:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

comment *575* comment by: *British Airways Flight Operations*

Relevant Text: '*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to*

establish and maintain a high uniform level of civil aviation safety in Europe.'

Comment: This is a bold statement, since only the preferred option has been evaluated, and that not to the required extent (in the commenter's opinion). Without a siginificant amount of re-evaluation, the RIA cannot be used to support this assertion - please see other comments.

Proposal: Reassess the whole NPA.

comment *604* comment by: *International Air Transport Association (IATA)*

"*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe.*"

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA.

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Proposal:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

comment *706* comment by: *FNAM (Fédération Nationale de l'Aviation Marchande)*

Comment The only impact that was tried to be assessed in the RIA is the "preferred option", so of course it is easy to say that this is the "best compromised option". There must be more objectivity and a new sound RIA shall be performed taking into account the following (and not previously assessed option): (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircraft (ie. Post OSC enforcement)

Specific catch-up options might be considered for specific areas of air transport, where airlines operational support structures are less developed than in large aircraft commercial air transport.

Proposal

1. We believe in the safety necessity for transferring JOEB competencies to EASA.
2. We consider formalizing the JOEB processes within the EASA framework has to be done, for the existing processes and limited to these existing processes.
3. The NPA 2009-01 practical and administrative proposed procedures seems not to be realistic according to the aviation sector nowadays. Nevertheless, the underlying concepts and safety concerns of OSC/JOEB shall be maintained in a system where harmonization is guaranteed by law and flexibility is controlled.
4. This approach is the approach claimed by EASA to justify the concept of AMCs (cf. Eric Sivel's presentation – made in Koln, dated 23JUN09). To that extend, we request EASA to assess the feasibility to simply revisit its OSC proposal, with a similar content, but with the promoted simplicity and flexibility of alternative AMCs, in particular substituting to S-OSC. This alternative surely meets EASA's objective for improved standardization without burdening industry with rigid and administrative requirements that have no safety justification. Meanwhile, S-OSCs are not affordable to airline industry.
5. Regarding the catch-up process, our understanding of article 5.5 of the Basic regulation 216/2008 is that the content of the proposed OSC can not be disclosed from the TC. In consequence, only 2 options are possible for transition measures:
   (i) EASA (b) option: Mandatory catch up of all existing types
   (ii) No catch-up at all: OSC disposals mandatory only for newly certified aircrafts (ie: post Part OSC enforcement)

`

We strongly reject EASA preferred option: 'Mandatory catch up of all existing types'
We promote the "No catch-up at all" approach.

comment *738* comment by: *Aviation Working Group*

Aviation Working Group Comments

Industry stakeholders were not adequately consulted on the introduction of the OSC elements into the Basic Regulation (EC 216/2008), Article 5.5 (e), Airworthiness. AWG believes that this introduction into the BR will have significant cost impact on the leasing industry, without any definable positive safety benefit. It is understood that the prime objective of the proposed OSC is to provide uniformity (A. Explanatory note IV A.13); yet, this uniformity does not necessarily translate into an increase in safety. EASA and the EC should therefore reconsider this introduction into the BR and should urgently seek harmonization with practices and standards of (i) ICAO, and (ii) the other

major aviation authorities.

comment *839* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*The preferred option represents the best compromised option to implement the BR and to ensure the main objective of the Agency: to establish and maintain a high uniform level of civil aviation safety in Europe.*"

Comment:
1. As only the impact of the preferred option has been assessed (and even that not properly) it is bold to say that this option is the "best compromised option".

2. Basic Regulation article 2 "Objectives" requires to establish "a high uniform level of civil aviation safety". EASA's understanding seems to be that a uniform level of safety can only be achieved by a uniform set of rules and a uniform process of approval, down to very detailed and prescriptive material. Our understanding of "authority oversight" is different from such a close central control as proposed by EASA.

3. A level of safety can be measured in occurrences per flights or miles flown or flight hours or whatsoever, but different rule sets may achieve the same level of safety. The legislator's "uniform", in addition to "high", means that the high level of safety shall be uniform throughout the European countries. It is commonly acknowledged by safety experts that this is not yet the case, but that

is considered to be mainly caused by the different stage of economic development of the member states. Therefore, it is more important to enforce the application of the existing rules, which in most EU countries have led to the envisaged high level of safety. The rule set is good, and now EASA has the competence to enforce the application through standardisation, a power that was missing in the JAA system.

Proposal:
A high uniform level of safety does not require a prescriptive uniform set of rules.
A high uniform level of safety does require proper execution of standardisation tasks.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion p. 49

comment *332* comment by: *ERA*

Article 4b Operational Suitability Certificates - Para 1
The way this paragraph can be read is that there are no retrofit requirements. Is this true? Maybe some clarification is required to eliminate any misconceptions.

Article 4b Operational Suitability Certificates - Para 1b
We need to understand exactly what Grandfathering provision involves, how it

will be determined by the EC and what the parameters will be.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 p. 49

comment *841* comment by: *Walter Gessky*

- **Article 1:**

Correct type error and delete the following:

(iv) This Regulation lays down, in accordance with Article 5~~(4)~~(5) and 6(3) of the Basic Regulation, common technical requirements and administrative procedures for the airworthiness and environmental certification of products, parts and appliances specifying:

(a)The issue of type certificates, restricted type certificates, supplemental type certificates, ~~operational suitability certificates, supplemental operational suitability certificates~~ and changes to those certificates;

Justification:

The reference to Art 5(4) seems to be wrong because this Article is dealing with the issuance of permit to fly and restricted certificate of airworthiness. Correct would be Art. 5(5).

The reference to OSC and SOSC has to be deleted, because the approval of the minimum syllabus of type ratings and MMEL is part of the type certification and according to Art. 20 of the basic regulation EASA can only issue a type certificate or noise certificate.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 1 Scope and definitions p. 49

comment *10* comment by: *Francis Fagegaltier Services*

Article 1 of Regulation 1702/2003, paragraph 1 (a)
A new concept is introduced : "supplemental operational suitability certificates". This order of words is questionable. Indeed, when dealing with safety of aircraft, is "SOS certificate" a really appropriate wording ? May we suggest changing to "operational suitability supplemental certificate" ?

comment *171* comment by: *UK CAA*

Page No: 49

Paragraph No: B.I.A.1 and B.I.A.1.(a)

Comment: Although not changed by this proposal, it is thought that the reference in the first line should be to Article 5(5) (amended from Article 5(4) in Regulation 216/2008). Additionally, Article 5(5) of the Basic Regulation currently makes no mention of OSC, or SOSC or Safety Directives.

Justification: Accuracy

comment *172* comment by: *UK CAA*

Page No: 49

Paragraph No: B I A 2 (e)

Comment: The proposed amendment to Article 1 of 1702/2003 defines an operational suitability certificate as one containing the approval of information necessary for the safe operation of the aircraft type as defined in paragraph 5(e)(iv), (v) and (vi) of Article 5 of the Basic Regulation. These cover the minimum syllabus of maintenance certifying staff, type rating training, the minimum syllabus of pilot type rating and qualification of associated simulators and the Master Minimum Equipment List. These provisions are then replicated in new draft 21A.62 describing the scope of the operational suitability certificate. But there is then added in 21A.62 a fourth element, the determination of type or variant for cabin crew and type specific data for cabin crew training. UK CAA considers that the legal basis for this needs to be referenced.

Justification: Clarification

comment *173* comment by: *UK CAA*

Page No: 49, 50

Paragraph No: Article 4b

Comment: The applicability of the proposal is not clearly defined. The draft Article 4b refers to aircraft "operated by a Community Operator" but there is no explicit definition of a Community Operator in the Implementing Rules or the Basic Regulation, although the latter does define an "operator". The introduction of a new term "Community Operator" is potentially confusing and if it is to be retained should be defined.

Moreover, the CAA is concerned that as a result of a possible lack of understanding of the terminology, designers, manufacturers and users of non-complex motor powered aircraft, balloons and gliders and so on may have very little appreciation of the potential impact of these proposals on their activities. The Agency should consider responses from this sector carefully to assure itself that they sufficiently represent the full range of affected stakeholders.

Justification: The EASA Basic Regulation defines "operator" as any legal or natural person, operating or proposing to operate one or more aircraft. As commercial operation is defined separately, it is deduced that the term "operator" may include private owners of aircraft (including gliders, balloons etc) who are flying aircraft for recreational purposes. If this is so then the OSC rules will apply to all aircraft Type Certificated after the specified dates, even if they are used solely for private, recreational purposes.

The UK CAA is concerned that many private "operators" and their representative associations may have assumed the OSCs apply to commercial operations only and so will not have reviewed this NPA.

comment *545* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:
CE 1702/2003, article 1
Part 21, Subpart C

2. PROPOSED TEXT/ COMMENT:
Modify (CE) 1702/2003 article 1 as proposed:

1. This Regulation lays down, in accordance with Article 5(4) and 6(3) of the basic Regulation, common technical requirements and administrative procedures for the airworthiness and environmental certification of products, parts and appliances specifying:

(a) the issue of type-certificates, restricted type-certificates, supplemental type-certificates and changes to those certificates;
(b) the issue of certificates of airworthiness, restricted certificates of airworthiness, permits to fly and authorised release certificates;
…
(i) the issue of airworthiness directives.
(j) the issue of operational suitability data approval

2. For the purpose of this regulation, the following definitions shall apply:
…
(e) 'Operational Suitability Data (OSD)' is one set of complete information necessary for the safe operation of the aircraft type as defined in paragraph 5(e)(iv), 5(e)(v) and 5(e)(vi) of Article 5 of the Basic Regulation.

3. JUSTIFICATION:

DGAC France agrees that the furniture of data by the TC holder addressing the Basic Regulation article 5.5 (c) bullets iv to vi will have a beneficial impact on operations safety by providing useful information to all operators and harmonizing it.
But DGAC does not support the introduction of a certificate to contain all those data. A certificate is not required at the BR level, nor is necessary for an ICAO requirement compliance purpose.
DGAC France does not support the proposed definition of OSC where it is said it is "considered a change associated to a type certificate".

DGAC France believes the same compliance to the BR article 5 can be achieved by the TCH (or STCH when relevant) providing with all necessary data, but outside of a formal certificate. That alternate way to the OSC could be to call all those data as "Operational Suitability Data". The Part 21, subpart C shall be simplified to address that OSD and remove the difficulty associated to a certificate.

In addition, the OSD shall be requested by the Part 21, similar to article 21.A.61 requiring the TC Holder to provide with Instructions for Continued Airworthiness. A new Subpart C, § 21.A.65 shall require the TC Holder to provide Operational Suitability Data according to BR. Then all CS shall be amended to create a new CS xx.1531 similar to CSxx.1529 to require the OSD and details shall be in an appendix of those CS.
The OSD is not necessary to issue a TC, but shall be available before entry into service or prior being necessary for a specific operation. A mechanism like MRB with participation of all parties shall be in charge to elaborate those OSD. Operators, training organization could participate in those OSD definition and would be more willing to adhere to those requirements.

One side effect with this alternative is that it becomes easy to add later on the MRB in this process.

The OSD information and the compliance shall be documented in the Type Certificate data sheet.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - e) 'Operational Suitability Certificate (OSC)' p. 49

comment *9* comment by: *Francis Fagegaltier Services*

Article 1 of Regulation 1702/2003, paragraph 2 (e)
The word "change" in the sentence "… OSC is considered a change associated to a type certificate …" is likely to be inappropriate. We suppose that the intent is not to make OSC a change to type design to be approved under sub-part D of Part 21. Should the word "change" be replaced by the word "document" ? In any case, a "certificate" cannot be called a "change" (see also definition of "certificate" in Basic Regulation).

comment *427* comment by: *IACA International Air Carrier Association*

What kind of detailed information is necessary on the Operational Suitability Certificate? 21A.71 refers to "elements", but, there is no definition for "elements" given.
See also comments to p.9 footnote 10: **Elements**

comment *428* comment by: *IACA International Air Carrier Association*

The detailed information is not explained in AMC or GM. The Agency announced in NPA 2009-01 (page 21 / number 86), that "Part 21 Subpart C does not contain the technical standards for approval of the elements of the OSC. These will be contained in the relevant CSs, which are currently being developed". Therefore, it's difficult to evaluate the additional benefits of the OSC in comparison to the existing system.

comment *449* comment by: *Dassault Aviation*

Concern :

There is confusion introduced by the term OSC as a certificate and by the actual definition of the OSC as a change to the Type certificate.

Suggestion :

Dassault Aviation suggest that OSC stands for **Operational Suitability Change**

comment *450* comment by: *Dassault Aviation*

Concern:

The OSC is considered as a change to the TC. During EASA OSC workshop, it

has been further defined as a "Special Category Change".
As, currently in Airworthiness aspect, only changes affecting the definition of the Type Design is known, it is very difficult to handle the OSC concept in its globality.

Suggestion :

Define clearly the definition of this "new type" of Change".

comment *451* comment by: *Dassault Aviation*

Concern:

Dassault Aviation may see an inconsistency with the possibility given to use OSC elements when available -Refer to GM 21A.69(d)- and the change definition of the OSC. It is to be noted that some OSC elements may be used even before Type Certification of the Type aircraft to ease the Entry into Service of the aircraft (Pilot minimum syllabus for first customers' pilot training course, MMEL for MEL setup, …).

Suggestion:

Define clearly the properties attached to this "new type of Change", and especially on the possible use of all existing OSC elements before the Type Certificate and therefore the associated OSC change are granted.

comment *542* comment by: *EUROCOPTER*

Wording modification proposal: to add S-OSC in the definition, as follows:

(e) 'Operational Suitability Certificate (OSC)' **('Supplemental Operational Suitability Certificate (S-OSC))** is considered a change associated to a type certificate **(supplemental type certificate)** ...

comment *545* □ comment by: *DGAC France*

1. AFFECTED PARAGRAPH:
CE 1702/2003, article 1
Part 21, Subpart C

2. PROPOSED TEXT/ COMMENT:
Modify (CE) 1702/2003 article 1 as proposed:

1. This Regulation lays down, in accordance with Article 5(4) and 6(3) of the basic Regulation, common technical requirements and administrative procedures for the airworthiness and environmental certification of products, parts and appliances specifying:

(a) the issue of type-certificates, restricted type-certificates, supplemental type-certificates and changes to those certificates;
(b) the issue of certificates of airworthiness, restricted certificates of airworthiness, permits to fly and authorised release certificates;

…
(i) the issue of airworthiness directives.
(j) the issue of operational suitability data approval

2. For the purpose of this regulation, the following definitions shall apply:
…
(e) 'Operational Suitability Data (OSD)' is one set of complete information necessary for the safe operation of the aircraft type as defined in paragraph 5(e)(iv), 5(e)(v) and 5(e)(vi) of Article 5 of the Basic Regulation.

3. JUSTIFICATION:

DGAC France agrees that the furniture of data by the TC holder addressing the Basic Regulation article 5.5 (c) bullets iv to vi will have a beneficial impact on operations safety by providing useful information to all operators and harmonizing it.
But DGAC does not support the introduction of a certificate to contain all those data. A certificate is not required at the BR level, nor is necessary for an ICAO requirement compliance purpose.
DGAC France does not support the proposed definition of OSC where it is said it is "considered a change associated to a type certificate".

DGAC France believes the same compliance to the BR article 5 can be achieved by the TCH (or STCH when relevant) providing with all necessary data, but outside of a formal certificate. That alternate way to the OSC could be to call all those data as "Operational Suitability Data". The Part 21, subpart C shall be simplified to address that OSD and remove the difficulty associated to a certificate.

In addition, the OSD shall be requested by the Part 21, similar to article 21.A.61 requiring the TC Holder to provide with Instructions for Continued Airworthiness. A new Subpart C, § 21.A.65 shall require the TC Holder to provide Operational Suitability Data according to BR. Then all CS shall be amended to create a new CS xx.1531 similar to CSxx.1529 to require the OSD and details shall be in an appendix of those CS.
The OSD is not necessary to issue a TC, but shall be available before entry into service or prior being necessary for a specific operation. A mechanism like MRB with participation of all parties shall be in charge to elaborate those OSD. Operators, training organization could participate in those OSD definition and would be more willing to adhere to those requirements.
One side effect with this alternative is that it becomes easy to add later on the MRB in this process.

The OSD information and the compliance shall be documented in the Type Certificate data sheet.

comment *847* comment by: *Walter Gessky*

- **Article 1, 2(e):**
  Change definition of

  (e) "Operational Suitability Certificate " to "Operational Suitability

  Document"

Justification:

OSC is not supported, the documents shall be approved individually.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - (f) 'Safety Directive' p. 49

comment *8* comment by: *Francis Fagegaltier Services*

Article 1 of Regulation 1702/2003, paragraph 2 (f)
The definition of "safety directive" is exactly the definition of an airworthiness directive (AD). Indeed, an AD imposes new airworthiness limitations to already certificated products. Such airworthiness limitations are part of the type design (21A.31) which itself is part of the type certificate (21A.41). Therefore, an AD "is a decision issued by the Agency to ensure safe operation of already certificated products. It constitutes a mandatory amendment to the type certificate with which individual products shall conform".
Should we understand that the Agency shall no longer issue ADs, which would be replaced by the safety directives ?

comment *14* comment by: *LHT DO*

The AD notes do care about technical issues. It was a long discussion with the NAAs to distinguish between AD´s and Safety Directives and to indicate responsibilities in the steering and supervision of SD´s.

Please make clear whether EASA or NAA is responsible to care about SD information / advise against the operators.

a) How are the operational issues reported to the design organisations?

b) How are the SD´s controlled and its implementation supervised by NAA and EASA?

comment *429* comment by: *IACA International Air Carrier Association*

IACA understands that operators are required to report occurrences to their Competent Authority, who is required to report to the Agency, who will report to the (S)TC/(S)OSC-holder, who will analyse and make recommendations to the Agency, who may mandate such specific recommendations by issuing Safety Directives.
Is this understanding correct ?

comment *452* comment by: *Dassault Aviation*

Concern:

The notion of Safety Directives applied to Operational Suitability is quite clear. When applied to Type Design aspect, it interferes with the current Airworthiness Directives.

Suggestion:

Dassault Aviation reiterates its request that the notion of Safety Directives, when not applied to operational suitability, be held in a dedicated Rulemaking activity.

comment *456* comment by: *Dassault Aviation*

Concern:

It is quite unclear how operational suitability Safety Directives directed to operators/STC holders owning an S-OSC will be addressed, knowing that EASA can only regulate to a given product.

Suggestion:

Dassault Aviation support the independence between OSC Safety Directives related to its products and those related to operators/STC holders.

comment *543* comment by: *EUROCOPTER*

Wording modification proposal:

(f) ...It constitutes a mandatory amendment **to the operational suitability certificate or supplementary operational certificate, and possibly to the type certificate, supplemental type certificate,** with which individual products or operations shall conform.

Reason: according to GM 21A.3C, in the case of restoring safety of OSC, the SD has no impact on the type certificate.

comment *562* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

CE 1702/2003, article 1 (f)

2. PROPOSED TEXT/ COMMENT:

Modify the proposed definition of Safety directive as follows:

(f) 'Safety Directive' is a decision issued by the Agency to ensure safe operation of already certificated products. It constitutes a mandatory amendment to the ~~type certificate, supplemental type certificate,~~ operational suitability data ~~certificate or supplemental operational suitability certificate~~ with which individual ~~products or~~ operations shall conform.

3. JUSTIFICATION:

a) Airworthiness Directives is a tool to mandate changes to TC or STC. It is not

necessary to have also a second tool being safety directives.
b) OSC and SOSC are replaced by "OSD" according to DGAC general comment.

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *848* comment by: *Walter Gessky*

- o **Article 1, 2(f):**

Delete definition of

(f) "Safety Directive"

Justification:

Safety Directives for OPS related tasks shall be regulated under Art 22/1 in the OPS requirements and not under Part 21.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates p. 49

comment *340* ☐ comment by: *Airbus*

Relevant text: Page 16 § Grandfathering and transition measures

Comment 1:

EASA has clearly indicated the will to grandfather existing operations, training programs and MELs. This is in fact at operator / training organisation levels.

However, with regard to OSC, the only data that could be "automatically" grandfathered are the JOEB reports as elements of the OSC. Airbus agreed with the intend but would like to stress that it cannot be considered as "automatic" grandfathering due to the new format imposed in the OSC. The only document that, at least for Airbus, will not be affected, is the MMEL. However it is to be noted that ownership of JOEB reports belongs to JAA/EASA, while in the context of OSC only the data sheet that will contain the reference of ALL documents is owned by EASA. Consequently work will be required to transfer JOEB report content into the new format.

Comment 2:

Airbus considers that the grandfathering aspects and the transitions measures are key elements for the success of implementation of the new OSC concept, and its acceptance by all stakeholders. Not impacting the current operations is a pre-requisite understood and taken on board. However, imposing an OSC scope far beyond what was initially covered with the JOEB process would create major difficulties to many stakeholders, who have never undergone a JOEB process.

The notion of an OSC for which no JOEB report exists and in which only the CS are referred to does not make sense, and it is not easy to comment as the CS are still unknown.

In addition, as the minimum syllabus for maintenance certifying staff was NOT in the initial scope of the JOEB there should not be any catch-up required. This should only be required for amended/new TC.

Proposals:

- Airbus recommends that OSC applicability be limited to aircraft certificated after date TBD, (any new or derivative aircraft). Consequently there would be no need for grandfathering provisions.
- If this approach cannot be followed, then Airbus recommends to opt for an approach consistent with the transition approach used for airworthiness, meaning that existing NAA approved elements are deemed to be EASA approved, and then nothing should be required for a "new EU operator" using an aircraft already in service within EU.
- The less preferred but still potentially acceptable solution for Airbus is to consider a voluntary catch-up process only for elements that were part of former JOEB process (excluding the minimum syllabus for maintenance certifying staff type rating). It should be left to the TC Holder appreciation, what would be the aircraft for which the TC Holder would elect a catch-up process

comment *660* comment by: *CAA-NL*

Add information in the proposed rules to clarify when (for which type of operation) the elements of the OSC should be used.

justification:It is unclear from the NPA for what kind of operation, or for which operators, it is obligatory to use the elements of the OSC. For instance, the current proposals in the NPA could be interpreted as making it obligatory for a private pilot flying a single engine piston land aircraft for recreational purposes to be trained in accordance with the minimum training syllabus for the type of aircraft - while this pilot is licensed to fly the entire class of single engine piston land aircraft, without type rating.

comment *774* comment by: *Boeing*

Page 49
Article 4b -- Operational Suitability Certificates

BOEING COMMENT: Paragraph b. states:

"b. [Grandfathering provision: To be determined by EC]"

Boeing recommends that the need for an OSC be limited to new aircraft receiving a type certificate after publication of this rule/change or, at minimum, the OSC pertaining to the airplane reference data to support training device qualification.

JUSTIFICATION: Aircraft already in service have most likely had a training device qualified, which would imply that the reference data -- the data used to validate/qualify the training device -- were acceptable.

comment 840 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
The concept of Supplemental O-SCs linked to S-TC should be reconsidered. It will not work in the practical airline and MRO world and will LEAD to huge operational and organizational disruptions and a huge administrative burden. It does not reflect the fact that MROs are not responsible for flight operations issues and will never be able to build up the desired level of expertise on pilot type training issues, which are the responsibility of the operator or flight training organization. A change to current responsibilities could even lead to decreased safety levels due to the added complexity. In addition, MEL items related to an STCs are already subject to approval by the NAA, and therefore there is no need for an MMEL linked to STCs. This goes way beyond what was intended by the EU legislator.

This NPA will introduce an added complexity of the processes which will increase costs (i.a. require MRO DOAs to hire flight ops experts) with no safety justification in comparison with the today's JOEB system. The aim of the EU legislator was not to create the administrative monster proposed by EASA.

Proposal:
Reconsider the need for an S-OSC linked to S-TCs

comment 853 comment by: *Walter Gessky*

- **Article 4b:**
- Article 4b as it stand shall be deleted, because OSC system not supported
  Grandfathering shall be added for all existing MMELs and training syllabi's approved under JAA system In addition all MELs and trainings syllabi`s approved by NAAs shall be grandfathered and adequate time shall be given to the operators to modify the MELs and trainings programms approved by NAAs. It should be noted that in Austria, when this documents are approved, for the withdraw of a existing approvals national laws has to be applied. When no safety impact exist and can be shown, withdrawal of existing approvals is a very complicated task.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 1. Complex motor-powered aircraft p. 49-50

comment 7 comment by: *Francis Fagegaltier Services*

Article 4b of Regulation 1702/2003, paragraph 1 (c)

This text addresses major design changes "approved in accordance with Subpart D of Part 21 or resulting from 21A.3B or 21A.3C". This is confusing : all major design changes must be approved in accordance with Subpart D, whatever the reason for introducing such a change. There is no exemption. The words "or resulting from 21A.3B or 21A.3C" should be deleted (see proposed § 1 (d) on STC in this NPA).

comment *16* comment by: *LHT DO*

4b 1d.
A Grandfather rule for STC Holder is required, especially for existing STC´s.

A requirement for an SOSC for already approved changes would result in an unacceptable burden on the operator and/or STC Holder without improving safety. (STC is already in operation and maintained).

If the OSCis not affected by an STC, no application should be required.

comment *27* comment by: *LHT DO*

We do understand article 4b that if we do not have to apply for an SOSC if the OSC is not affected by the STC. Please confirm.

If a specific type of operation is not more applicable after an STC implementation and this specific type of operation is covered by the OSC, is the SOSC not required?

Has an SOSC to be applied for an European Operator, if a new type of operation is included which requires additional training minima's?

comment *48* comment by: *Diamond Aircraft Ind. GmbH*

"1.a. For complex motor-powered aircraft for which the... "

should be

"1.a. For complex motor-powered aircraft **above 5700kg MTOM** for which the... "

"2. Aircraft other than complex motor-powered aircraft"

should be

"2. **OSC is not applicable to** aircraft other than complex motor-powered aircraft **above 5700kg MTOM**"

Substantiation:

We see no increase in safety that the workload from the operator, FTO/TRTO and 147 organisations is transfered to the TC-Holder for the creation of the training syllabi and MMEL.

Those organisations are experts in their field and can make profit from their knowledge and experience, while the DOA has to invest in competent staff for those fields and spend money for training of this staff to be able to show compliance to OSC requirements.

Finally this burden would be an adverse trend to the ELA1/ELA2-development, which has the focus for alleviation of requirements.

comment *106* comment by: *AEA*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
The concept of Supplemental O-SCs linked to S-TC should be reconsidered. It will not work in the practical airline and MRO world and will LEAD to huge operational and organizational disruptions and a huge administrative burden. It does not reflect the fact that MROs are not responsible for flight operations issues and will never be able to build up the desired level of expertise on pilot type training issues, which are the responsibility of the operator or flight training organization. A change to current responsibilities could even lead to decreased safety levels due to the added complexity. In addition, MEL items related to an STCs are already subject to approval by the NAA, and therefore there is no need for an MMEL linked to STCs. This goes way beyond what was intended by the EU legislator.

This NPA will introduce an added complexity of the processes which will increase costs (i.a. require MRO DOAs to hire flight ops experts) with no safety justification in comparison with the today's JOEB system. The aim of the EU legislator was not to create the administrative monster proposed by EASA.

Proposal:
Reconsider the need for an S-OSC linked to S-TCs

comment *107* comment by: *AEA*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
There is no added value to require an S-OSC. In particular, if an STC is obtained for an equipment already subject to with the AMC 20 (i.e. Electronic Flight Bag for example), then the AMC 20 is already dealing with the generic airworthiness and operational issues (training, Operations Manual). This proposal seem to be driven by a desire from EASA to take over the tasks of the Competent Authority who is responsible for oversight..This was not the intent of the EU legislator when adopting the Basic Regulation.

EASA Standardization inspections of Competent authorities should be used to ensure an uniform level of safety oversight in the EASA countries rather than inventing new and complicated processes which will have no safety benefit and which will increase costs for the industry and which will require EASA to hire a lot of administrative staff to be financed through new EASA fees.

If an equipment is not affected by AMC 20, than it means that the existing regulation covering airworthiness and operations is sufficient and in such case there is also no need for an OSC.

Proposal:
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comment *108* comment by: *AEA*

Relevant Text:
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Comment:
Question: Who will decide if an S-OSC is needed?
The processes and criteria are unclear.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC.

comment 109 comment by: AEA

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
Which costs would be linked to the S-OSC process? This rulemaking seems mainly driven by a desire from EASA to generate fees for its own budget. This is a conflict of interest.

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Relevant Text:
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Comment:
The link between the S-OSC and AMC20 documents is unclear. The AMC20 documents are a much more efficient process than the proposed S-OSC. When updating an AMC 20 document for safety reasons, it may be used by every operator, instead the S-OSC would be the property of the S-OSC owner.

In addition, the AMC principle allows an entity to propose an alternative means of compliance available to all the operators. The S-OSC will not as it would be the property of the S-OSC owner.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC. The OSC should reflect the basic design of an aircraft type and the minimum training syllabus developed by the TC holder. When equipments are installed, the Operations regulation supplemented by AMC 20 should be used for operational approval, including training elements. This should remain the sole responsibility of the Competent Authority when checking compliance and ensure that any specificity is taken into account. EASA's responsibility should remain limited to standardization inspections of the Competent Authorities.

comment 154 comment by: Bombardier Aerospace

EASA have equally applied the regulation to restricted category aircraft that have an EU TC. In the case of the Bombardier CL-215-1A10 and its variants, EASA has grandfathered the Italian civil TC (number A-402) and added this type to the list of aircraft for which EASA is responsible. While it is clear that the airworthiness of this type operating in the EU is overseen by EASA, it is not clear if the CL215 family has an EU TC and therefore subject to this NPA and the changes to Part-21.
If not, then there would not be a need for Bombardier to obtain an OSC nor for any of the EU-based operators to obtain an SOSC. If in some way the regulation under comment is applicable to the CL-215, Bombardier requests EASA to explain the Agency jurisdiction over the many non-civil (military, Government) operators that use the aircraft based in EU countries. It is not understood how EASA will require and maintain oversight of operators who are not obliged to follow (in part or at all) the operational regulations of EASA, such as EU-OPS. In these cases, the application and granting of the OSC or SOSC would have minimal value from an Agency oversight perspective.

comment *174* comment by: *UK CAA*

Page No: 49, 50

Paragraph No: Article 4b

Comment: The applicability paragraphs imply that OSCs will be required for all aircraft type certificated after a specified date, and that part compliance will be required for any EASA-regulated aircraft that changes ownership. So the requirements will apply to newly certificated gliders, balloons, and light aeroplanes and helicopters. And some requirements will apply to older aircraft of these kinds that are sold to new owners.
It is noted that the NPA suggests simpler, generic requirements for other than complex motor powered aircraft, but these are not yet available, and so cannot be assessed and commented on. The potential costs on these sectors of industry does not seem to be fully examined nor the safety benefits.

Justification: Application of the proposals to other than complex motor powered aircraft that are not used for commercial purposes would add complexity and cost but the safety benefits do not seem to have been adequately explained.

comment *218* comment by: *Icelandair*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
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type training issues, which are the responsibility of the operator or flight training organization. A change to current responsibilities could even lead to decreased safety levels due to the added complexity. In addition, MEL items related to an STCs are already subject to approval by the NAA, and therefore there is no need for an MMEL linked to STCs. This goes way beyond what was intended by the EU legislator.

This NPA will introduce an added complexity of the processes which will increase costs (i.a. require MRO DOAs to hire flight ops experts) with no safety justification in comparison with the today's JOEB system. The aim of the EU legislator was not to create the administrative monster proposed by EASA.

Proposal:
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Proposal:
Reconsider the need for an S-OSC linked to the S-TC

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community operator"

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Proposal:
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standardization inspections of the Competent Authorities.

comment *279* comment by: *KLM EASA DOA 21J.012*

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Proposal:
Reconsider the need for an S-OSC linked to S-TCs

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Proposal:
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Which costs would be linked to the S-OSC process? This rulemaking seems mainly driven by a desire from EASA to generate fees for its own budget. This is a conflict of interest.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC

comment *284* comment by: *KLM EASA DOA 21J.012*

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comment *340* ☐ comment by: *Airbus*

Relevant text: Page 16 § Grandfathering and transition measures

Comment 1:

EASA has clearly indicated the will to grandfather existing operations, training programs and MELs. This is in fact at operator / training organisation levels.

However, with regard to OSC, the only data that could be "automatically" grandfathered are the JOEB reports as elements of the OSC. Airbus agreed with the intend but would like to stress that it cannot be considered as "automatic" grandfathering due to the new format imposed in the OSC. The only document that, at least for Airbus, will not be affected, is the MMEL. However it is to be noted that ownership of JOEB reports belongs to JAA/EASA, while in the context of OSC only the data sheet that will contain the reference of ALL documents is owned by EASA. Consequently work will be required to transfer JOEB report content into the new format.

Comment 2:

Airbus considers that the grandfathering aspects and the transitions measures are key elements for the success of implementation of the new OSC concept, and its acceptance by all stakeholders. Not impacting the current operations is a pre-requisite understood and taken on board. However, imposing an OSC scope far beyond what was initially covered with the JOEB process would create major difficulties to many stakeholders, who have never undergone a JOEB process.

The notion of an OSC for which no JOEB report exists and in which only the CS are referred to does not make sense, and it is not easy to comment as the CS are still unknown.

In addition, as the minimum syllabus for maintenance certifying staff was NOT in the initial scope of the JOEB there should not be any catch-up required. This

should only be required for amended/new TC.

Proposals:

- Airbus recommends that OSC applicability be limited to aircraft certificated after date TBD, (any new or derivative aircraft). Consequently there would be no need for grandfathering provisions.
- If this approach cannot be followed, then Airbus recommends to opt for an approach consistent with the transition approach used for airworthiness, meaning that existing NAA approved elements are deemed to be EASA approved, and then nothing should be required for a "new EU operator" using an aircraft already in service within EU.
- The less preferred but still potentially acceptable solution for Airbus is to consider a voluntary catch-up process only for elements that were part of former JOEB process (excluding the minimum syllabus for maintenance certifying staff type rating). It should be left to the TC Holder appreciation, what would be the aircraft for which the TC Holder would elect a catch-up process

comment *430* comment by: *IACA International Air Carrier Association*

b. Grandfathering provision:

Considering there are no identified safety concerns with existing TCs, this NPA shall only apply to new TCs to be issued. Consequently, there is no need for transition measures or transition periods for existing TCs.

comment *431* comment by: *IACA International Air Carrier Association*

d.

Until now, an additional operational data sheet will be issued by the STC holder for the case, that the operational suitability is affected. Will the supplemental operational suitability certificate (SOSC) supersede or supplement the datasheet of the STC ?
If it is supplementing, why could the required information not be included in the operational data sheet ?
If it is superseding, why should it ? Why can the existing operational data sheet not do the job ?

comment *457* comment by: *Dassault Aviation*

Attachment #9

4.b.1.b Grand Fathering provision

Concern:

EASA has clearly indicated that operations will be grandfathered -this is at the operator level- whereas it indicates that only JOEB data could be automatically grandfathered.

For all other A/C, EASA stated that they cannot be Grand fathered without a "Catch Up". Question is asked whether this catch up should be on a voluntary or mandatory basis.

Suggestion:

Dassault Aviation do believe that grandfathering is one of the key issue for the success of the introduction of OSC into the field.
Not impacting the current operations is a pre-requisite which has been taken into account by EASA.
Taking into account JOEB outputs is also a pre-requisiste. Nevertheless, the JOEB did not handle data coherent with the OSC. The only data which is common is the MMEL. So it is to be developed, depending on OEM request, a way to take into account JOEB data into OSC world.
As far as the Grand Fathering is concerned, the following is Dassault Aviation position
1) As for the Type Certificates in 2002, Dassault Aviation position is that when OEM propose operational data which have been already certified by the Type Certificate NAA (e.g. DGAC-F for Falcon) or any other EC NAA, then they should be subject to Grand fathering rule.
If the previous is not accepted by the community, the following is an alternate position :
2) If the previous rule is not accepted, then Dassault Aviation position is that the catch-up should be on a voluntary basis. It is to be left to the OEM appreciation what would be the support OEMs want to offer to their customers.

Furthermore Dassault Aviation has developed a drawing summarizing all possibilities that could be offered for transferring an A/C from an operators to another. It is attached to this letter.

As far as the compliance date with the Basic Rule is concerned, it is Dassault Aviation position that a differentiated approach tailored to the industry's competence on JEOB process should be ensured.
For those OEMs used to run JOEB processes, it is not anticipated a large impact on their current activities (To Be Confirmed after related OSC Cs's analysis)
For those OEMs unaware of JOEB process, a longer delay to implement the process may be proposed.

comment *458* comment by: *Dassault Aviation*

4b.1.c OSC Update

Concern:

The text requires that major design change are reviewed against their impact onto the OSC data. Dassault Aviation highlights that major change to the OSC elements may come from minor Type Design Change or without any change to the Type Design.

Suggestion:

Dassault Aviation proposes not to limit the review on OSC elements to only Major Design change.

comment *460* comment by: *Dassault Aviation*

4b.1.c OSC update

Concern:

It is not mentioned what is the responsibility of the OEM when initial OSC has been fitted with applicable CS's and new operations/equipment are provided by the OEM.

Suggestion:

It is to be clarified that there is no obligation for the TC holder to mandatory update the OSC when initial OSC has been fitted with applicable CS'.

comment *482* comment by: *Cargolux Airlines International*

Relevant Text:
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Comment:
The concept of Supplemental O-SCs linked to S-TC should be reconsidered. It will not work in the practical airline and MRO world and will LEAD to huge operational and organizational disruptions and a huge administrative burden. It does not reflect the fact that MROs are not responsible for flight operations issues and will never be able to build up the desired level of expertise on pilot type training issues, which are the responsibility of the operator or flight training organization. A change to current responsibilities could even lead to decreased safety levels due to the added complexity. In addition, MEL items related to an STCs are already subject to approval by the NAA, and therefore there is no need for an MMEL linked to STCs. This goes way beyond what was intended by the EU legislator.

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comment *535* comment by: *EADS CASA*

The scope of the new Regulation should be limited to the complex-motor powered airplanes operated by community operators under EU-OPS Part 1 in Commercial Air Transportation. In this way the entry into force of the new regulation would affect to the same type of airplanes operated under JAR OPS Part 1 that have followed the JOEB process.

The grandfathering provisions should be defined clearly before the regulation is amended in order to have opportunity to comment them.

comment *576* comment by: *British Airways Flight Operations*

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Comment:
The concept of Supplemental of an O-SC linked to a S-TC should be

reconsidered. It will not work in the practical airline and MRO world and will lead to large operational and organizational disruptions and consequent administrative burden. It does not reflect the fact that MROs are not responsible for issues relating to flight-operations and will never be able to build up the desired level of expertise on pilot type-training issues, which are the responsibility of the operator or flight training organization. In addition, MEL items related to STCs are already subject to approval by the NAA, and therefore there is no need for an MMEL linked to STCs. This proposal goes way beyond what was intended by the EU legislator.

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Proposal:
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comment *606* comment by: *International Air Transport Association (IATA)*

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This NPA will introduce an added complexity of the processes which will increase costs (i.a. require MRO DOAs to hire flight ops experts) with no safety justification in comparison with the today's JOEB system. The aim of the EU legislator was not to create the administrative monster proposed by EASA.

Proposal:
Reconsider the need for an S-OSC linked to S-TCs

comment *607* comment by: *International Air Transport Association (IATA)*

"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the*

community operator"

Comment:
There is no added value to require an S-OSC. In particular, if an STC is obtained for an equipment already subject to with the AMC 20 (i.e. Electronic Flight Bag for example), then the AMC 20 is already dealing with the generic airworthiness and operational issues (training, Operations Manual). This proposal seem to be driven by a desire from EASA to take over the tasks of the Competent Authority who is responsible for oversight..This was not the intent of the EU legislator when adopting the Basic Regulation.

EASA Standardization inspections of Competent authorities should be used to ensure an uniform level of safety oversight in the EASA countries rather than inventing new and complicated processes which will have no safety benefit and which will increase costs for the industry and which will require EASA to hire a lot of administrative staff to be financed through new EASA fees.

If an equipment is not affected by AMC 20, than it means that the existing regulation covering airworthiness and operations is sufficient and in such case there is also no need for an OSC.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC

comment *608* comment by: *International Air Transport Association (IATA)*

"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
Question: Who will decide if an S-OSC is needed?
The processes and criteria are unclear.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC.

comment *609* comment by: *International Air Transport Association (IATA)*

"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
Which costs would be linked to the S-OSC process? This rulemaking seems mainly driven by a desire from EASA to generate fees for its own budget. This is a conflict of interest.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC

comment 610 comment by: *International Air Transport Association (IATA)*

"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
The link between the S-OSC and AMC20 documents is unclear. The AMC20 documents are a much more efficient process than the proposed S-OSC. When updating an AMC 20 document for safety reasons, it may be used by every operator, instead the S-OSC would be the property of the S-OSC owner.

In addition, the AMC principle allows an entity to propose an alternative means of compliance available to all the operators. The S-OSC will not as it would be the property of the S-OSC owner.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC. The OSC should reflect the basic design of an aircraft type and the minimum training syllabus developed by the TC holder. When equipments are installed, the Operations regulation supplemented by AMC 20 should be used for operational approval, including training elements. This should remain the sole responsibility of the Competent Authority when checking compliance and ensure that any specificity is taken into account. EASA's responsibility should remain limited to standardization inspections of the Competent Authorities.

comment 636 comment by: *AAI - Austrian Aeronautics Industries Group*

"[Article 4b] 1.a. For complex motor-powered aircraft for which the... "

should be

"1.a. For complex motor-powered aircraft **above 5700kg MTOM** for which the... "

****

"[Article 4b] 2. Aircraft other than complex motor-powered aircraft"

should be

"2. **OSC is not applicable to** aircraft other than complex motor-powered

aircraft **above 5700kg MTOM**"

****

Substantiation:

We see no increase in safety that the workload from the operator, FTO/TRTO and 147 organisations is transfered to the TC-Holder for the creation of the training syllabi and MMEL.

Those organisations are experts in their field and can make profit from their knowledge and experience, while the DOA has to invest in competent staff for those fields and spend money for training of this staff to be able to show compliance to OSC requirements.

Finally this burden would be an adverse trend to the ELA1/ELA2-development, which has the focus for alleviation of requirements.

comment *750* comment by: *ETF*

1.b. ETF suggest in accordance with the recommendation that JOEB reports be grandfathered as elements of an OSC.

Reason: This is in particular important as to the results of the OEB cabin crew subgroup. It will also facilitate a harmonised approach to cabin crew training.

comment *802* comment by: *ETF*

1.a. The ETF supports the idea of an OSC. As explained in the executive summary in the 4th paragraph, the approved elements will make the basis for developing type (and variant) training courses not only for pilots and maintenance but also cabin crew.

Reason: An OSC would harmonise and make the OEB binding.

comment *842* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
There is no added value to require an S-OSC. In particular, if an STC is obtained for an equipment already subject to with the AMC 20 (i.e. Electronic Flight Bag for example), then the AMC 20 is already dealing with the generic airworthiness and operational issues (training, Operations Manual). This proposal seem to be driven by a desire from EASA to take over the tasks of the Competent Authority who is responsible for oversight..This was not the intent of the EU legislator when adopting the Basic Regulation.

EASA Standardization inspections of Competent authorities should be used to ensure an uniform level of safety oversight in the EASA countries rather than inventing new and complicated processes which will have no safety benefit and which will increase costs for the industry and which will require EASA to hire a lot of administrative staff to be financed through new EASA fees.

If an equipment is not affected by AMC 20, than it means that the existing regulation covering airworthiness and operations is sufficient and in such case there is also no need for an OSC.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC

comment *843* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
Question: Who will decide if an S-OSC is needed?
The processes and criteria are unclear.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC.

comment *844* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
Which costs would be linked to the S-OSC process? This rulemaking seems mainly driven by a desire from EASA to generate fees for its own budget. This is a conflict of interest.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC

comment 845 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*For any supplemental type certificate to a complex motor-powered aircraft issued after xx months after adoption of this rule that affects operational suitability, a supplemental operational suitability certificate shall be obtained by the holder of the supplemental type certificate before the first aircraft modified in accordance with the supplemental type certificate operated by the community operator*"

Comment:
The link between the S-OSC and AMC20 documents is unclear. The AMC20 documents are a much more efficient process than the proposed S-OSC. When updating an AMC 20 document for safety reasons, it may be used by every operator, instead the S-OSC would be the property of the S-OSC owner.

In addition, the AMC principle allows an entity to propose an alternative means of compliance available to all the operators. The S-OSC will not as it would be the property of the S-OSC owner.

Proposal:
Reconsider the need for an S-OSC linked to the S-TC. The OSC should reflect the basic design of an aircraft type and the minimum training syllabus developed by the TC holder. When equipments are installed, the Operations regulation supplemented by AMC 20 should be used for operational approval, including training elements. This should remain the sole responsibility of the Competent Authority when checking compliance and ensure that any specificity is taken into account. EASA's responsibility should remain limited to standardization inspections of the Competent Authorities.

comment 877 comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

Article 4b Operational Suitability Certificates

In paragraph 1.c obligates a TC holder to obtain approval of a change to an OSC if a major design change "affects the approved element(s)." In paragraph 1.d, applicable to STCs, the NPA says "affects operational suitability." Because the criterion for the need for an approval of a change to an OSC or an approved supplemental OSC is the same, it would be clearer to use the same phrase in both paragraphs.

comment 914 comment by: *ETF*

1.c. and d.

ETF supports a catch up process and supplemental OSC as described.

Reason: Any major changes type certificates that affects operational suitability or the Supplemental TC should for safety reasons be subject to a common

endorsement.

comment *929* comment by: *GAMA*

Although EASA has proposed option A "voluntary catchup" which has the least impact on TC holders, from a practical perspective for both aircraft manufacturers and community operators, GAMA recommends Option C – mandatory catchup limited to existing aircraft models still in production. This would ensure common operational standards are available throughout the Community for all current make/model aircraft which can be expected to be operated for the longest period of time.

In terms of the length of transitional period needed, it is not possible to provide an adequate assessment of the OSC proposal and to provide a recommendation without having an understanding of the specific technical details for the transition & grandfathering provisions as well as the envisioned certification specifications (CS) for each element for both complex motorpowered aircraft and aircraft other than complex motorpowered aircraft. This is because transition & grandfathering provision is the single greatest factor which will determine the overall burden/impact upon the various industry sectors and the content of the CS standard will ultimately determine the ongoing impact upon the development of operational elements and whether the existing processes and standards that have previously been acceptable will have to change under the new OSC.

comment *960* comment by: *kapers Cabin Crew Union*

1.b. ETF suggest in accordance with the recommendation that JOEB reports be grandfathered as elements of an OSC.

Reason: This is in particular important as to the results of the OEB cabin crew subgroup. It will also facilitate a harmonised approach to cabin crew training.

comment *961* comment by: *kapers Cabin Crew Union*

1.a. The ETF supports the idea of an OSC. As explained in the executive summary in the 4th paragraph, the approved elements will make the basis for developing type (and variant) training courses not only for pilots and maintenance but also cabin crew.

Reason: An OSC would harmonise and make the OEB binding.

comment *962* comment by: *kapers Cabin Crew Union*

1.c. and d.

ETF supports a catch up process and supplemental OSC as described.

Reason: Any major changes type certificates that affects operational suitability or the Supplemental TC should for safety reasons be subject to a common

endorsement.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Article 4b Operational Suitability Certificates - 2. Aircraft other than complex motor-powered aircraft p. 50

comment *340* ☐ comment by: *Airbus*

Relevant text: Page 16 § Grandfathering and transition measures

Comment 1:

EASA has clearly indicated the will to grandfather existing operations, training programs and MELs. This is in fact at operator / training organisation levels.

However, with regard to OSC, the only data that could be "automatically" grandfathered are the JOEB reports as elements of the OSC. Airbus agreed with the intend but would like to stress that it cannot be considered as "automatic" grandfathering due to the new format imposed in the OSC. The only document that, at least for Airbus, will not be affected, is the MMEL. However it is to be noted that ownership of JOEB reports belongs to JAA/EASA, while in the context of OSC only the data sheet that will contain the reference of ALL documents is owned by EASA. Consequently work will be required to transfer JOEB report content into the new format.

Comment 2:

Airbus considers that the grandfathering aspects and the transitions measures are key elements for the success of implementation of the new OSC concept, and its acceptance by all stakeholders. Not impacting the current operations is a pre-requisite understood and taken on board. However, imposing an OSC scope far beyond what was initially covered with the JOEB process would create major difficulties to many stakeholders, who have never undergone a JOEB process.

The notion of an OSC for which no JOEB report exists and in which only the CS are referred to does not make sense, and it is not easy to comment as the CS are still unknown.

In addition, as the minimum syllabus for maintenance certifying staff was NOT in the initial scope of the JOEB there should not be any catch-up required. This should only be required for amended/new TC.

Proposals:

- Airbus recommends that OSC applicability be limited to aircraft certificated after date TBD, (any new or derivative aircraft). Consequently there would be no need for grandfathering provisions.
- If this approach cannot be followed, then Airbus recommends to opt for an approach consistent with the transition approach used for

airworthiness, meaning that existing NAA approved elements are deemed to be EASA approved, and then nothing should be required for a "new EU operator" using an aircraft already in service within EU.

- The less preferred but still potentially acceptable solution for Airbus is to consider a voluntary catch-up process only for elements that were part of former JOEB process (excluding the minimum syllabus for maintenance certifying staff type rating). It should be left to the TC Holder appreciation, what would be the aircraft for which the TC Holder would elect a catch-up process

comment *636* ☐ comment by: *AAI - Austrian Aeronautics Industries Group*

"[Article 4b] 1.a. For complex motor-powered aircraft for which the... "

should be

"1.a. For complex motor-powered aircraft **above 5700kg MTOM** for which the... "

****

"[Article 4b] 2. Aircraft other than complex motor-powered aircraft"

should be

"2. **OSC is not applicable to** aircraft other than complex motor-powered aircraft **above 5700kg MTOM**"

****

Substantiation:

We see no increase in safety that the workload from the operator, FTO/TRTO and 147 organisations is transfered to the TC-Holder for the creation of the training syllabi and MMEL.

Those organisations are experts in their field and can make profit from their knowledge and experience, while the DOA has to invest in competent staff for those fields and spend money for training of this staff to be able to show compliance to OSC requirements.

Finally this burden would be an adverse trend to the ELA1/ELA2-development, which has the focus for alleviation of requirements.

comment 744 comment by: *General Aviation Manufacturers Association / Hennig*

GAMA Comments to Transition Provision for Aircraft Other than Complex Motor-Powered Aircraft

The grandfathering provisions and transition provisions for the OSC requirement for aircraft other than complex motor-powered aircraft should receive its own consideration separate from complex aircraft. For complex aircraft, a JOEB or nationally established operational set of requirements, exist for most models today. However, for aircraft other than complex motor-powered aircraft nothing equivalent exists today.

GAMA recommends that the new OSC requirements for aircraft other than complex motor-powered aircraft be given an extended, pan-European transition date as part of the covering regulation.

GAMA proposes the new requirement go into effect in no earlier than 2015 for aircraft other than complex motor-powered aircraft issued a new type certificate to allow for the development of the CS, their review and comment, and manufacturers provided time to evaluate the new requirements for their specific aircraft models.

GAMA proposes the new requirement go into effect in no earlier than 2017 for aircraft other than complex-motor powered aircraft with existing type certificates to allow for the development of the CS, their review and comment, and manufacturers provided time to evaluate the new requirements for their specific aircraft models. Manufacturers would be permitted to voluntarily make early applications prior to the 2017 deadline.

GAMA request that these dates (2015/2017) be conditional upon the CS with the generic elements be applicable to the most of the fleet of existing aircraft other than complex motor-powered aircraft. If the CS is not developed with this intent, GAMA request that EASA consider postponing the requirements by at least two years (2017/2019) for aircraft other than complex motor-powered aircraft.

comment 929 □ comment by: *GAMA*

Although EASA has proposed option A "voluntary catchup" which has the least impact on TC holders, from a practical perspective for both aircraft manufacturers and community operators, GAMA recommends Option C – mandatory catchup limited to existing aircraft models still in production. This would ensure common operational standards are available throughout the Community for all current make/model aircraft which can be expected to be operated for the longest period of time.

In terms of the length of transitional period needed, it is not possible to provide an adequate assessment of the OSC proposal and to provide a recommendation without having an understanding of the specific technical details for the transition & grandfathering provisions as well as the envisioned

certification specifications (CS) for each element for both complex motorpowered aircraft and aircraft other than complex motorpowered aircraft. This is because transition & grandfathering provision is the single greatest factor which will determine the overall burden/impact upon the various industry sectors and the content of the CS standard will ultimately determine the ongoing impact upon the development of operational elements and whether the existing processes and standards that have previously been acceptable will have to change under the new OSC.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart A – General Provisions - Reacting to general safety problems p. 50-51

comment *6* comment by: *Francis Fagegaltier Services*

21A.3C, paragraph (e)
In relation to another comment on lack of definition of TCDS, it is noted that this proposed text refers to TCDS in a place in Part 21 where this "TCDS" is unknown. Indeed TCDS appears only in 21A.41 : it would be better to write : "type certificate data sheet required by 21A.41". However, in 21A41 the TCDS is referred to as "type-certificate data sheet for airworthiness and emissions". The subject of TCDS should be reviewed throughout Part 21 for consistency and clarity.

It is also noted that this text refers to data sheet for TC, OSC and SOSC but not for STC : why ?

comment *13* comment by: *LHT DO*

This paragraph can be understood that the STC holder has to amend the documentation as soon as any amendments to the airworthiness codes have been issued. The operator should to keep his own responsibility for the safe operation and operating requirements without the involvement of the STC holder.

We should keep the current harmonization with FAA for the operators responsibility.

comment *25* comment by: *LHT DO*

Safety directives should be addressed to operators and part M organisation only, not to TS or STC Holders.

Please make sure that only the data for the Safety Directive has to be issued by the STC Holder.

The STC Holder should not be forced to set up a system to issue tracking for operational problems if they are not induced by design deficiencies.

comment *35* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Page 50 "21A.3C Additional airworthiness specifications for operations

and safety directives"

Proposal:

Clarify the legal status and legal basis for the issuance of this kind of information, and the obligation to comply with this type of information.

comment *60* comment by: *EUROCOPTER*

Comment on § (f)(2): criteria related to the definition of "impractical" should be defined in a Guidance Material.

comment *111* comment by: *AEA*

Relevant Text:
21A.3C Additional Airworthiness Specifications for operations and Safety Directives.

Comment:
As the OSD will upgrade the OSC, there is a need to have a consultation mechanism.

Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to implement the OSD.

Proposal:
Introduce a consultation process

comment *223* comment by: *Icelandair*

Relevant Text:
21A.3C Additional Airworthiness Specifications for operations and Safety Directives.

Comment:
As the OSD will upgrade the OSC, there is a need to have a consultation mechanism.

Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to implement the OSD.

Proposal:
Introduce a consultation process

comment *285* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
21A.3C Additional Airworthiness Specifications for operations and Safety Directives.

Comment:
As the OSD will upgrade the OSC, there is a need to have a consultation mechanism.

Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to implement the OSD.

Proposal:
Introduce a consultation process

comment *334* comment by: *ERA*

21.A.3C(i)(5)
Is EASA able to evaluate all the possible permutations that might be considered in this requirement? It appears to be an unrealistic aim.

The ERA request EASA to consider limiting the scope to what is practical and justifiable by safety.

21.A.3C(j)
Any party may propose a change, but Part 21 is not applicable to any party, it is applicable to TC / STC holders. Therefore, the applicability is not correctly drafted.

GM 21.A.3C
The flow diagram indicates that for the application of CS-26-based SDs that the operator is responsible for the approval of the design change. This cannot be correct and the guidance material should be amended.

comment *432* comment by: *IACA International Air Carrier Association*

What are Airworthiness Codes ? Where are these defined ?

What is the difference with Certification Specifications ?

comment *487* comment by: *Cargolux Airlines International*

Relevant Text:
21A.3C Additional Airworthiness Specifications for operations and Safety Directives.

Comment:
As the OSD will upgrade the OSC, there is a need to have a consultation mechanism.

Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to

implement the OSD.

Proposal:
Introduce a consultation process

comment 527 comment by: *Dassault Aviation*

21A.3C / Reacting to general safety problems a,b,c,d,e,f

Concern:

Refer to Article 2 (f) - 'Safety Directives

The notion of Safety Directives applied to Operational Suitability is quite clear. When applied to Type Design aspect, it interferes with the current Airworthiness Directives.

Suggestion:

Dassault Aviation reiterates its request that the notion of Safety Directives, when not applied to operational suitability, be held in a dedicated Rulemaking activity.

comment 529 comment by: *Dassault Aviation*

21A.3C Reacting to general safety problems § a,b,c,d,e,f.

Concern:

Refer to Article 2 (f) - 'Safety Directives

It is quite unclear how operational suitability Safety Directives directed to operators/STC holders owning an S-OSC will be addressed, knowing that EASA can only regulate to a given product.

Suggestion:

Dassault Aviation support the independence between Operational Suitability Safety Directives related to its products and those related to operators/STC holders.

comment 530 comment by: *Dassault Aviation*

21A.3C Reacting to general safety problems § a,b,c,d,e,f.

Concern:

At the difference of the Airworthiness Directives which directly address the end-user, the Safety Directive, for its operational suitability part only, may address an intermediate level (e.g. training provider, simulator provider, …).

Suggestion:

Dassault Aviation recommends that a GM details that it may exist two compliance dates for an operational suitability Safety Directive (one for the

intermediate level, one for the operator).

comment *565* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

21.A.3C

2. PROPOSED TEXT/ COMMENT:

delete (f) paragraph.

3. JUSTIFICATION:

DGAC France has some concerns about the usage of safety directives as a means to implement JAR26. The general case covered by paragraphs (a) to (e) seems logical, although it is probably complicated to assess impact when there are several OSD prepared by STC Holders supplementing the data provided by the TC holder. Shall there be a coordinated action from EASA to check every piece of data from every holder?
The other complicated point of the process is to determine the implementation time of the SD contents by the end-users: as the SD is sent to the TC holder, he might not be in a position to evaluate the compliance time necessary for all training organization, all maintenance organization… to comply with those SD.

But the main issue seems the implementation of paragraph (f) which seems first difficult to execute as the "impractical" criteria is too vague and subjective. The consequence of that process is that nobody is really in charge of the issue and therefore the SD would apply to everybody, without any particular addressee. It seems exactly contrary to the pint raised in bullet 14 of the explanatory note where it is stated the Agency shall not set general binding decisions. As a proof, the agency is unable to send the SD to someone in particular and does not ask for anybody to disseminate information. We can see that paragraph (f) is built as a derogation to (a) through (e) paragraphs, but does not cover the same range of ideas. DGAC France would like a confirmation from lawyers that this paragraph is legal regarding the point 14.

DGAC France would recommend that the implementation of JAR26 be further studied, with a possibility to the group to have the BR changed if necessary or to send a note to the Commission if the difficulties are such that higher help would be needed.

A possible approach could be to implement within the Implementing Rules for Operations a requirement for operators to only operate aircraft compliant to CS-26 that would be published by EASA.

comment *566* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:
21.A.3C

2. PROPOSED TEXT/ COMMENT:

Modify the 21A.3C as follows:
REACTING TO GENERAL SAFETY PROBLEMS

(a) The holder of a type certificate, supplemental type certificate, operational suitability ~~certificate or supplemental operational suitability certificate~~ data shall demonstrate compliance with additional airworthiness specifications for operations, when:

(1) An amendment to the airworthiness code containing additional airworthiness specifications for operations, has been issued by the Agency in accordance with 21A.16A; and

(2) The Agency has notified to ~~the~~ that holder ~~of the type certificate, supplemental type certificate, operational suitability certificate or supplemental operational suitability certificate~~:

(i) the amended or new paragraphs of the airworthiness code containing additional airworthiness specifications for operations, that must be complied with; and

(ii) the period within which compliance shall be demonstrated.

(b) The Agency shall approve the demonstrating of compliance when it is satisfied that compliance is demonstrated with the applicable specifications as notified under (a)(2)(i) of this paragraph or with provisions that provide for an equivalent level of safety.

(c) The Agency shall issue an airworthiness directive containing the change in the approved design or issue a safety directive containing the change ~~in the approved design or~~ to the elements of the operational suitability data ~~certificate~~ resulting from the approved demonstration of compliance .

(d) The holder of the type certificate, supplemental type certificate, operational suitability ~~certificate or supplemental operational suitability certificate~~ data shall make available to all known operators or owners of the affected product and on request, to any person required to comply with the airworthiness directive or safety directive, appropriate descriptive data and accomplishment instructions.

(e) Compliance with the amended airworthiness code containing additional airworthiness specifications for operations will be recorded in the type certificate data sheet, supplemental type certificate~~, operational suitability certificate data sheet or supplemental operational suitability certificate data sheet~~.

(f) >deleted by other comment CRT n° 565<

RESTORING THE LEVEL OF SAFETY OF OPERATIONAL SUITABILITY DATA ~~CERTIFICATES OR SUPPLEMENTAL OPERATIONAL SUITABILITY CERTIFICATES~~

g) The Agency shall issue a safety directive when a condition leading to unsafe operation has been determined by the Agency to exist in the operation of an aircraft, as a result of a deficiency in the approved elements of the relevant operational suitability data ~~certificate or supplemental operational suitability certificate~~.

(h) When a safety directive has to be issued by the Agency to correct the unsafe operation referred to in subparagraph (g), the holder of the operational suitability data ~~certificate or supplemental operational suitability certificate~~ shall:

(1) Propose the appropriate correction to the element of the operational suitability data ~~certificate~~ and submit the proposal to the Agency for approval; and

(2) Following approval by the Agency make available to all known operators or owners of the affected aircraft and on request, to any person required to comply with the safety directive, appropriate descriptive data and accomplishment

instructions.

ALL SAFETY DIRECTIVES

(i) A safety directive shall contain at least the following information:

(1) An identification of the condition leading to an unsafe operation

(2) an identification of the affected products;

~~(2)~~ (3) The ~~additional airworthiness specifications for operations that must be complied with or the~~ required action(s);

~~(3)~~ (4) The compliance time;

~~(4)~~ (5) The date of entry into force;

~~(5)~~ (6) The type of operation to which the safety directive applies.

(j) Any person may apply for approval of a deviation to the safety directive in a form and manner established by the competent authority ~~Agency~~. The competent authority ~~Agency~~ shall approve such deviation when it is satisfied that the deviation provides an acceptable level of safety.

3. JUSTIFICATION:

To be consistent with general comment on Operational suitability data.

Regarding modifications to paragraph (i), DGAC France strongly recommend to document the reason for the publication of the SD.

Regarding modification in paragraph (j), DGAC France believes that once the SD is published as agreed with the TC holder, only some operators or training schools, or organization that have to comply with the SD may face difficulties to comply with the SD and have therefore a need to request a deviation. Because their operation conditions based on the OSC are approved by the competent authority, it seems consistent to have the competent authority approving the deviation to the SD.

comment *568* ☐ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not

considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *611* comment by: *International Air Transport Association (IATA)*

21A.3C Additional Airworthiness Specifications for operations and Safety Directives.

Comment:
As the OSD will upgrade the OSC, there is a need to have a consultation mechanism.

Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to implement the OSD.

Proposal:
Introduce a consultation process

comment *726* comment by: *Pilatus*

Subpart A
21A.3C.(g)
The paragraph indicates that a SD will be issued to the OSC holder as a result of an identified deficiency in the approved elements.
In § **(h)** it is stated that the OSC holder must make available the approved data to all know operators required to comply with the SD and
§(i)(3)&(4) indicates the compliance time and date of entry into force ,
However to whom are these compliance times applicable, the OSC holder for corrective action or the operators for updating their procedures.
Who will then ensure that the actions are indeed implemented by the operator

on time, surely it could not also be the responsibility of the OSC holder.
- Again the double working action of the SD as implied (OSC holder and operator) is not all that clearly defined and questionable. The OSC holder may comply with the SD in time, but may leave no time for the operator to implement the corrective action. (See also comments on § 63)

comment *741* comment by: *ETF*

21A.3C The ETF supports that JAR 26 "Airworthiness requirements for Operations" is transferred into Community CS. Likewise we support that the new CS 26 "Additional airworthiness specifications for operations" as described from (a) to (f) be added to basis for correcting various shortcomings linked to OSC through safety directives. Safety directives describes in (g) to (j) would in our opinion also directly address safety shortcomings that should have been included in CS 26.

Reason: JAR 26 is the link between airworthiness codes and operations and should not be lost but transferred. Safety directives will help address safety shortcomings and loopholes immediately while the ensuing rule making will take time.

comment *822* comment by: *FAA*

- **¶ 21A.3C, Safety Directives**

Comment:
The SD concept for operational issues parallels the airworthiness directive (AD) concept for airworthiness issues. There is no equivalent process under the U.S. FAA system.

The proposed EASA OSC NPA proposes a single, centralized review process resulting in a mandatory change to the TC, STC, OSC, SOSC. It appears that the TC, STC, OSC, SOSC holder then has the responsibility to disseminate the information to those responsible for implement the resulting SD. This would seem to bypass the regulatory controls necessary to provide sufficient oversight to this process of resolving and informing operators of critical safety information.

EASA imposes the responsibility to disseminate the information on the TC, STC, OSC, SOSC holder instead of the placing that responsibility on the regulator. Although the possibility does exist for EASA to unilaterally issue a SD the FAA believes that this dissemination process should be the sole responsibility of the regulator.

comment *846* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
21A.3C Additional Airworthiness Specifications for operations and Safety Directives.

Comment:
As the OSD will upgrade the OSC, there is a need to have a consultation

mechanism.

Crew training is generally organised in seasons. Every modification may lead to some implementations delays. This why the SD should be subject to a quick consultation in order to have a better idea of the more efficient way to implement the OSD.

Proposal:
Introduce a consultation process

comment *859* comment by: *Walter Gessky*

- **21A.3C:**
  21A.3C Additional airworthiness specifications for operations and safety
  Directives
  The new paragraph as proposed is not supported and has to **be deleted** because the tasks are part of the type certification and the issuance of an individual certificate by the Agency is not mentioned in Art 20.
  Justification:
  (v) According to paragraph 5(5)(e) the Agency is only entitled to for additional airworthiness specifications for a given operation. This has to be regulated in a new Art 21A.16B

  (vi) Safety related issues have to be dealt with as an operational issue according Article 22 and not as part of the TC. Safety directives are therefore dealt with under NPA 2009/2.
  According to Art 22(1) of the basic regulation,

  "The Agency shall react without undue delay to a problems affecting the safety of air operations by determining corrective action and by disseminating related information, including to the Member States."

  (vii) To deal with additional specifications for operation shall be handled during the TC process and not as an individual separated OSC process.

comment *879* comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

21A3C TC Holder Responsibility for CS-26 Amendments

In paragraph 53 EASA describes the requirement for the TC holder to develop modifications to address retroactive requirements implemented by the new CS-26. This requirement would be imposed whenever a modification was determined to be "practical" to be developed by the TC holder. Conversely, only when it is found to be "impractical" would the requirement fall to someone else.

Embraer believes that this logic is incorrect. Without doubt there are some retroactive requirements that are so complex and so integrated with the airplanes type design that is may only be practical for the TC holder to develop the modification(s), but this obligation should be imposed only when it is

required to be developed by the TC holder. Otherwise, TC holders, operators, and third party modifiers should be free to compete to develop the most cost effective modifications to address Cs 26 retrofit requirements.

Embraer proposes to change the word "impractical" in the proposed 21A.3C(f)(2) to "not required" and to make similar changes to GM 21A.3C.

comment *963* comment by: *kapers Cabin Crew Union*

21A.3C The ETF supports that JAR 26 "Airworthiness requirements for Operations" is transferred into Community CS. Likewise we support that the new CS 26 "Additional airworthiness specifications for operations" as described from (a) to (f) be added to basis for correcting various shortcomings linked to OSC through safety directives. Safety directives describes in (g) to (j) would in our opinion also directly address safety shortcomings that should have been included in CS 26.

Reason: JAR 26 is the link between airworthiness codes and operations and should not be lost but transferred. Safety directives will help address safety shortcomings and loopholes immediately while the ensuing rule making will take time.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart A – General Provisions - Restoring the level of safety ofoperational suitability certificatesor supplemental operational suitability certificates p. 51

comment *129* comment by: *Bombardier Aerospace*

This subparagraph is necessary to specify the conditions where EASA will issue an SD to correct a deficiency in an existing OSC or SOSC. However, Bombardier requests EASA to comment if a Safety Directive will be used when a deficiency in one or more SOSCs is discovered by a subsequent catch-up effort by the Type Certificate Holder to obtain an OSC for one or more elements. In this scenario, the OEM would establish minima for training or develop a Master MEL where a previously issued SOSC or MEL did not meet the new requirements. Of course, initially the determination of this deficiency will be at the discretion of EASA and the burden placed on the Agency to compare OSC and SOSC performance. In this case, the Agency may declare that more than one minimum is acceptable. In the same judgment, the OEM may disagree and determine the previous SOSC element is inappropriate and potentially unsafe.

EASA may wish to pass an opinion on how the Agency would handle this situation and what information would be made available to each party.

A less likely but foreseeable scenario exists, where a subsequent SOSC to an already approved OSC element would highlight deficiencies in the original OSC minimum. In theory, EASA could issue an SD to correct the OSC element. Bombardier can imagine a straightforward technical situation complicated by legal repercussions in both these scenarios.

comment 364 comment by: *Austro Control GmbH*

- Application of retroactive requirements through SD not supported by BR. Austrocontrol disagrees with the framework of the SD system. It perpetuates the split between Subpart K, L and S verses JAR 26 for retroactive requirements. As retroactive operation requirements are tied to specific kinds of operation, the appropriate way for them to be published in within the Operating rules, this will add international harmonisation (FAA already uses this system). Proposal: Any retroactive requirements shall be implemented within the IR-OPS.

comment 568 □ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:

21A.3C Safety Enhancement Directives

21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart A – General Provisions - All safety directives p. 51

comment *568* ☐ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart B –Type-Certificates and Restricted Type-Certificates p. 52

comment *864* comment by: *Walter Gessky*

o **21A.16:**
Change the following

21A.16A Airworthiness codes
The Agency shall issue in accordance with Article 19 of the Basic Regulation ~~airworthiness codes~~ **certification specifications**, including an airworthiness code ~~containing additional airworthiness specifications for operations,~~ as standard means to demonstrate compliance of products, parts and appliances with the essential requirements of Annex I to the Basic Regulation. Such codes shall be sufficiently detailed and specific to indicate to applicants the conditions under which certificates will be issued.

Justification: Changed to reflect the wording of Article 19 of the basic regulation.

Add the following:

21A.16B Additional airworthiness specification for operation
The Agency shall issue in accordance with Article 19 of the Basic Regulation additional airworthiness specifications for a given operation, as standard means to demonstrate compliance of products, parts and appliances with the essential requirements of Article 8 to the Basic Regulation.

Justification:

Changed to reflect Article 5(5)(e)(vi) of the basic regulation. The additional airworthiness specifications for a given operations shall ensure compliance with Article 8 and not Annex I of the basic regulation.

"(vi) the master minimum equipment list as appropriate and additional airworthiness specifications for a given type of operation to ensure compliance with Article 8;"

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart B –Type-Certificates and Restricted Type-Certificates - 21A.16A Airworthiness codes p. 52

comment *433* comment by: *IACA International Air Carrier Association*

What are Airworthiness Codes ? Where are these defined ?

What is the difference with Certification Specifications ?

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates p. 52

comment *554* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

2. PROPOSED TEXT/ COMMENT:
(instead of supbart C)
a) add a new 21.A.63 within Part 21 subpart B:

21A.63 Operational Suitability Data
(a) For complex aircraft, the holder of the type-certificate or restricted type-certificate shall furnish at least one set of complete operational suitability data, comprising data required within paragraphs 5(e)(iv), 5(e)(v) and 5(e)(vi) of Article 5 of the Basic Regulation,
- to each known owner of one or more aircraft, engine or propeller upon its delivery or upon issue of the first certificate of airworthiness for the affected aircraft, whichever occurs later,
- to each known training organisation willing to develop dedicated training program for those aircraft,
- to each known maintenance organisation willing to maintain those aircraft,
and thereafter make those data available on request to any other person required to use those data.

(b) Notwithstanding (a), the availability of some data may be delayed until after the aircraft has entered into service. But these data shall be available before the aircraft is used for the type of operations necessitating those data.

(c) In addition, changes to the OSD shall be made available to all interested parties similarly.
A programme showing how changes to the OSD are distributed shall be submitted to the Agency.

b) add a new AMC 21.A.63 (1) :

The OSD requested from the TC Holder should be prepared by an OEB with participants from AESA, national authorities, TC Holder. By invitation, depending on the subject, the OEB may invite foreign authorities and other interested bodies to harmonize worldly the data for all end users.
The OEB will examine the data proposed by the TC (or STC) Holder.
The approval is issued by the Agency, based on a recommendation from the OEB.

c) add a new AMC 21.A.63 (2) :

Any person shall have the right to request a review of a specific item by the OEB in order to make a proposition of evolution to the OSD.

d) A similar paragraph (21.A.108) is necessary within subpart D for changes to TC, or restricted TC.

3. JUSTIFICATION:

According to our general comment [CRT numbered 544] , DGAC France believes the easiest way to get the TC holder to provide data is to introduce in the Part 21 the proposed requirements and this will avoid the creation of a certificate which is not required by Basic Regulation, nor necessary to comply with ICAO SARPs.

The NPA paragraphs regarding the management of the certificate are no longer necessary 21.A.xx where xx is 64, 65, 66, 67, 68, 69, 70, 71, 78.

DGAC France suggest for consistency if paragraphs 21.A.73 to 77 subjects were tailored to "OSD" and reused after the proposed 21.A.63.

comment *662* comment by: *CAA-NL*

Change the proposed text of 21A.64(b) (Eligibility) to read: Any natural or legal person who is prepared to undertake the responsibilities as stipulated in 21A.73, 21A.75 and 21A.76 may apply for a supplemental operational suitability certificate.

jusitification:

The proposed requirements in 21A.73 (Occurrences), 21A.75 (Record keeping) and 21A.76 (Documents) relate to tasks that are comparable to similar tasks for (S)TC holders. Through the proposed requirement in 21A.81(f), the obligation to fulfil these tasks is also applicable to holders of Supplemental OSC. However, in contrast to the applicants for initial OSC, the applicants for SOSC are not required to have any kind of approved organisation (no DOA for instance, which European (S)TC holders would normally have). (S)TC holders could probably, without much changes to their procedures, fulfil these OSC related task in similar ways as they fulfil the corresponding tasks for their (S)TC. There is however in the current proposal no guarantee that the holder of an SOSC has the resources and procedures to fulfil these o`ligations. Also, there is an obligation in the proposed 21A.77(c) (Transferability) for the person to whom an SOSC is transferred to be prepared to undertake the responsibilities as stipulated in 21A.73, 21A.75 and 21A.76. There is however no such obligation on the original holder of the SOSC. This creates a difference in obligations between the initial SOSC holder and the person to whom the SOSC can be transferred.

comment *867* comment by: *Walter Gessky*

o

rsponse Not a relevant comment.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.62 Scope p. 52

comment *33* comment by: *FSC - CCOO*

Attachment #10

The TOR Nr. 21.039 for the present task establish the determination of:

- minimum number and composition of cabin crew;

- minimum syllabus of cabin crew type rating training;

- conditions for mixed fleet flying operations by flight crew and cabin crew;

as objectives for this task. This objective, defined in the TOR's is clearly not reached as

- minimum number and composition of cabin crew;

- minimum syllabus of cabin crew type rating training;

- conditions for mixed fleet flying operations by flight crew and cabin crew;

are not part of the scope of the present NPA.

comment *112* comment by: *AEA*

Relevant Text:
(a)
(1) *the minimum syllabus for pilot type training, …*

Comment:
The Implementing Rules should also refer to difference training between types and variants.

Proposal:
Introduce difference training between types and variants into the implementing rules.

comment *119* comment by: *AEA*

Relevant Text:
"(a) The Scope of the operational suitability certificate covers the following elements when applicable:
...
3. Determination of type or variant for cabin crew and type specific data for cabin crew training."

Comment:
The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants

comment 130 ☐ comment by: *Bombardier Aerospace*

Bombardier agrees that Part-21 Subpart C should not contain the technical standards for the approval of OSC elements. However, the scale and significance of those technical standards is such that there is an instinctive hesitation to accepting the Part-21 process if we are unsure what final technical standard is imposed by that process. As a result, as stated in our comments against the Executive Summary, our comments against Part-21 through this NPA may be amended by comments against the relevant CSs.

comment 175 comment by: *UK CAA*

Page No: 52

Paragraph No: 21.A.62(a)

Comment: The proposed amendment to Article 1 of 1702/2003 defines an operational suitability certificate as one containing the approval of information necessary for the safe operation of the aircraft type as defined in paragraph 5(e)(iv), (v) and (vi) of Article 5 of the Basic Regulation. These cover the minimum syllabus of maintenance certifying staff, type rating training, the minimum syllabus of pilot type rating and qualification of associated simulators and the Master Minimum Equipment List. These provisions are then replicated in new draft 21A.62 describing the scope of the operational suitability certificate. But there is then added a fourth element, the determination of type or variant for cabin crew and type specific data for cabin crew training. UK CAA considers that the legal basis for this needs to be referenced.

Justification: Clarification

comment 224 comment by: *Icelandair*

Relevant Text:
(a)
(1) *the minimum syllabus for pilot type training,*
…

Comment:
The Implementing Rules should also refer to difference training between types and variants.

Proposal:
Introduce difference training between types and variants into the implementing rules.

comment 225 comment by: *Icelandair*

Relevant Text:
"(a) The Scope of the operational suitability certificate covers the following elements when applicable:
...
3. Determination of type or variant for cabin crew and type specific data for cabin crew training."

Comment:
The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants

comment *286* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
(a)
(1) *the minimum syllabus for pilot type training,*
…

Comment:
The Implementing Rules should also refer to difference training between types and variants.

Proposal:
Introduce difference training between types and variants into the implementing rules.

comment *287* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"(a) The Scope of the operational suitability certificate covers the following elements when applicable:
...
3. Determination of type or variant for cabin crew and type specific data for cabin crew training."

Comment:
The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location

and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants

comment *335* comment by: *ERA*

AMC 21A.62(b)
The area of duration should be avoided by EASA because of the discrete nature of the training involved.

comment *339* comment by: *Airbus*

Relevant text: Page 13, § 46 c - Maintenance certifying staff

Comment: This requirement is a major difference with the current JOEB process. Moreover it addresses a different category of personnel compared to what we were used to with the JOEB for pilot.

Proposal: The OSC perimeter should not include maintenance certifying staff, so as to mirror the JOEB process and to keep the harmonization with FAA, that was achieved with the JOEB process.

comment *379* comment by: *Airbus*

Relevant text: Page 52 21A.62 Scope

Comment:

Text should be amended to be in line with wording used in CS FSTD

Proposal:

text to read:

1. the minimum syllabus of pilot type rating training, including determination of type rating and the aircraft ~~reference~~ validation source data to support the objective qualification of associated simulator(s);

comment *434* comment by: *IACA International Air Carrier Association*

For people who have been already trained, will additional training still be necessary should the OSC be adopted ?

comment *436* comment by: *IACA International Air Carrier Association*

(a) 3.

The Basic Regulation does not require a minimum syllabus for cabin crew, and the RIA does not cover this also. How can this NPA incorporate the requirement for a syllabus for cabin crew?

comment *488* comment by: *Cargolux Airlines International*

Relevant Text:
(a)
(1) *the minimum syllabus for pilot type training,*
…

Comment:
The Implementing Rules should also refer to difference training between types and variants.

Proposal:
Introduce difference training between types and variants into the implementing rules.

comment *489* comment by: *Cargolux Airlines International*

Relevant Text:
"(a) The Scope of the operational suitability certificate covers the following elements when applicable:
...
3. Determination of type or variant for cabin crew and type specific data for cabin crew training."

Comment:
The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants

comment *506* comment by: *Dassault Aviation*

21A.62(b)

See comment CRT N° 504.

comment 522 comment by: ETF

3. (a)~~Determination of type or variant for cabin crew and type specific data for cabin crew training and;~~

Replace by:

Determination of the minimum content of the cabin crew training programme for type of aircraft or variants of types.

Reason: Leaving the well established OEB Cabin Crew Subgroup with its assessment of cabin crew training in mid air is inconsistent with the goal of the Operational Suitability Certificate (OSC) and Supplemental OSC. As explained in the executive summary, the approved elements in the OSC will form the basis for the development of the type training courses and variants. The type data describe the design of the product and hard data only. While selected Airworthiness Codes make a basis for type certification through the type certificate data sheet, this will not cover operational suitability. Minimum training for types or variants would in fact be set aside.

The ETF representative to the WG objected to the outcome of the group by mail dated 1st October last year. It is inconsistent with the safety objectives of the OSC as well for harmonisation that cabin crew training be left aside. Here cabin crew are being treated unfair compared to the other safety sensitive groups and so are vital cabin safety standards for passengers and crew.

The ETF fears that should only determination of type or variant and type specific data be addressed then vital cabin crew information is missing. TC operational interaction for cabin crews training would consequently need an additional NAA approval. This could lead to differences from country to country and possibly from operator to operator.

comment 526 comment by: ETF

(a) 2. The ETF supports that maintenance is covered by a minimum training syllabus.

comment 547 comment by: DGAC France

1b. AFFECTED PARAGRAPH:

21.A.62 (a).2 and (CE) 216/2008

2. PROPOSED TEXT/ COMMENT:

It is proposed to get the Basic Regulation (CE 216/2008) article 5 (5) amended in order to add an (e) vii bullet to address requirements applicable to cabin crew.

3. JUSTIFICATION:

DGAC support to address all aspects of safety and the contribution of cabin

crew competencies. But it shall be explicitly written in the basic regulation, so it gives the boundaries of what is expected in the implementing rules.

comment 612 comment by: *International Air Transport Association (IATA)*

(a)

(1) *the minimum syllabus for pilot type training,*

…

Comment:
The Implementing Rules should also refer to difference training between types and variants.

Proposal:
Introduce difference training between types and variants into the implementing rules.

comment 613 comment by: *International Air Transport Association (IATA)*

"(a) The Scope of the operational suitability certificate covers the following elements when applicable:
...
3. Determination of type or variant for cabin crew and type specific data for cabin crew training."

Comment:
The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants

comment 644 comment by: *EUROCOPTER*

In accordance with our general comment n° 61 Eurocopter is questioning the relevance of keeping requirement (a) 2. (minimum syllabus of maintenance certifying staff type rating training) into the OSC scope.

comment 725 comment by: *ETF*

21.A.62 The ETF supports the OSC and that the elements approved under the OSC be made mandatory basis for operators when developing their MEL and training courses including cabin crew.

Reason: The OSC will ensure harmonisation of the basic elements for developing type and variant training courses for pilots and maintenance but also cabin crew. Likewise it will identify the Minimum Equipment List including for cabin crew.

comment *775* comment by: *Boeing*

Page 52
Draft Opinion
Section 21A.62 Scope

BOEING COMMENT: Boeing suggests that the following changes be made to the proposed text:

21A.62 Scope

(a) The scope of the operational suitability certificate covers the following elements when applicable:

1. the minimum syllabus of pilot type rating training, including determination of type rating

2. ~~and~~ the ***determination of the*** aircraft reference data ***required*** to support the qualification of associated training ***device(s)*** ~~simulator(s)~~;

3 ~~2~~. the minimum syllabus of maintenance certifying staff type rating training including determination of type rating;

4 ~~3~~. ***the D~~d~~***etermination of type or variant for cabin crew and type specific data for cabin crew training; and

5 ~~4~~. the master minimum equipment list.

(b) The scope of a supplemental operational suitability certificate covers changes to one or more of the elements as listed in subparagraph (a).

JUSTIFICATION: The airframe manufacturer, as holder of, or applicant for, an aircraft type certificate, must obtain an OSC prior to the aircraft being operated. The OSC would be issued by EASA when the applicant has demonstrated that the elements comply with the applicable technical standards. These "elements" include portions of the data package used to qualify a flight simulation training device. The certification specifications for training devices included in CS-FSTD(A) apply to the device being qualified, not the "reference data." The airframe manufacturer can only ensure that the reference data can support qualification of the training device. This is similar to the current process of developing and getting regulatory approval of a simulator qualification plan.

The approval of a validation plan would also remove the need to approve expected changes to the "reference data," since the simulator qualification plan covers interim and final qualification. This is unnecessarily involved, particularly for minor changes.

For the reasons noted above, the OSC approval should be based on the airframe manufacturer's plan to support the qualification of the training device.

comment *810* comment by: *FAA*

o **¶ 21A.62**

Comment:
OSC and SOSC Scope. The new requirement for TC holders, usually the manufacturer, or STC holders to develop and certify an OSC or SOSC will add additional cost to all manufacturers. A change to an OSC element may require the TC holder to develop a SOSC. This would be an expensive and cumbersome process.

There currently is no comparable non-EU community process. Unless there was a joint EASA/FAA certification and operational suitability evaluation, a manufacturer would be required to essentially certify the aircraft twice. Once to meet U.S. certification and flight standards requirements, and then again to meet EU certification and OSC requirements.

Recommendation:
Ensure that there is some level of reciprocity of the current certification/operational suitability processes in any required bilateral agreements.

comment *813* comment by: *FAA*

o **¶ 21A.62**

Comment:
The five (5) elements constituting OSC scope.

- Minimum syllabus of pilot type rating training.
- Aircraft reference data to support development of simulators.
- Minimum syllabus of maintenance certifying staff type rating training including determination of type rating.
- Determination of type or variant for cabin crew and type specific data for cabin crew training.

(iv) The master minimum equipment list.

These elements may be incompatible with the current U.S. FSB/FOEB outcomes based on the final development of each elements structure and scope.

The OSC elements must be developed by the TC holder in the certification process and approved by EASA. The NAAs will have some limited flexibility to adjust the specifications, but the elements are prescriptive and attempt to set

one standard all operators must meet.

Additionally, this process shifts responsibility for the development of operational requirements to a quantitative certification process. If the final structure and scope of these elements is incompatible with the outcomes of the U.S. FSB/FOEB process, ensuing differences between regulatory requirements will impact international operators. Likewise with the TC holder as "author" of these elements, such perspective might be contrary to the development of flight operations procedures through the traditional FSB/FOEB process.

Finally, there may be a potential safety impact. The OSC approach is less robust because it ignores the Flight Standard coordinated bottom up operational approach, relying on experienced individuals to draw from a variety of supporting data which if necessary includes numerical justification. Further, the OSC is silent on local authority (POI) which is critical for FAA oversight.

Recommendation:
Ensure that there is some level of reciprocity of the current certification/operational suitability processes in any required bilateral agreements.

comment *814* comment by: *FAA*

o **¶ 21A.62**

Comment:
Minimum syllabus of pilot type rating training.

EASA intends that the minimum syllabus for pilot training be developed in the certification process which, if prescriptive, will render it inflexible and incapable of responding to industry and technological changes without resorting to a follow-on regulatory process.

The previous JOEB process and current U.S. FSB processes utilize highly experienced operations personnel and operationally oriented and experienced representatives to validate the manufacturer proposed training syllabus. This process is dynamic and hands on. The inflexibility built into a training syllabus developed by a manufacturer and in parallel with the certification process is diametrically opposed to the modern training philosophy embodied in both the EASA Common Procedures Document (CPD) and the FAA AC 120-53A.

The EASA OSC concept for the pilot training syllabus is less robust than the previous JOEB process and current FAA flight operations FSB validation and principle operations inspector approval process.

Recommendation:
EASA must be careful not to abandon the flight standards operational approach to the development, validation, tailoring, and approval process currently in use. The EASA OEB processes must be robust enough to provide sufficient flight operations oversight and evaluation of the OSC pilot training element so as to replicate historic JOEB evaluations. Such a process has been found to be the best suited to determine operational requirements and without attachment to the type certificate as proposed in the OSC NPA.

comment *815* comment by: *FAA*

o **¶ 21A.62**

Comment:
Aircraft reference data to support development of simulators.

The sharing of data with simulator manufacturers is recognized as a commercial process by both EASA and FAA processes.

Any attempt to include something beyond minimum required aircraft reference data in support of simulator qualification would impact the ownership and proprietary business relationships between simulator and aircraft manufacturers.

comment *817* comment by: *FAA*

o **¶ 21A.62**

Comment:
Minimum syllabus of maintenance certifying staff type rating training including determination of type rating.

There is currently no equivalent JOEB process to type rate maintenance staff on a particular aircraft type within an operational suitability evaluation. Likewise there is no such regulatory requirement in the U.S. beyond the local approval of an operator's maintenance program. Since the structure and scope of this OSC element is still to be defined, it is difficult to make a legitimate comment within this NPA.

This particular element of the OSC will create the largest "conflict" between international regulatory processes. Although ICA development within an MRB process is common to both the former JOEB process and the current FAA MRB process, this is only a single piece of the overall maintenance program for a TC or STC. Requiring a manufacturer to develop specific maintenance training and maintenance certification for their product during product certification will be contrary to current FAA and other regulatory schemes. It will also jeopardize the common type certification basis for aviation products present in current joint certification projects.

Recommendation:
Ensure that there is some level of reciprocity of the current certification/operational suitability processes in any required bilateral agreements.

comment *818* comment by: *FAA*

o **¶ 21A.62**

Comment:
Determination of type or variant for cabin crew and type specific data for cabin crew training.

There is no U.S. or other national regulatory equivalent process to type rate cabin crew on a particular aircraft type. This proposal appears to increase cost for the TC applicant during the certification process without adding value.

Within the U.S. and other regulatory schemes cabin crew are hired and trained by operators in accordance with a training syllabus developed by the operator and approved by the NAA. The training is specific to the operator's fleet types and in-flight procedures. Within the U.S., although cabin crew have certificates, the certificates are not awarded based on a federally developed certification process.

If this CS element contains anything more than specific, required training of an aircraft's unique emergency equipment it will be beyond the current scope of current joint regulatory aircraft evaluations. As such it too will create an impediment to joint certification/operational suitability evaluations.

comment *819* comment by: *FAA*

o **¶ 21A.62**

Comment:
Development of the master minimum equipment list.

This OSC element shifts the MMEL development process from an operational approach to an engineering approach which can only be revised through the certification process. This makes it costly, burdensome, and inflexible. The MMEL has been a very dynamic and responsive document/process under both the U.S. FOEB and JOEB processes.

The current JOEB and U.S. model for MMEL development uses a qualitative analysis process using available engineering data for support. In the U.S. model the MEL process provides three separate analyses. The MMEL is scrutinized during an operational suitability evaluation. The operator then selects and reviews MMEL provisions applicable to the specific operator's needs. The local FAA office then reviews and approves the operator's proposed MEL. The process envisioned by the EASA OSC is a quantitative process with minimum operational input. Developed by the manufacturer, there will be limited oversight by the minimal EASA staff.

The U.S. FAA process and the EASA OSC differ philosophically. The FAA process is qualitative and the EASA OSC process is quantitative. This difference results in a different application of MMEL provisions. As an example, the EASA OSC CS-MMEL quantitative analysis would allow dispatch of a two engine transport category airplane with both reversers inoperative. The FAA qualitative approach would allow dispatch of the same airplane with only one thrust reverser to be inoperative. Substantive differences within MMELs for different regulatory schemes will create ambiguities for the international operators who must operate under both.

As a regulatory document, changes to the MMEL will be onerous and time consuming. This will impair the ability of operators and NAA personnel to "manage" the MMEL as a guidance document for their individual MELs. The discussion of SDs in the NPA does not have enough clarity to believe the process for MMEL revisions will be efficient enough to provide the same capabilities of the current MMEL system under the JOEB

comment *849* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
(a)
(1) *the minimum syllabus for pilot type training,*
…

Comment:
The Implementing Rules should also refer to difference training between types and variants.

Proposal:
Introduce difference training between types and variants into the implementing rules.

comment *850* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"(a) The Scope of the operational suitability certificate covers the following elements when applicable:
...
3. Determination of type or variant for cabin crew and type specific data for cabin crew training."

Comment:
The basic regulation (article 5.5e) does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any mandatory cabin crew matters,,which are not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030

(Operation on more than one type or variant)

Proposal:
Delete cabin crew requirements from the O-SC and stick to EU-OPS in relation to cabin crew type and variants

comment *868* comment by: *Walter Gessky*

21A.62 Scope
Change the following:
(a) The scope of **additional requirements for** the operational suitability ~~certificate~~ covers the following elements when applicable:
1. the minimum syllabus of pilot type rating training, including determination of type rating
and the aircraft reference data to support the qualification of associated simulator(s);
2. the minimum syllabus of maintenance certifying staff type rating training including

determination of type rating;
~~3. Determination of type or variant for cabin crew and type specific data for cabin crew~~
~~training and;~~
4. the master minimum equipment list;
~~(b) The scope of a supplemental operational suitability certificate covers changes to one or~~
~~more of the elements as listed in subparagraph (a).~~

Justification:
The Basic regulation does not provide a legal framework for implementing the proposed OSC requirement for Cabin Crew training syllabus under Part 21.

comment *946* comment by: *NFO Technical Commitee*

NFO mean that the minimum syllabus for maintenance staff shall follow the Part 66 requirements at the time of application.

comment *964* comment by: *kapers Cabin Crew Union*

3. (a)~~Determination of type or variant for cabin crew and type specific data for cabin crew training and;~~

Replace by:

Determination of the minimum content of the cabin crew training programme for type of aircraft or variants of types.

Reason: Leaving the well established OEB Cabin Crew Subgroup with its assessment of cabin crew training in mid air is inconsistent with the goal of the Operational Suitability Certificate (OSC) and Supplemental OSC. As explained in the executive summary, the approved elements in the OSC will form the basis for the development of the type training courses and variants. The type data describe the design of the product and hard data only. While selected Airworthiness Codes make a basis for type certification through the type certificate data sheet, this will not cover operational suitability. Minimum training for types or variants would in fact be set aside.

The ETF representative to the WG objected to the outcome of the group by mail dated 1st October last year. It is inconsistent with the safety objectives of the OSC as well for harmonisation that cabin crew training be left aside. Here cabin crew are being treated unfair compared to the other safety sensitive groups and so are vital cabin safety standards for passengers and crew.

The ETF fears that should only determination of type or variant and type specific data be addressed then vital cabin crew information is missing. TC operational interaction for cabin crews training would consequently need an additional NAA approval. This could lead to differences from country to country and possibly from operator to operator.

comment *965* comment by: *kapers Cabin Crew Union*

(a) 2. The ETF supports that maintenance is covered by a minimum training syllabus.

comment *966* comment by: *kapers Cabin Crew Union*

21.A.62 The ETF supports the OSC and that the elements approved under the OSC be made mandatory basis for operators when developing their MEL and training courses including cabin crew.

Reason: The OSC will ensure harmonisation of the basic elements for developing type and variant training courses for pilots and maintenance but also cabin crew. Likewise it will identify the Minimum Equipment List including for cabin crew.

comment *975* comment by: *ECA - European Cockpit Association*

PAGE 52, SEGMENT:

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.62 Scope 52

Comment:

Delete and replace text: 3. (a)~~Determination of type or variant for cabin crew and type specific data for cabin crew training and;~~ **Determination of the minimum content of the cabin crew training programme for type of aircraft or variants of types.**

Justification: Leaving the well established OEB Cabin Crew Subgroup with its assessment of cabin crew training in mid air is inconsistent with the goal of the Operational Suitability Certificate (OSC) and Supplemental OSC. The approved elements in the OSC constitute the basis for the development of the type training courses and variants. The type data describe the design of the product and hard data only. Airworthiness Codes will not cover operational suitability. Minimum training for types or variants would in fact be set aside.

This is inconsistent with the safety objectives of the OSC .Cabin crew training is being treated differently to the other safety sensitive groups. Cabin Crew training standards would be affected and have repercussions on the safety of passengers and crew.

Addressing only the determination of type or variant and the type specific data would lead to incomplete vital cabin crew information. TC operational interaction for cabin crews training would consequently need an additional NAA approval. This could lead to unjustified differences from country to country and possibly from operator to operator.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational p. 52

Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.64 Eligibility

comment *5* comment by: *Francis Fagegaltier Services*

21A.64 (a)
The wording "may" is used in this paragraph. This implies that this OSC would not be imposed to the TC holder. But, the proposed article 4B, § 1 (a) stipulates that an OSC shall be obtained by the TC holder. The optional aspect found in 21A.64 (a) does not fit with the mandatory aspect found in the proposed revision to Regulation 1702/2003.

comment *49* comment by: *Diamond Aircraft Ind. GmbH*

21A.64 Eligibility

should be:

(a) Only the holder of or applicant for an aircraft type certificate or restricted type certificate **for a complex motor-powered aircraft with more than 5700kg MTOM** may apply....

Substantiation:

We see no increase in safety that the workload from the operator, FTO/TRTO and 147 organisations is transfered to the TC-Holder for the creation of the training syllabi and MMEL.

Those organisations are experts in their field and can make profit from their knowledge and experience, while the DOA has to invest in competent staff for those fields and spend money for training of this staff to be able to show compliance to OSC requirements.

Finally this burden would be an adverse trend to the ELA1/ELA2-development, which has the focus for alleviation of requirements.

comment *499* comment by: *Dassault Aviation*

21A.64 Eligibility

Concern :

It is unclear what will be the relationship between OSC and S-OSC, as the OSC is a change to the TC. Does it mean that S-OSC - not OEM related - would be also a change to TC ?

Suggestion:

Dassault Aviation recommends that the relationship between Type, variant,

STC and related OSC and S-OSC be clearly defined.

comment *548* comment by: *DGAC France*

1b. AFFECTED PARAGRAPH:

21.A.64 (b)

2. PROPOSED TEXT/ COMMENT:

Delete the (b).

3. JUSTIFICATION:

Only TCH or STCH shall be able to produce the required data contained in the OSC/SOSC.

This is a comment that is independent of our general comment. But with our general comment where we get rid of the "certificate", this comment would by itself be obsolete.

comment *637* comment by: *AAI - Austrian Aeronautics Industries Group*

[21A.64 Eligibility] (a)

should be:

"(a) Only the holder of or applicant for an aircraft type certificate or restricted type certificate **for a complex motor-powered aircraft with more than 5700kg MTOM** may apply...."

****

Substantiation:

We see no increase in safety that the workload from the operator, FTO/TRTO and 147 organisations is transfered to the TC-Holder for the creation of the training syllabi and MMEL.

Those organisations are experts in their field and can make profit from their knowledge and experience, while the DOA has to invest in competent staff for those fields and spend money for training of this staff to be able to show compliance to OSC requirements.

Finally this burden would be an adverse trend to the ELA1/ELA2-development, which has the focus for alleviation of requirements.

comment *820* comment by: *FAA*

o **¶¶ 21A.64, 21A.65, 21A.66, 21A.67, 21A.68, 21A.69, 21A.70, 21A.71**

Comment:
These OSC NPA provisions further reinforce the intention of EASA to merge flight standards with the certification process.

Past JOEB and current U.S. systems of separating flight standards and certification provides a check and balance approach to aircraft development. Engineering practices are subject to a flight operational review. The qualitative review of the engineering quantitative process provides a very robust review of design and manufacturing practices from an operational perspective. Historically, this systems approach to aircraft design, production, and operation has produced a successful product.

From a safety perspective, inadequate systems design has contributed to numerous accidents. Accounting for the flight standards perspective in the design and applying the systems approach to the design is safety value added.

comment *869* comment by: *Walter Gessky*

21A.64 Eligibility
Change the following:
(a) ~~Only~~ The holder of or applicant for an aircraft type certificate or restricted type certificate
may ~~apply for an operational suitability certificate for~~ **show compliance with the additional requirements for operational suitability and the airworthiness specifications for a given type of operation.**
(b)Any natural or legal person may ~~apply for a supplemental operational suitability certificate~~ **show compliance with the additional requirements for operational suitability and the additional airworthiness specifications for a given type of operation.**

Justification: Rewording due to deletion of the reference to the certificate.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.65 Application for Operational Suitability Certificate and supplemental operational suitability certificate p. 52

comment *131* comment by: *Bombardier Aerospace*

See the Bombardier comment submitted against the Executive Summary on how our position on this NPA regarding the Validation process and EASA involvement for new or amended OSC/SOSC requested by Non-EU Applicants will depend on the Certification Processes established for non-EU Holders.

comment 501 comment by: *Dassault Aviation*

21A.65 (b) and GM

Concern:

The notion of "optional" elements to the OSC, upon OEM request, is provided in GM. However, the examples given are operations-oriented only, whereas these optional elements may comprise much more than operations.

Suggestion:

Dassault Aviation suggests that the extension to optional OSC elements be clearly indicated in the requirement text in 21A.65(b) and additional guidance not limited to operations be included in GM 21A.65(b).

As a proposal for 21A.65(b):

Read "...regarding the element of 21A.62(a) or changes thereto..., as well as any optional elements.

As a proposal for GM 21A.65(b):

Title change to : Application contents

§2 read: the OSC applicant/holder may wish to apply for optional elements, such as :

-Alternate AMC

-IR-OPS Type Compliance Check List

-Approval of differences training...

-other

comment 504 comment by: *Dassault Aviation*

21A.62(b) and 21A.65(b) Application for OSC and S-OSC.

Concern:

The required elements of the OSC are described in 21A.62. Optional elements are mentioned in 21A.65 .

However, there is no mention of the "optional part" of the required OSC elements, e.g. any additional information above to the minimum required.

Suggestion:

Dassault Aviation suggests that the depth of each basic required OSC elements beyond the required perimeter be clearly indicated in the requirement, and at the discretion of the OEM.

comment 524 comment by: *EUROCOPTER*

Wording modification proposal related to 21A.65 § (b):

(b) The application shall include the type(s) of operation(s) and information regarding the elements of 21A.62(a) or changes thereto, for which the certificate is requested, **as well as any additional optional elements**.

Reason: consistency with GM 21A.65(b) § 2. which introduces the possibility for the OSC applicant to apply for optional elements like difference training between variants or types.

comment *720* comment by: *ETF*

21A.65 The ETF supports that the OSC should be issued at the discretion of the Agency and include the minium cabin crew type training.

Reason: See ETF comment to 21A.62

comment *870* comment by: *Walter Gessky*

21A.65
Change the following:
21A.65 Application for Operational Suitability ~~Certificate and supplemental operational suitability certificate~~
Justification: Delete the reference to the certificate.

Change the following
(a) An application **to show compliance with the additional requirements** for ~~an~~ operational suitability ~~certificate or supplemental operational suitability certificate~~ **when not included in the application for TC and STC** shall be made in a form and manner established by the Agency.
(b) The application shall include the type(s) of operation(s) and information regarding the elements of 21A.62(a) or changes thereto~~, for which the certificate is requested~~.

Justification: Not an OSC shall be issued, even when listed in the TCDS, the individual documents shall be approved like the FM.

comment *967* comment by: *kapers Cabin Crew Union*

21A.65 The ETF supports that the OSC should be issued at the discretion of the Agency and include the minium cabin crew type training.

Reason: See ETF comment to 21A.62

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.66 Certification Specifications for operational suitability p. 52

comment 130 ☐ comment by: *Bombardier Aerospace*

Bombardier agrees that Part-21 Subpart C should not contain the technical standards for the approval of OSC elements. However, the scale and significance of those technical standards is such that there is an instinctive hesitation to accepting the Part-21 process if we are unsure what final technical standard is imposed by that process. As a result, as stated in our comments against the Executive Summary, our comments against Part-21 through this NPA may be amended by comments against the relevant CSs.

comment 872 comment by: *Walter Gessky*

~~**21A.66 Certification Specifications for operational suitability**~~
Delet this Article.
Justification:
Shall be transferred to 21A.16B to regulates the issue. Power is given to establish additional airworthiness specifications for a given type of operation to ensure compliance with Article 8;

comment 913 comment by: *ETF*

ETF supports that CSs for OSC be developed.

Reason: CS will demonstrate how to comply with the rule.

comment 921 comment by: *AEI*

Again AEI have resevations about the setting of the minimum syllabus for type rating training without refering to the current Part 66 Appendix I Basic Knowledge. Determination of type rating as it pertains to technical training should also reflect the technological changes within the OSC/ SOSC in respect to that found in the generic Part 66 syllabus, not just operative or flight deck effects.

comment 968 comment by: *kapers Cabin Crew Union*

ETF supports that CSs for OSC be developed.

Reason: CS will demonstrate how to comply with the rule.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.67 Designation of operational suitability certification basis p. 53

comment 26 comment by: *LHT DO*

We do understand that the SOSC is invalid as soon as a new CS (CS 26) affecting the SOSC has been issued by the Agency.

Is the STC Holder obliged to follow up compliance with all new CS changes for his SOSC´s? This would force the STC holder not only to follow up the design deficiencies but also each CS change for his SOSC´s.

This is not acceptable to STC or minor change approval holders since the contract for the change has been closed and there are no contractual means to permanently follow up the SOSC.

This is considered to be an unacceptable and unpractical issue for Design Organisations / Design Approval Holders.

comment *132* ☐ comment by: *Bombardier Aerospace*

In Subparagraph (a)(1), EASA will allow the use of alternative specifications to the CS. Bombardier requests EASA to comment if and how the specification or approval basis for training or MMEL elements used for their initial acceptance in the EU (prior to adoption of the CS) can be accepted as the alternative.
For example, consider a non-EU Holder of an EASA TC issued in 2003 who applies for an OSC in 2012. Part-21A.67 implies that the OSC Certification Basis would be the applicable CS effective in 2012. However, the Holder may already have many versions of the Type operating in the EU and the JOEB training programs and MELs (based on the Holder MMEL) have been grandfathered. It would be prudent for the Applicant to request that the Certification Basis for the OSC be identical to that used for the existing programs and documents – ie for crew training, the JOEB report representing acceptable minima and the EASA or NAA National guidance material used as the basis for MMEL approval.
If this is what is intended for this Subparagraph, EASA is requested to elaborate if the OSC Certification Basis would reflect the initial specifications or approval basis, or if those standards would be judged as an "Equivalent Level of Safety" *per se*.
If this is not what was intended by the Subparagraph, then it would seem unwarranted to impose a different standard on a set of previously acceptable and probably now mature criteria just in order to obtain the OSC.

comment *437* comment by: *IACA International Air Carrier Association*

This paragraph includes the phrases "… to demonstrate compliance …", "… compliance demonstration …", "… certification programme …". The content and the complexity of the program and of the compliance are missing. There exists no GM or AMC for the three paragraphs.

comment *776* comment by: *Boeing*

Page 53
Draft Opinion
Section 21A.67 -- <u>Designation of operational suitability certification basis</u>

BOEING COMMENT: Paragraph (a) implies that the reference data defined in AMC 21A.62(b)(2) needs to meet the certification specification [CS-FSTD(A)]

that is effective on the date of OSC application. However, Appendix 7 to AMC No. 1 to CS-FSTD(a).300 states that "*data packages for all new FSTDs will fully comply with the current standards for qualifying FSTDs",* not the standard at the date of OSC application.

Since EASA is also seeking comments on CS-FSTD(A) at this time, Boeing suggests that Appendix 7 to AMC No. 1 to CS-FSTD(a).300 be deleted to remove the conflicting material.

JUSTIFICATION: Clarification is needed on this apparent conflict. Publication of the related CS is necessary to understand the impact of this requirement. A revised NPA should be republished for consultation and comment once the CS language is determined.

comment *873* comment by: *Walter Gessky*

~~**21A.67 Designation of operational suitability certification basis**~~
Delete the Article
Justification:
The certification basis type system proposed by the NPA 2009-01 is not required for the type of output expected from the OEB /MMEL system. Change product rule not applicable to MMEL, Training syllabus, STD ref data as the product configuration drives the content.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.68 Compliance with the operational suitability certification basis p. 53

comment *133* comment by: *Bombardier Aerospace*

There are no provisions for non-EU Applicants who may be able to take advantage of their State of Design Organizational or Design Approval capability, whereby the involvement of EASA and the provision of the declarations of compliance may deviate from what is written. We realize that the proposed regulation considers that non-EU Applicants will not be able to take advantage of existing Bilaterals and/or Treaties with the EU. However, it is assumed that this regulation may change when EASA responds to the non-EU Industry comments.

comment *438* comment by: *IACA International Air Carrier Association*

This paragraph includes the phrases "… to demonstrate compliance …", "… compliance demonstration …", "… certification programme …". The content and the complexity of the program and of the compliance are missing. There exists no GM or AMC for the three paragraphs.

comment *509* comment by: *Dassault Aviation*

Concern:

Opposite to the Type Design, it is assumed that the various CS for the OSC will

be ,per essence, less technical than the related CS 23/CS 25. Stating that an OSC element is compliant with a requirement which is more at the level of a concept would be useless.

Suggestion:

This comment will be tuned when CS will be available.

comment *632* comment by: *Luftfahrt-Bundesamt*

Proposed 21A.68: In absence of detailed certification specifications to provide criteria for (S)OSC compliance, it is difficult to understand what an SOSC applicant could apply for. In case applicable information was not provided by the (S)TC holder himself, could an operator apply for an SOSC for example for steep approach operations, AWO CAT II /III operations, or narrow runway operations with a transport category airplane without concurrence of the aircraft TC holder ? How far could the SOSC process become an alternative to an STC process by allowing it to include some "specific" operations that traditionally required type certification activities by the TC holder ? Note that CS-AWO is mentioned as one possible example in paragraph 3.1.3 of the RIA. If the Agency opens the door too wide in such areas, a certain risk will be introduced. In the interest of ensuring a high safety standard, a restrictive policy should be implemented such that an SOSC does not become an easy alternative for type certification activities.

comment *874* comment by: *Walter Gessky*

~~**21A.68 Compliance with the operational suitability certification basis**~~
Delete the Article 21A.68
Justification for deletion of 21A.67.

comment *880* comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

21A.68 Compliance with operational suitability certification basis

Embraer agrees that there is benefit to providing a certification program plan for demonstrating OSC compliance but we believe that this requirement, currently in 21A.68(b) would be better as GM or AMC material than in the regulation itself.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.69 Issue of the Operational Suitability Certificate p. 53

comment *439* comment by: *IACA International Air Carrier Association*

This paragraph includes the phrases "… to demonstrate compliance …", "… compliance demonstration …", "… certification programme …". The content and the complexity of the program and of the compliance are missing. There exists no GM or AMC for the three paragraphs.

comment 519 comment by: *Dassault Aviation*

21A 69 and 21A.80 Approval of change:

See CRT comment N°518.

comment 671 comment by: *Airbus*

21A.69(d) would provide for the possibility of issuing an OSC with appropriate limitations before showing of compliance of all elements in the application. Airbus questions the added value of this administrative step. It would sufficient to approve the element(s) needed for the specific purpose(s) (e.g. training), without issuing a "limited" OSC, and to point the end-user (operator, training organisation...) to this (these) approved element(s).

comment 875 comment by: *Walter Gessky*

21A.69 ~~Issue~~ Approval of the Operational Suitability ~~Certificate~~ Documents

The applicant shall be entitled ~~to have an operational suitability certificate issued by the Agency~~ that

- o **the minimum syllabus of pilot type rating training, including determination of type rating and the aircraft reference data to support the qualification of associated simulator(s);**
1. **the minimum syllabus of maintenance certifying staff type rating training including determination of type rating;**
2. **the master minimum equipment list;**

is approved after:

(a) **the poposed compliance was evaluated by an Operational Evaluation Board**; and

(b) The Agency is satisfied that the applicant has demonstrated **to the OEB** that the elements **applied under** ~~of~~ 21A.65(b) comply with the operational suitability **requirements** ~~certification basis designated in accordance with 21A.67~~; and

(c) Any provisions not complied with are compensated for by factors that provide an equivalent level of safety; and

(d) Notwithstanding subparagraphs (a), (b) and (c) an **approval of the documents** ~~operational suitability certificate~~ with appropriate limitations may be issued by the Agency before all elements ~~included in the application~~ **applied** have been demonstrated to comply with the applicable **requirements** ~~approval specifications~~.

Justification:

Rewording, because the evaluation shall be done by the OEB and not only by applicant and EASA. The establishment of the OEB would be a key element for the subject. An Annex shall include requirements how to establish an OEB for each project and requirements to establish the documents (minimum syllabus and MMEL)

comment 940 comment by: *GAMA*

GAMA recommends that the end of the sentence in subparagraph (d) "…demonstrated to comply with the applicable approval specifications" be

changed to read "…demonstrated to comply with the applicable certification specifications".

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.70 Issue of the Operational Suitability Certificate for aircraft other than complex motor-powered aircraft p. 53-54

comment *183* comment by: *EUROCOPTER*

Comment on § (a)(1): the Agency decision that one or several elements of the OSC have to be approved in accordance with 21A.69 has to be based on criteria to be published as Guidance Material to 21A.70 (a)(1).

comment *782* ☐ comment by: *General Aviation Manufacturers Association / Hennig*

GAMA recommends that EASA establish simplified process through which aircraft other than complex motor-powered aircraft be put through if it is determined that the "generic OSC" does not suffice to ensure safety. Putting an aircraft other than complex motor-powered aircraft through a complete OEB evaluation for not meeting a set of criteria would likely be disproportionally burdensome for aircraft of this size and complexity.

comment *788* ☐ comment by: *General Aviation Manufacturers Association / Hennig*

GAMA believes that EASA should further clarify the circumstances which would make an aircraft other than complex motor-powered aircraft subject to additional requirements beyond the generic elements as generally outlined in 21A.70(a)1. in the NPA.

The NPA states that "…the TC holder does not need to develop the elements except for the case where the generic elements contained as published in the applicable CS are not sufficient to ensure the safe operation of the particular aircraft type."

GAMA recommends that the agency further specify the process through which the determination whether the generic elements are sufficient to ensure safe operation of a specific aircraft model. Is the aircraft subject to a full OEB evaluation until it can be proven that the generic is enough or does the burden lie with the agency for doing the evaluation? If the burden lies with the agency, then EASA needs to clarify the process which it would use for making this determination.

comment *793* ☐ comment by: *General Aviation Manufacturers Association / Hennig*

GAMA recommends that EASA establish a process through which a manufacturer can petition the agency to establish a targeted OSC for an aircraft other than complex motor powered in cases where the manufacturer identifies operational issues or equipment that warrant targeted training

requirements beyond the generic elements.

As an example, if the manufacturer petitions the agency for a targeted set of OSC pilot training requirements for a new avionics installation, this targeted set of new requirements would not void the ability of the OSC for the aircraft to be built around the generic elements of the OSC for all other areas.

comment *885* comment by: *Walter Gessky*

21A.70
Change the wording:
21A.70 ~~Issue of the~~ Operational Suitability ~~Certificate~~ documents for aircraft other than complex motor powered aircraft
Delete (a) and (b)
Add the new text:
(a)
The TC holder or any operator can apply on a voluntary basis according 21A.65 for the approval of an operational suitability document by the Agency. The Agency shall approve the documents according 21A.69. The OEB process has to be followed for the approval of the MMEL.
The Agency may issue a CS for standard means of compliance for

- the minimum syllabus of pilot type rating training, including determination of type rating and the aircraft reference data to support the qualification of associated simulator(s);
- the minimum syllabus of maintenance certifying staff type rating training including determination of type rating;

Justification:
Delete, no certificate required. It shall be noted that certain documents are not required for this kind of aircraft.
Implementation of the OSC concept for all A/C overkill for large segments of GA. The generic CS's for non-"complex motor powered" is a Bureaucratic act of little value for large sections of GA (For example gliders). Given the EASA systems inability to create a generic maintenance program for light A/C as has been practiced for decades in the form or FAR 43 Appendix D, it is highly unlikely that any meaningful result would come of the enormous bureaucratic effort involved with creating the generic CS's required by NPA 2009-01.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.71 Operational Suitability Certificate p. 54

comment *28* comment by: *LHT DO*

This paragraph can be understood that the OSC has to be revised upon any new Safety Directive.

Please clarify.

comment *886* comment by: *Walter Gessky*

21A.71 Approval of Operational Suitability ~~Certificate~~ Documents
Change the following and delete (a)3.
(a) ~~the elements approved in accordance with 21A.69 or the generic elements in accordance with 21A.70;~~ The operational suitability ~~certificate~~ documents are:

1. the minimum syllabus of pilot type rating training, including determination of type rating
   and the aircraft reference data to support the qualification of associated simulator(s);
2. the minimum syllabus of maintenance certifying staff type rating training including
   determination of type rating;
3. the master minimum equipment list;

(b) The documents includes any conditions or limitations **requested by the OEB or the Agency** , or prescribed **in** the applicable certification specifications ~~or by the Agency~~;
(c) ~~the operational suitability certificate data sheet;~~ **The documents may be notified in the Type Certificate Data Sheet**
~~(d) any changes approved under 21A.80; and~~ **The document and any change to the document is approved by the Agency 21A.69**
~~(e) any applicable safety directive.~~

Justification:
A document is to be approved and not a certificate to be issued.
Delete Safety Directives because they are not mentioned in the scope of paragraph 21A.62.
Approval process through an OEB shall be regulated in an Annex.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.73 Occurrences p. 54

comment *113* comment by: *AEA*

Relevant Text:

Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming.

Comment:
The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided.

Proposal:
Realign this proposal with the existing occurrence reporting legislation

comment 134 ☐ comment by: *Bombardier Aerospace*

The need for OSC Holder involvement in occurrences that may jeopardize the validity of the OSC is understood. Our experience to date with the equivalent and, in theory, mature reporting process against the TC leaves Bombardier with the belief that, if not described and managed carefully, there will be an overwhelming surge of reporting that requires a Holder to respond much of which relating to how the training was implemented and not relating to the minimum criteria. The proposed regulation clearly describes that the Holder has the burden of determining if each occurrence is as a result of a shortcoming in the approved element under the OSC. Bombardier questions if EASA has correctly understood what is required to comply with this proposal and if the RIA, Section 5.2.2.1.2 truly reflects the resource need.

comment 226 comment by: *Icelandair*

Relevant Text:
Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming.

Comment:
The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided.

Proposal:
Realign this proposal with the existing occurrence reporting legislation

comment 288 comment by: *KLM EASA DOA 21J.012*

Relevant Text:
Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming.

Comment:
The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided.

Proposal:
Realign this proposal with the existing occurrence reporting legislation

comment 343 ☐ comment by: *Airbus*

Relevant text: Page 24 § 24 Occurrences

Comment:

Airbus would like to stress that EU OPS 1 makes occurrence reporting mandatory for the operators, and that procedures are already in place for analysing the events with different filters: operator level, NAA, TC Holder. TC Holder was up to now required to analyse any impact related to continued airworthiness. By this new requirement, TC/OSC Holder is now required to assess as well possible shortcomings in OSC elements, BUT this analysis should be made initially by the operator, and then reported to TC/OSC Holder if applicable.

Proposal:

EASA need to clarify, when transposing EU OPS occurrence reporting rules, the various steps needed not only with regard to continued airworthiness, but also with regard to OSC elements, and this should be adequately reflected in IR-AR and IR-OR.

comment *490* comment by: *Cargolux Airlines International*

Relevant Text:
Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming.

Comment:
The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided.

Proposal:
Realign this proposal with the existing occurrence reporting legislation

comment *511* comment by: *Dassault Aviation*

Concern:

In the explanatory note 96, it is expressed that the TC (or STC) holder shall determine whether reports of occurrences result from a shortcoming in elements of OSC.

Suggestion:

It is reminded that operational events shall be first reported by the operators to their local NAAs. As these events may be operators specific, a filter has to be put in place at the NAA-Operator level to investigate if the event comes from a shortcoming be on OSC elements. Only those occurrences where NAA & operators have determined that a shortcoming exists in OSC elements have to be passed to TC holder for further investigation.
IR-AR and IR-ORG should be modified to reflect this two steps process and introduce in the field at the same time of the OSC.

comment 513 comment by: *Dassault Aviation*

Concern:

As the result of the declaration for non-complex aircraft against generic CS, any non-complex A/C OEM will not be bound to investigate operational occurrences.

Suggestion:

It is to be clarified that, for non-complex aircraft when OSC is based on generic elements only, that EASA will investigate those occurrences where Operators/NAA have determined that the shortcoming comes from the generic CSs.

comment 571 □ comment by: *Airbus*

§ 21A.73 on analysis of occurrence reports should be deleted. Its intent should be captured in 21A.3(c), which is the general provision on Investigation of Reported Occurrences, by modifying 21A.3(c)(1) as follows:
"1. When an occurrence reported under paragraph (b), or under 21A.129(f)(2) or 21A.165(f)(2) results from a deficiency in the design, or a manufacturing deficiency, ***or a deficiency in the operational suitability elements,*** the holder …"

Adjustments to AMC 20-8 on Occurrence reporting could be considered.

comment 614 comment by: *International Air Transport Association (IATA)*

Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming.

Comment:
The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided.

Proposal:
Realign this proposal with the existing occurrence reporting legislation

comment 626 comment by: *EUROCOPTER*

Eurocopter suggests that the following new Guidance Material will be added, for consistency with the process described for aircraft other than complex motor powered aircraft:

GM 21A.73 Occurrences

As far as aircraft other than complex motor-powered aircraft are

concerned, when the operational suitability certificate is based on generic elements issued by EASA, the Agency will take in charge the update of the generic elements in accordance with reported occurrences.

comment *716* comment by: *EUROCOPTER*

It is reminded that operational events shall be first reported by the operators to their NAAs. As these events may be operators specific, a filter has to be put in place at NAA and operator level in order to investigate if the event comes from a shortcoming in the OSC elements or not.

Proposal: a requirement should be in Part OR (Organisational Requirements) and Part AR (Authority Requiremens) asking respectively to the operators and to the NAAs that only occurrences having analysed as caused by a shortcoming in the approved elements of the OSC are reported to the OSC holder.

comment *777* comment by: *Boeing*

Page 54
Draft Opinion
Section 21A.73 -- Occurences

BOEING COMMENT: The requirement to analyze *".. a shortcoming of approved elements.."* is too vague and could potentially be costly. Boeing requests that EASA specifically identify when an "analysis of occurrence" is necessary.

JUSTIFICATION: Specificity is necessary for consistent compliance, understanding, and interpretation.

comment *821* comment by: *FAA*

o **¶¶ 21A.73, 21A.79, 21A.80**

Comment:
The Implementing Rules require the establishment of a "feedback loop" to ensure the continued validity of the issued OSC over time.
Changes to the OSC elements are classified as major and minor. Major changes are approved by the agency and minor changes may be approved by a design organization.

The process is similar to U.S. FAA practice requiring operators to report service difficulties experienced with aircraft types.
The provisions allowing design organization approval of minor changes to an OSC element will result in a design organization changing an MMEL proviso. The U.S. FAA does not feel that this is appropriate.

comment *851* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
Where the holder of the operational suitability certificate determines that reported occurrences result from shortcoming in the approved elements of the operational suitability certificate, it shall analyse the reason for the shortcoming and report to the Agency the result of its analysis and any action it is taking or proposes to take to correct the shortcoming.

Comment:
The definition of occurrence should be cross-checked against other occurrence reporting requirements and the corresponding EU Directive. Duplicated occurrence reporting procedures should be avoided.

Proposal:
Realign this proposal with the existing occurrence reporting legislation

comment *887* comment by: *Walter Gessky*

21A.73 Occurrences
Change the following:
Where the holder of the operational suitability ~~certificate~~ **document** determines that reported occurrences result from a shortcoming in the approved elements of the operational suitability ~~certificate~~ **document**, it shall analyse the reason for the shortcoming and report to the Agency the results of its analysis and any action it is taking or proposes to take to correct that shortcoming.
Justification:
Shall be reworded to reflect that no certificate will be issued.

comment *941* comment by: *GAMA*

It is GAMA's understanding from the NPA that the requirements for the TC holder to maintain the "continued validity" of OSC elements are to address reported occurrences as specified in 21A.73 and to respond to any additional airworthiness specifications for operations (CS-26) or safety directives as specified in 21A3C.

GAMA requests that EASA confirm that these are the only requirements for TC holders to maintain the continued validity of the OSC elements.

GAMA recommends that the term "continued validity" be removed from paragraph "21A.78 duration and continued validity" and inserted into paragraph 21A.73 to read "Occurrences and continued validity". This is necessary because paragraph 21A.78 relates only to the duration of an OSC and does not include any provision regarding the TC holder responsibility for continued validity of the OSC elements which are fully contained within paragraph 21A.73 on occurrences.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.75 Record keeping p. 54

comment *778* comment by: *Boeing*

Page 54
Draft Opinion
Section 21A.75 - Record keeping

BOEING COMMENT: The requirement to retain *"… all information relevant to the OSC …"* is vague, particularly when considering the unlimited duration (Section 21A.78). [See GM 21A.75 (p. 64).] For MMELs, substantiating information may include FAA MMELs, Policy Letters, AFMs, software/data that may be needed to develop the performance adjustment, related FARs/JARs, etc.

JUSTIFICATION: Clarity is necessary for consistent compliance, understanding, and interpretation.

comment *888* comment by: *Walter Gessky*

~~**21A.75 Record keeping**~~
Delete 21A.75
Justification: Shall be deleted and covered under TC or wording changed that instead of a certificate a document will be approved.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.76 Documents p. 54

comment *444* comment by: *IACA International Air Carrier Association*

Considering that existing JOEB documents, publicly available on the JAA website, cannot be used by operators as OSC elements; the documents will likely being charged by the OEM to the operators, and therefore represent an additional financial burden.

comment *515* comment by: *Dassault Aviation*

Concern:

As of today, documents transmission to "users" are dealt through commercial contracts and is not free of charge. The way the requirement is written is not sufficiently clear so as to avoid misinterpretation.

Suggestion:

Dassault Aviation recommends that a GM is added stating that the requirement does not require "free of charge" issuance of mandatory documentation.

comment *780* comment by: *Boeing*

Page 54
Draft Opinion
Section 21A.76 -- Documents

BOEING COMMENT: We request that the requirement to *" … make available*

to any person required to comply with one or more element of the OSC ..." be clarified to explicitly account for the following:

1. Where are the people who are "required to comply" defined or identified?

2. For MMELs, is this only referring to operators?

3. Is it also referring to potential STC holders?

4. Is the expectation that all information relevant to the OCS elements will be provided to "any person required to comply"? Appropriate agreements will be required before the data (and specifically, proprietary data) can distributed.

JUSTIFICATION: Changes are necessary for consistent compliance, understanding, and interpretation.

comment *889* comment by: *Walter Gessky*

21A.76 Documents
The holder of the operational suitability ~~certificate~~ **document** shall make available to any person required to comply with one or more elements of the operational suitability ~~certificate~~ **requirements and** the relevant document or documents **and its updates are** approved ~~under the operational suitability certificate and its updates~~.
Copies of the documents and its updates shall be provided, on request to the Agency and the
competent authority of the operator of the aircraft.
Justification: Shall be reworded, because no certificate issued.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.77 Transferability p. 54-55

comment *890* comment by: *Walter Gessky*

21A.77 Transferability
Delete 21A.77
Justification:
Can be deleted, because the documents remain valid as long as a design approval holder exists and a TC is valied.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.78 Duration and continued validity p. 55

comment *892* comment by: *Walter Gessky*

21A.78 Duration and continued validity
An operational suitability ~~certificate~~ document or supplemental ~~operational~~

~~suitability certificate is issued for unlimited duration and shall~~ remain valid subject to the **type** certificate not being suspended, surrendered or revoked under the applicable administrative procedures established by the Agency.
Justification: Can be deleted or reworded, because the documents remain valid as long as a design approval holder exist.

comment *941* ☐ comment by: *GAMA*

It is GAMA's understanding from the NPA that the requirements for the TC holder to maintain the "continued validity" of OSC elements are to address reported occurrences as specified in 21A.73 and to respond to any additional airworthiness specifications for operations (CS-26) or safety directives as specified in 21A3C.

GAMA requests that EASA confirm that these are the only requirements for TC holders to maintain the continued validity of the OSC elements.

GAMA recommends that the term "continued validity" be removed from paragraph "21A.78 duration and continued validity" and inserted into paragraph 21A.73 to read "Occurrences and continued validity". This is necessary because paragraph 21A.78 relates only to the duration of an OSC and does not include any provision regarding the TC holder responsibility for continued validity of the OSC elements which are fully contained within paragraph 21A.73 on occurrences.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.79 Classification of changes p. 55

comment *344* ☐ comment by: *Airbus*

Relevant text: Page 25 § 101 Classification of changes

Comment1:

The notion of classification of changes has been derived from the one used for minor/major changes to type design. For operational elements, Airbus does consider that "a simple copy/paste" of the existing process cannot fit for OSC. Moreover until all elements are available , meaning CS and AMC/GM, it is very difficult to assess what will be exactly the content of those OSC elements. For example the definition of minimum syllabus is very confusing and may have to be adjusted in the CSs. Consequently determining what may be major/minor, and what should be the classification of changes for OSC, cannot be done at this point in time.

Comment 2: It is also to be noted that changes to elements of OSC are not defined. What will be the trigger for a change?

Proposal:

First, the notion of change to OSC should be defined. Then, when all CSs are

available, the possible process for approval of changes to the OSC should be discussed. Airbus strongly recommends to keep the process simple and manageable. The approach currently suggested in the NPA is NOT an acceptable way, as potentially too cumbersome for very little added safety value, compared to today's current practice where JOEB reports are amended/updated most often upon TC Holder request, based on in-service experience feedback, or based upon introduction of a derivative aircraft.

comment *350* comment by: *Airbus*

Relevant text

21A.79 Classification of changes

Changes to the elements of 21A.65(b) as approved under the operational suitability certificate

are classified as minor or major. A major change is one that has appreciable effect on the

operation of the aircraft. All other changes are minor.

Comment:

The definition of major change is meaningless, as the words appreciable effect can be interpreted in many different manners, and there may even be a specific definition for each of the OSC elements.

Proposal:

If this idea of classification of changes is retained, then there should be adequate criteria defined in each relevant CS. Consequently the sentence: " A major change is one that has appreciable effect on the operation of the aircraft. All other changes are minor" should be deleted from 21A.79, and 21A.79 should point to applicable criteria as defined in the relevant CSs.

comment *440* comment by: *IACA International Air Carrier Association*

To avoid a misunderstanding of minor or major changes to the OSC, the classification of minor or major changes to the OSC should be the same as to 21A.95 Minor changes and 21A.97 Major changes. Apart from the classification, the handling should also be the same.

comment *516* comment by: *Dassault Aviation*

Concern:

During the working Group process, EASA has been provided with an OEM consolidated and mature list of criteria to classify changes to MMEL.

Suggestion:

Taking into account that the criteria are only used in conjunction with DOA organisation, Dassault Aviation recommends EASA to re-consider the MMEL criteria list

comment *517* comment by: *Dassault Aviation*

Concern:

There is no proposal for change classification criteria for OSC elements other than MMEL.

Suggestion:

Dassault Aviation recommends that criteria used for assessing OSC change not provided in the NPA be available for review by the community before EASA opinion.
As far as simulator is concerned, Dassault Aviation proposes that the first evaluation of the first simulator used to approve Aircraft reference data also supports the evaluation of the process of releasing those data to simulator provider. This approved process will then be used for any OSC Simulator data by each OEM with its own internal procedure to set up the simulator data.

comment *555* comment by: *DGAC France*

1b. AFFECTED PARAGRAPH:

CE 1702/2003, 21.A.79 and GM 21.A.79

2. PROPOSED COMMENT:

Regardless of our comment that proposes a new paragraph 21.A.63 that replaces most of the A-NPA part 21 subpart C new paragraphs, DGAC France has concerns about the use of "appreciable effect" within 21.A.79:

DGAC believes the concept of "minor/major" change to OS Data is not mature to be discussed here. It seems to us that it is highly dependant on the parts it impacts. EASA has proposed to use the words "appreciable effect on the operation", but it seems very subjective and even with the GM, it seems not well defined.
What is given as an example in the GM for MMEL shall be discussed within the group in charge of the corresponding CS and be part of the NPA on this CS.

Until we agree on such a definition, there is no need to amend 21.A.263.

comment *893* comment by: *Walter Gessky*

21A.79 Classification of changes
Change he text:
Changes to ~~the elements of 21A.65(b) as~~ an approved ~~under the~~ operational suitability ~~certificate~~ **document** are classified as minor or major. A major change is one that has appreciable effect on the
operation of the aircraft. All other changes are minor.
Justification: Adoption, certificate deleted.

suitability certificate

comment *124* comment by: *AEA*

Relevant text:

21A.80 Approval of changes proposed by the holder of the operational suitability certificate

(a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate.
(b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65, 21A.67, 21A.68 and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *135* comment by: *Bombardier Aerospace*

Proposed 21A.80 Subparagraph (c)2 allows Minor changes to be approved by an appropriately approved design organization. In the explanation of the NPA, it is unclear if design organizations can be approved for this privilege by means other than stipulated in Subpart J.
Clarity on this issue is requested as, in the March to May 2009 briefings, EASA explained that it does not expect that non-EU design organizations may be approved in the short-term as the Subpart J approach was the only route envisaged. However, the NPA does not specifically limit the means to approve any design organization for the purpose of Classification or Approval of Minor changes to the OSC.
As EASA will recall and see from non-EU Industry comments, the ability to minimize the burden of the OSC, should that option prevail, is of the utmost priority for EASA to consider. As has and will be commented on, the need for a non-EU DOA approval in accordance with Subpart J is plagued with administrative and practical difficulties.

comment *227* comment by: *Icelandair*

Relevant text:
21A.80 Approval of changes proposed by the holder of the operational suitability certificate
(a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate.
(b) Major changes to the elements of 21A.65(b) shall be approved in

accordance with 21A.65, 21A.67, 21A.68 and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *289* comment by: *KLM EASA DOA 21J.012*

Relevant text:
21A.80 Approval of changes proposed by the holder of the operational suitability certificate
(a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate.
(b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65, 21A.67, 21A.68 and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *336* comment by: *ERA*

Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major.

We agree that any person should have the possibility to apply for a change to the OSC. However we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *344* □ comment by: *Airbus*

Relevant text: Page 25 § 101 Classification of changes

Comment1:

The notion of classification of changes has been derived from the one used for minor/major changes to type design. For operational elements, Airbus does consider that "a simple copy/paste" of the existing process cannot fit for OSC. Moreover until all elements are available , meaning CS and AMC/GM, it is very difficult to assess what will be exactly the content of those OSC elements. For example the definition of minimum syllabus is very confusing and may have to be adjusted in the CSs. Consequently determining what may be major/minor, and what should be the classification of changes for OSC, cannot be done at this point in time.

Comment 2: It is also to be noted that changes to elements of OSC are not defined. What will be the trigger for a change?

Proposal:

First, the notion of change to OSC should be defined. Then, when all CSs are available, the possible process for approval of changes to the OSC should be discussed. Airbus strongly recommends to keep the process simple and manageable. The approach currently suggested in the NPA is NOT an acceptable way, as potentially too cumbersome for very little added safety value, compared to today's current practice where JOEB reports are amended/updated most often upon TC Holder request, based on in-service experience feedback, or based upon introduction of a derivative aircraft.

comment *372* comment by: *Airbus*

Relevant text: 21A.80 (c) (2)

(c) Minor changes to the elements of 21A.65(b) shall be approved:

1. in accordance with subparagraph (b); or.

2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:

Imposing a concept of minor or major change to the OSC, and then applying the concept of DOA privileges, seems to be very cumbersome. Definition of minor/major for the OSC elements is highly dependent on the parts its impacts. The concept of "minor/major" for OSC is NOT mature and should only be discussed when all the CS material is available.

Proposal:

Delay the issue of approval of changes until definitions are agreed and all associated CS material is available.

comment *441* comment by: *IACA International Air Carrier Association*

To avoid a misunderstanding of minor or major changes to the OSC, the classification of minor or major changes to the OSC should be the same as to 21A.95 Minor changes and 21A.97 Major changes. Apart from the

classification, the handling should also be the same.

comment 491 comment by: *Cargolux Airlines International*

21A.80 Approval of changes proposed by the holder of the operational suitability certificate
(a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate.
(b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65, 21A.67, 21A.68 and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment 518 comment by: *Dassault Aviation*

Concern:

Some OSC elements cannot be approved directly (Minimum Syllabus, Simulator data, ...) as dependent on devices or training on which OEM may not have any control or responsibility.

Suggestion:

Guidance should be written to specify the pass/fail criteria of those evaluations Simulator evaluation may fail whereas the OSc data provided by OEM are correct.
In addition, to save time and money, this evaluation should be joined preferably with the first customer NAA so as for the NAA to approve the pilot's training course, the associated simulator.

comment 572 □ comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

comment 615 comment by: *International Air Transport Association (IATA)*

21A.80 Approval of changes proposed by the holder of the operational suitability certificate

(a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate.
(b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65, 21A.67, 21A.68 and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *852* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant text:
21A.80 Approval of changes proposed by the holder of the operational suitability certificate
(a) Only the holder of the operational suitability certificate can apply for an amendment of this certificate.
(b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65, 21A.67, 21A.68 and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the Agency.

Comment:
Persons other than the OSC holder should not be forced to apply for a SOSC when the change to the OSC is not classified major. we disagree that only an OSC holder can approve minor changes under a special DOA privilege. Existing DOA's should be granted the privilege (without further proving of capabilities) to approve minor changes to OSC elements for al changes resulting from modifications designed under their currently approved DOA scope.

comment *894* comment by: *Walter Gessky*

21A.80 Approval of changes proposed by the holder of the operational suitability ~~certificate~~ document
(a) Only the holder of the operational suitability ~~certificate~~ **document** can apply for an amendment of this document ~~certificate.~~
(b) Major changes to the elements of 21A.65(b) shall be approved in accordance with 21A.65,
~~21A.67, 21A.68~~ and 21A.69.
(c) Minor changes to the elements of 21A.65(b) shall be approved:
1. in accordance with subparagraph (b); or.
2. by an appropriately approved design organisation under a procedure agreed by the
Agency.
Justification: 21A.67 and 68 are deleted.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart C – Operational Suitability Certificates and Supplemental Operational Suitability Certificates - 21A.81 Changes approved under a Supplemental operational suitability certificate p. 55-56

comment *29* comment by: *LHT DO*

Please confirm that any DOA can obtain the privilege to approve minor changes to an OSC. During the workshop we understood that EASA is not willing to support DOA´s with this privilege for other than TC Holders.

comment *136* ☐ comment by: *Bombardier Aerospace*

The Bombardier comment for the determination of the OSC Certification Basis also applies to the proposed 21A.81. Furthermore, it is unclear if EASA mean to apply the CS in force at the date of SOSC application or, as with STC, will apply the CS or whatever specification is determined at the time/date of the initial OSC.

comment *442* comment by: *IACA International Air Carrier Association*

To avoid a misunderstanding of minor or major changes to the OSC, the classification of minor or major changes to the OSC should be the same as to 21A.95 Minor changes and 21A.97 Major changes. Apart from the classification, the handling should also be the same.

comment *570* ☐ comment by: *Airbus*

Relevant text:

Page 11, paragraph 39, and

Page 55, § 21A.81

Comment:

We understand that the SOSC may either:

(viii) 1. Be linked to an STC (a physical change to an aircraft, e.g. new avionics), or

(ix) 2. Be independent of an STC (no physical change to an aircraft, e.g. MMEL change for specific operating conditions).

21A.113 requires the STC applicant to justify that the information it submits is adequate either from its own resources, or through an arrangement with the TC holder. We assume that, in case 1 above, this obligation is extended to the related SOSC elements.

There is no similar requirement in case 2 above (no STC related to SOSC).

Whether this difference is on purpose or not, it would be required to apply for an SOSC, with a presumably heavy process involving the Agency, whenever an operator seeks a deviation from the OSC. The compatibility of this process with the operating needs is doubtful. Another process, possibly involving the operator's competent Authority and/or the TC/OSC holder, should be

considered.

comment 881 comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

21A.81

21A.81 references 21A.67 as the governing regulation for determining the applicable certification specifications. Should this be 21A.101(f)?

comment 895 comment by: *Walter Gessky*

21A.81 Changes approved under a Supplemental operational suitability ~~Certificate~~ document
(a) Changes **to any of the documents** of 21A.~~65(b)~~ **69** can also be approved under **as**
supplemental to the respective operational suitability ~~certificate~~ **document**.
(b) The Agency shall notify to the applicant the applicable **requirements or** certification specifications. They are determined in **Appendix …**~~accordance with 21A.67~~.
(c) The applicant shall demonstrate compliance with the applicable ~~certification specifications~~ **requirements**
in accordance with 21A.6~~8~~**9** ~~and make a statement of compliance~~.
(d) The applicant shall be entitled to have a supplemental **to the** operational suitability ~~certificate~~ **document** issued by the Agency after :
(1) Submitting the statement referred to in (c); and
(2) The Agency is satisfied that the changes to the elements of 21A.65(b) have been
demonstrated to comply with the applicable **requirements or** certification specifications designated in
accordance with (b); and
(3) Any provisions not complied with are compensated for by factors that provide an equivalent level of safety; and
(e) The supplemental operational suitability ~~certificate~~ document is considered to include:
(1) the changes approved in accordance with (d); and
(2) any conditions or limitations prescribed by the applicable **requirements or** certification specifications for operational suitability or by the Agency; and
(3) the supplemental **to the** operational suitability **document** ~~certificate data sheet~~.
(f) Paragraphs 21.A3C, 21A.73, 21A.75 and 21A.76 are also applicable to the holder of a
supplemental to a operational suitability ~~certificate~~ **document**.
Justification:
No certificate issued.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart D – Changes to type-certificates and restricted type-certificates - 21A.101 Designation of applicable certification specifications and environmental protection requirements p. 56

comment 155 comment by: *Bombardier Aerospace*

EASA has not clearly defined how the applicable regulations for the OSC (or SOSC) will be established for changed products. The inclusion of Subparagraph (f) does little to address the 'amendment' of the standard applicable, even though 21A.101 had been specifically amended in recent times (the Changed Product Rule, CPR) to address the scale of change applied for (Not Significant, Significant, Substantial) and how earlier amendments may be used in lieu of those in effect on the date of application for the change.
EASA are requested to comment on how CPR is envisioned to work in the determination of the amendment of the applicable CS elements that the Agency finds must be addressed by the change.

comment *896* comment by: *Walter Gessky*

21A.101 Designation of applicable certification specifications and environmental protection requirements

…….
(f) An applicant for a change to a type certificate shall demonstrate that the changed product
complies with the **applicable requirements or** airworthiness code containing additional airworthiness specifications for operations for each area, system, part or appliance **and provide the data to the** OEB when required ~~that the Agency finds is affected by the change.~~
Justification:
21A.67 deleted because no operational suitability certification basis exist. OEB involvement required when requested according 21A.69.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - A. Proposed Amendment to Regulation (EC) No. 1702/2003 - Subpart J – Design organisation approval - 21A.263 Privileges p. 56

comment *445* comment by: *IACA International Air Carrier Association*

For the case, that minor or major changes to the OSC are the same as 21A.95 Minor changes and 21A.97 Major changes to the type design, there would be no need for an "EXTRA" privileges to approve minor or major changes to the OSC (see comments to: 21A.79, 21A.80 and 21A.81).

comment *555* □ comment by: *DGAC France*

1b. AFFECTED PARAGRAPH:

CE 1702/2003, 21.A.79 and GM 21.A.79

2. PROPOSED COMMENT:

Regardless of our comment that proposes a new paragraph 21.A.63 that replaces most of the A-NPA part 21 subpart C new paragraphs, DGAC France has concerns about the use of "appreciable effect" within 21.A.79:

DGAC believes the concept of "minor/major" change to OS Data is not mature to be discussed here. It seems to us that it is highly dependant on the parts it impacts. EASA has proposed to use the words "appreciable effect on the

operation", but it seems very subjective and even with the GM, it seems not well defined.
What is given as an example in the GM for MMEL shall be discussed within the group in charge of the corresponding CS and be part of the NPA on this CS.

Until we agree on such a definition, there is no need to amend 21.A.263.

comment *572* ☐ comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

comment *897* comment by: *Walter Gessky*

21A.263 Privileges
(a)……..

8. to classify changes to the elements of 21A.65(b), approved under the operational
suitability **document** ~~certificate~~, as "major" or "minor" and approve minor changes to these elements.
Justification:
No certificate issued

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - I. Part M p. 57

comment *125* comment by: *AEA*

Comment:
In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.
It is unclear how these terms are implemented in the Regulation 2042/2003.
Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:
1) In which part of the regulation are the concerned terms mentioned?
2) How is this communicated with the Operators and maintenance organisations?
3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?
4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.

5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -? Perform a RIA

comment *228* comment by: *Icelandair*

Comment:
In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.
It is unclear how these terms are implemented in the Regulation 2042/2003.
Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:
1) In which part of the regulation are the concerned terms mentioned?
2) How is this communicated with the Operators and maintenance organisations?
3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?
4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.
5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -◊ Perform a RIA

comment *290* comment by: *KLM EASA DOA 21J.012*

Comment:
In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.
It is unclear how these terms are implemented in the Regulation 2042/2003.
Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:
1) In which part of the regulation are the concerned terms mentioned?
2) How is this communicated with the Operators and maintenance organisations?
3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?
4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.
5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -◊ Perform a RIA

comment *337* comment by: *ERA*

In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.

It is unclear how these terms are implemented in the Regulation 2042/2003.

Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:

- *In which part of the regulation are the concerned terms mentioned?*
- *How is this communicated with the Operators and maintenance organisations?*
- *The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?*
- *Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.*

What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms. Perform a RIA

comment *492* comment by: *Cargolux Airlines International*

Comment:
In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.
It is unclear how these terms are implemented in the Regulation 2042/2003.
Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:
1) In which part of the regulation are the concerned terms mentioned?
2) How is this communicated with the Operators and maintenance organisations?
3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?
4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.
5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -◊ Perform a RIA

comment *616* comment by: *International Air Transport Association (IATA)*

In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.
It is unclear how these terms are implemented in the Regulation 2042/2003.
Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:
1) In which part of the regulation are the concerned

terms mentioned?
2) How is this communicated with the Operators and maintenance organisations?
3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?
4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.
5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -◊ Perform a RIA

comment *854* comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
In the presentation of the SSCC Meeting 19 November 2008 in Cologne terms like the Emergency Conformity Information (ECI), Safety Information Bulletin (SIB), Mandatory Continuing Airworthiness Information (MCAI) and non-MCAI were presented. Besides these terms are published on the EASA website.
It is unclear how these terms are implemented in the Regulation 2042/2003. Because of this vagueness we have the following questions / observations towards ECI, SIB, MCAI and non-MCAI:
1) In which part of the regulation are the concerned terms mentioned?
2) How is this communicated with the Operators and maintenance organisations?
3) The split in responsibilities between Part 145 and Part M organisations needs to be clarified and described?
4) Together with the introduction of the Safety Directives it becomes too complex, because of the large number of abbreviations used related to MCAI and non-MCAI.
5) What is the impact for the Operators and Part 145 e.g. training costs, workload, documentation, Human Factors (complexity, risk of misunderstandings) with the introduction of all these new terms -◊ Perform a RIA

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - I. Part M - M.A.202 Occurrence reporting p. 57

comment *567* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

M.A.202 Occurrence reporting

2. PROPOSED TEXT/ COMMENT:
M.A.202 Occurrence reporting
(a) Any person or organisation responsible under M.A.201 shall report:
1. …
2. to the holder of the operational suitability data ~~certificate or supplemental operational suitability certificate~~ any condition of the approved elements of the operational suitability data ~~certificate or supplemental operational suitability~~

that hazards ~~seriously~~ the flight safety.

3. JUSTIFICATION:
To be consistent with general comment on Operational suitability data.

The term "seriously" adds ambiguity. How to differentiate what is a serious hazard to the flight safety from what simply hazards the flight safety? All events shall be reported. Otherwise, persons or organisation shall have the capability to judge the seriousness of the hazard to flight safety.

comment *899* comment by: *Walter Gessky*

M.A.202 Occurrence reporting
(a) Any person or organisation responsible under M.A.201 shall report:
2. to the holder of the operational suitability **document** ~~certificate or supplemental operational suitability certificate~~ any condition of the approved elements of the operational suitability **document** ~~certificate or supplemental operational suitability~~ that hazards seriously the flight safety.

Justification:
No certificate issued.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - I. Part M - The following paragraphs of Part-M are amended by p. 57

comment *901* comment by: *Walter Gessky*

The words "and safety directives" shall not be added in the paragraphs mentioned because this shall be changed under IR-OPS.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - II. Part 145 p. 57

comment *126* comment by: *AEA*

Relevant text

"In addition, certifying staff and category B1 and B2 support staff can only exercise their
privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training.
The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned:
- *145.A.42(b) Acceptance of components*
- *145.A.45 Maintenance data*
- *Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance"*

Comment:
Like the Fuel Tank Safety proposed rulemaking under NPA 2008-

16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

comment *229* comment by: *Icelandair*

Relevant text
"In addition, certifying staff and category B1 and B2 support staff can only exercise their
privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training.
The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned:
• 145.A.42(b) Acceptance of components
• 145.A.45 Maintenance data
• Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance"

Comment:
Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

comment *291* comment by: *KLM EASA DOA 21J.012*

Relevant text
"In addition, certifying staff and category B1 and B2 support staff can only exercise their
privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training.
The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned:
• 145.A.42(b) Acceptance of components
• 145.A.45 Maintenance data

• Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance"

Comment:
Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

comment *338* comment by: *ERA*

Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained.

Trained as if that will ensure the required safety level of operations . That is not how things work. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered maintenance instructions, and AD information etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

comment *493* comment by: *Cargolux Airlines International*

Relevant text
"In addition, certifying staff and category B1 and B2 support staff can only exercise their
privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training.
The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned:
• 145.A.42(b) Acceptance of components
• 145.A.45 Maintenance data
• Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance"

Comment:
Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered

maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

comment 617 comment by: *International Air Transport Association (IATA)*

"In addition, certifying staff and category B1 and B2 support staff can only exercise their
privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training.
The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned:
• 145.A.42(b) Acceptance of components
• 145.A.45 Maintenance data
• Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance"

Comment:
Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

comment 856 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant text
"In addition, certifying staff and category B1 and B2 support staff can only exercise their
privileges if the organisation has ensured that certifying staff and category B1 and B2 support staff comply with the terms of Safety Directives resulting from shortcomings of training.
The following paragraphs of Part145 are amended by adding the words "and safety directives" each time "airworthiness directives are mentioned:
• 145.A.42(b) Acceptance of components
• 145.A.45 Maintenance data
• Appendix I: EASA Form 1; Use of the EASA Form 1 for maintenance"

Comment:
Like the Fuel Tank Safety proposed rulemaking under NPA 2008-16 (and to a lesser extent the EWIS rulemaking under NPA 2007-01) the Agency has persisted in its prescriptive modus operandi that each time a new safety issue pops-up all stakeholders have to be trained , trained, trained as if that will ensure the required safety level of operations . That is not how things work and therefore we do not agree. Requiring training from approved persons and approved organisations is requiring something that is already there: new developments, new technology, new maintenance practices, new or altered

maintenance instructions, and AD information etc etc reach part 145 personnel through TC Holder, Operator via their Engineering organisation as approved data for maintenance and via our training organisation as training material. This process is already in-place

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - II. Part 145 - 145.A.35 Certifying staff and category B1 and B2 support staff p. 57-58

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:

21A.3C Safety Enhancement Directives

21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other

implementing rules and AMC/GM referring to safety directives.

comment *900* comment by: *Walter Gessky*

145.A.35

Safety Directive shall be removed because this change shall be incorporated with the IR-OPS.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - II. Part 145 - The following paragraphs of Part-145 are amended by p. 58

comment *70* comment by: *CAA-Norway TFH*

The proposed text is based on NPA 2007-07 who is in progress to be approved.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - III. Part 66 p. 58

comment *902* comment by: *Walter Gessky*

All references to the "safety directives shall be deleted.

Justification:

'Shall be regulated in IR-OPS.

comment *903* comment by: *Walter Gessky*

Part 66, Note:

Introduction of OSC concept as mentioned in the note is not supported.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - III. Part 66 - 66.A.45 (g) Type/task training and ratings p. 58

comment *71* comment by: *CAA-Norway TFH*

Should be: type training course and not rating training

comment *512* comment by: *ECA - European Cockpit Association*

Comment: change text as follows:

The rating training course shall be based on the minimum syllabus for maintenance certifying staff type rating training, as established in accordance with ~~**Part21**~~ **the applicable OSC, SOSC and SD**.

Justification:

See comment n°500. There are requirements that refer to Part 21. ECA already made comments on NPA 17 in this way. Not having all applicable regulation in one single book is not "friendly use regulation". Moreover, not having the cross-reference in part 21 leads to misunderstanding and legal uncertainty. Moreover, it is impossible to really comply with something is not even published or public.

comment *557* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:
PLEASE BE KIND TO CONSIDER THAT THIS COMMENT THAT ALSO IMPACTS OTHER NPAs FOR CONSISTENCY.

66.A.45 (g), OR.ATO.125 (b) , **FCL.725, FCL APPENDIX 9, OR.OPS.020.MLR**

2. PROPOSED TEXT/ COMMENT:

1) From NPA 2009-01 (OSC), regarding licence 66:
Instead of proposed :

> **66.A.45 (g) Type/task training and ratings**
> g): The rating training course shall be based on the minimum syllabus for maintenance certifying staff type rating training as established in accordance with Part21.

It is proposed the following wording:

> g): The rating training course shall be approved by the competent authority.

And to create an AMC 66.A.45 (g) which states :

> The minimum syllabus for maintenance certifying staff type rating training furnished by the type certificate or supplemental type certificate holder under Part 21 is an acceptable basis to develop a rating training course that is submitted for approval to the authority.

2) From part OR within NPA 22c
Instead of proposed **OR.ATO.125** (b) :

> **OR.ATO.125 Training programme**
> (a) A training programme shall be developed for each type of course offered.
> (b) In the case of type rating courses, the training programme shall be based on the training syllabus for the aircraft type as approved in accordance with Part21.

It is proposed the following wording:

> b): In the case of type rating courses, the training programme shall be approved by the competent authority.

And to create an AMC OR.ATO.125 which states :

> The minimum training syllabus for the aircraft type furnished by the type certificate or supplemental type certificate holder under Part 21 is an acceptable basis to develop a training programme that is submitted for approval to the authority.

Note: please note that the word "minimum" has been added to qualify the training syllabus.

3) From part FCL within NPA 17c
Instead of proposed :

> **FCL.725 Requirements for the issue of class and type ratings**
> (a) *Training course*. An applicant for a class or type rating shall complete a training course at an approved training organisation. The training course shall be based on the training syllabi for the relevant class or type as established in accordance with Part21.

It is proposed the following wording:

> a): training course. An applicant for a class or type rating shall complete a training course at an approved training organisation. The training course shall be approved by the competent authority.

And to create an AMC FCL.725 which states :

> The minimum training syllabi for the relevant class or type furnished by the type certificate or supplemental type certificate holder under Part 21 is an acceptable basis to develop a training course that is submitted for approval to the authority.

Note: please note that the word "minimum" has been added to qualify the training syllabus.

4) From part FCL within NPA 17c
Various FCL requirements such as for example FCL.740.H for Revalidation of type ratings – helicopters make a reference to Appendix 9 where the following change is proposed:

Instead of proposed :

> **APPENDIX 9**
> **SKILL TEST AND PROFICIENCY CHECK FOR ATPL, TYPE AND CLASS RATINGS, AND PROFICIENCY CHECK FOR INSTRUMENT RATINGS**:
> ...
> CONTENT OF THE SKILL TEST/PROFICIENCY CHECK
> ...
> 4 The syllabus of flight instruction shall comply with the syllabus approved in accordance with Part21. When relevant, the syllabus may be reduced to give credit for previous experience on similar aircraft types.
> 5 Except in the case of skill tests for the issue of an ATPL, when established by the syllabus approved in accordance with Part21, credit may be given for skill test items common to other types or variants where the pilot is qualified.

It is proposed the following wording:

> 4 The minimum syllabus furnished by the type certificate or supplemental type certificate holder under Part 21 is an acceptable basis to develop a syllabus of flight instruction. When relevant, the syllabus may give credit for previous experience on similar aircraft types.

5) From part OPS within NPA 2009-02c
Instead of proposed :

OR.OPS.020.MLR Minimum Equipment List (MEL)
(a) A Minimum Equipment List (MEL) shall be established by the operator for each aircraft, based on the Master Minimum Equipment List (MMEL) for the type approved by the Agency in accordance with Part21.

It is proposed the following wording:
a): A Minimum Equipment List (MEL) shall be established by the operator for each aircraft and shall be approved by the competent authority.

And to create an AMC OR.OPS.020 which states :
The Master Minimum Equipment List (MMEL) furnished by the type certificate or supplemental type certificate holder under Part 21 is an acceptable basis to develop Minimum Equipment List (MEL) that is submitted for approval to the authority.

3. JUSTIFICATION:

Based on our general comment [CRT numbered 544] and strategy, DGAC France proposes that all those OSC applicability sentences (from various NPA) shall be harmonized and adequate AMC are added accordingly.

It is to be noticed that NPA 22c or 17 are closed at the time of this NPA, but for consistency, all those items shall be addressed together, regardless of the original NPA in which it was proposed.

In order to help traceability, DGAC has highlighted from which NPA sentences have been copied.

comment *559* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:

supplemental comment to
66.A.45 (g), OR.ATO.125 (b) , **FCL.725, OR.OPS.020.MLR**
as proposed in our previous comment

2. PROPOSED TEXT/ COMMENT:

1) **66.A.45 (g) Type/task training and ratings**
It is proposed to add the following (h) wording:
g): The rating training course shall be approved by the relevant authority.
h) The rating training course shall comply with applicable safety directives.

2) **OR.ATO.125 Training programme**
It is proposed to add the following (c) wording:
b): In the case of type rating courses, the training programme shall be approved by the relevant authority.
c) The training programme shall comply with applicable safety directives.

3) **FCL.725 Requirements for the issue of class and type ratings**
It is proposed to add the following (b) wording:
a): training course. An applicant for a class or type rating shall complete a training course at an approved training organisation. The training course shall be approved by the relevant authority.
b) The training course shall comply with applicable safety directives.

4) **OR.OPS.020.MLR Minimum Equipment List (MEL)**
It is proposed to add the following (b) wording:

a): A Minimum Equipment List (MEL) shall be established by the operator for each aircraft and shall be approved by the relevant authority.
b) The MEL shall comply with applicable safety directives.

3. JUSTIFICATION:

After having modified the proposed OSC in OSD and modified the link of that OSD to the end user within our previous comment, after agreeing on the concept of "safety directive" to restore a level of safety in relation with the OSD, DGAC France believes the Implementing Rules shall propose a requirement for Part 145, 66, FCL to comply with SD.
It is therefore proposed to add that requirement in addition to what was proposed in our previous comment [CRT numbered 557].

The added sentences are in blue, taking as a reference the contents of our previous comment.

comment *561* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:
In addition to comments numbered / CRT 557 and 559.

AMC1 OR.OPS.020.MLR(c)

2. PROPOSED TEXT/ COMMENT:

AMC1 OR.OPS.020.MLR(c) Minimum Equipment List
AMENDMENTS TO THE MEL FOLLOWING CHANGES TO THE MMEL – ACCEPTABLE TIME SCALES
1 An acceptable time scale for amending the MEL ~~after the (Supplemental) Operational Suitability Certificate (S)OSC holder has changed the MMEL~~ is 90 days from the date of applicability specified in the approved change to the MMEL.

3. JUSTIFICATION:

Based on our general comment [CRT numbered 544] , it is necessary for consistency to remove the term "certificate" of OSC and use OS Data terminology.

The sentence would be simplified as a minimum as follows:

> 1 An acceptable time scale for amending the MEL after the ~~(Supplemental)~~ Operational Suitability Data provider ~~Certificate (S)OSC holder~~ has changed the MMEL is 90 days from the date of applicability specified in the approved change to the MMEL.

But as a second thought, the only important fact is how much time the MEL is amended after the MMEL applicability. It does not add much precision to state who has changed the MMEL. Therefore, instead of the sentence just above, DGAC is proposing a simplified final text.

Amendment to Regulation (EC) No. 2042/2003 - III. - Part 66 - Appendix I

comment *904* comment by: *Walter Gessky*

Part 66 Annex I
10.5 Aircraft Certification
(a) *General*
……
Operational Suitability ~~D~~**ocument**;
Supplemental **to the** Operational Suitability **Document** ~~Certificate~~;
Justification:
OSC concept not accepted.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - B. Proposed Amendment to Regulation (EC) No. 2042/2003 - III. - Part 66 - Appendix I - Basic knowledge requirements p. 59

comment *176* comment by: *UK CAA*

Page Number: 59

Paragraph: Appendix I paragraph IV

Comment: Changes to Part-147 are required to reflect additional requirements.

Justification: Part-147.A.120 (a) 2 will need to reflect the requirements of the appropriate OSC.

Proposed Text (if applicable):
Change 147.A.120(a) 2 to read, " the type course content required by Part-66 and the appropriate Operational Suitability Certificate (OSC) for the relevant type and aircraft maintenance licence category or subcategory."

comment *177* comment by: *UK CAA*

Page No: 59

Paragraph: Appendix I paragraph IV

Comment: Changes to Part-147 are required to reflect additional requirements.

Justification:
Part-147.A.300 will need to reflect the requirements of the appropriate OSC.

Proposed Text (if applicable):
Change 147.A.300 to read, "A maintenance training organisation shall be approved to carry out Part-66 aircraft type and/or task training subject to compliance with the standard specified in the appropriate Operational Suitability Certificate and 66.A.45."

comment *178* comment by: *UK CAA*

Page No: 59

Paragraph: Appendix I paragraph IV

Comment: Changes to Part-147 are required to reflect additional requirements.

Justification:
Part-147.A.305 will need to reflect the requirements of the appropriate OSC.

Proposed Text (if applicable):
Change 147.A.305 to read, "A maintenance training organisation approved in accordance with 147.A.300 to conduct aircraft type training shall conduct the aircraft type examinations or aircraft task assessments specified in Part-66 subject to compliance with the aircraft type and/or task standard specified in the appropriate Operational Suitability Certificate and 66.A.45."

comment *556* comment by: *DGAC France*

1. AFFECTED PARAGRAPH:
PLEASE NOTE THAT AS THE TOOL CRT DOES NOT ALLOW TO COMMENT ON PART IV, THIS COMMENT HAS BEEN LINKED TO THE NEAREST PART.

CE 2042/2003, part IV : Part 147

2. PROPOSED COMMENT:

DGAC France is surprised that there is no requirements applicable to a Part 147 organization. DGAC France believes a Part 147 organization shall prepare its courses taking into account the OS Data available and plan for updated courses.

Even though EASA propose the licenses must be obtained based on adequate training courses, it seems more efficient to add a requirement that will ask for the involvement of the Part 147 organizations.

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in

fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *905* comment by: *Walter Gessky*

Appendix I, 10.7

Delete "and Safety Directive"

Justification:

IP-OPS task

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - C. Proposed Amendment to Part-OR p. 60

comment *906* comment by: *Walter Gessky*

Delete OR.GEN.050

Justification:

IR-OPS task

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - C. Proposed Amendment to Part-OR - OR.GEN.050 Safety Directives p. 60

comment *568* ☐ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

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  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - D. Proposed Amendment to Part-OPS - OPS.GEN.040 Safety Directives p. 60

comment *568* ☐ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives,

those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:

21A.3C Safety Enhancement Directives

21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - I. Draft Opinion - E. Proposed Amendment to Part-CC - CC.XX Safety Directives p. 60

comment *568* ☐ comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions p. 61

comment *907* comment by: *Walter Gessky*

AMC and GM with regard to Safety Directives shall be removed when the requirements are transferred to OPS.
AMC and GM to Subpart C has to be reworded taking into account that instead of a certificate a document will be approved and the text of several paragraphs is proposed to be reworded. A final comment to the AMC and GM can only be done when the wording of the IR is approved.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart A – General p. 61

comment *532* comment by: *Dassault Aviation*

GM 21A.3C General

Concern:

In the proposed flowchart, EASA questions "Practical to require from TC Holder.
There is neither definition nor example of what is "practical to require from TC holder". It is also thought that it could be practical to require from one OEM and not for others.
Therefore the concept of practicability cannot be applied as it will be determined on a case-by-case basis.

Suggestion:

From an OEM standpoint, it cannot be accepted that such a decision -deciding who is required to terminate an action- be proposed without well established and commonly agreed by the community.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart A – General - GM 21A.3C Additional airworthiness specifications for operations and safety directives p. 61

comment *179* comment by: *UK CAA*

Page No: 61

Paragraph No: GM 21A.3C, 53, 55, B.II.A.1

Comment: The proposal does not indicate what approval, if any, is required by an operator/owner in showing compliance with the requirements of an SD?

The proposal does not describe in sufficient detail the means by which the TC holder is to be advised of an amendment in CS-26.

It is stated 'the operator obtains approval of design change if needed' whilst it is more precisely stated in para 53 that the owner/operator is required to comply with the requirements of the SD.

Justification: Clarification

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as

including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

comment *633* comment by: *Luftfahrt-Bundesamt*

On the flow chart page 61, the box "Operator implements design change or SD as applicable" possibly means "embody" or "install". Normally, any Design Change (unless classified MINOR) is subject to the TC holder. The TC holder implements the Design Change into the type design. Installing the change on an individual aircraft is subject to the operator. The meaning of "implement" should be clarified to avoid misunderstanding.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart A – General - GM 21A.3C(g) Determination of the condition leading to unsafe operation resulting from a deficiency on one or more elements of an (supplemental) operational suitability certificate p. 62

comment *129* comment by: *Bombardier Aerospace*

This subparagraph is necessary to specify the conditions where EASA will issue an SD to correct a deficiency in an existing OSC or SOSC. However, Bombardier requests EASA to comment if a Safety Directive will be used when a deficiency in one or more SOSCs is discovered by a subsequent catch-up effort by the Type Certificate Holder to obtain an OSC for one or more elements. In this scenario, the OEM would establish minima for training or develop a Master MEL where a previously issued SOSC or MEL did not meet the new requirements. Of course, initially the determination of this deficiency will be at the discretion of EASA and the burden placed on the Agency to compare OSC and SOSC performance. In this case, the Agency may declare that more than one minimum is acceptable. In the same judgment, the OEM may disagree and determine the previous SOSC element is inappropriate and potentially unsafe.

EASA may wish to pass an opinion on how the Agency would handle this situation and what information would be made available to each party.

A less likely but foreseeable scenario exists, where a subsequent SOSC to an already approved OSC element would highlight deficiencies in the original OSC minimum. In theory, EASA could issue an SD to correct the OSC element. Bombardier can imagine a straightforward technical situation complicated by legal repercussions in both these scenarios.

comment *156* comment by: *Bombardier Aerospace*

Bombardier does not contend that features or measures intended to minimize the effects of a survivable accident but do not perform their intended function can be factors of an unsafe condition. What does need some clarification from EASA is how design deficiencies that may now contribute to the requirement for a SD will be corrected when the same rationale would have given rise to an AD. What would be the correct Agency deliverable if an assist means for a flight attendant approved under the TC is affecting their ability to effectively evacuate the aircraft (AD or SD)? Considering that in today's environment, an AD would manage the corrective action, EASA are requested to provide some distinction on when design-related features or measures approved under the TC that significantly affect the operational elements would need to be corrected by an AD or SD.

comment *533* comment by: *Dassault Aviation*

Concern:

"personnel errors due to lack of knowledge" is one the conditions that may trigger an unsafe condition, in the definition section of this article.
It is considered that this definition is too vague as it may relates to personnel inability or deficiency in OSC.
OEM are not responsible for providing training to their operators. Therefore, this point is not be addressed in the assessment.

Suggestion:

Dassault Aviation recommends to provide clear and un-ambiguous definition of an operational suitability unsafe condition, which is different from an operational unsafe condition.

comment 882 comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

GM 21A.3C(g)

The guidance material says that one consideration for the determination of unsafe condition is "Crew and maintenance personnel errors due to lack of knowledge of an aircraft." This standard would require the OSC holder to assume some undefined degree of ignorance or incompetence on the part of the crew or maintainer.

One of the assumptions in all of aircraft design and operation is that the human element is properly trained. This is described in the current GM 21A.3B(b) where it states that the crew is expected to have the skill to apply the procedures. Paragraph 2.5 of the same GM (which appears to be from where the proposed GM for OSC was derived) does not have this proposed requirement to assess potential ignorance of the human element.

Embraer believes that paragraph 2.1. of GM 21A.3C(g) should be deleted.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - GM 21A.16A Airworthiness codes p. 62

comment 72 comment by: *CAA-Norway TFH*

Agreed – It is basic requirement that the applicable CS is amended prior to amendment of CS-26.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate p. 63

comment 618 comment by: *International Air Transport Association (IATA)*

"*2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:*
a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and
b. Specific areas of emphasis which are related to the particular aircraft type; and
c. a minimum duration"

Comment:
For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is jeopardizing the industry's efforts to move towards performance based training

programmes. This is completely unacceptable.

Proposal:
Delete para 2c (minimum duration) from the OSC

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM No. 1 to 21A.62(b) Clarification of the term "when applicable". p. 63

comment *38* comment by: *EUROCOPTER*

Typo: title should be 'GM N° 1 to 21A.62**(a)**'

comment *73* comment by: *CAA-Norway TFH*

Agreed (Allowance for "when applicable")

comment *375* comment by: *Airbus*

Relevant text:

GM No. 1 to 21A.62(b)

Clarification of the term "when applicable".

The term "when applicable" indicates that not all elements are always part of the OSC. For example, when the operational rules do not require cabin crew for an aircraft with a certain number of passenger seats, the element of (b)(3) is not required for the OSC of this aircraft.

Comment: references to 21A.62 (b) & (b)(3) are erroneous.

Proposal: text to read

GM No. 1 to 21A.62(a)

Clarification of the term "when applicable".

The term "when applicable" indicates that not all elements are always part of the OSC. For example, when the operational rules do not require cabin crew for an aircraft with a certain number of passenger seats, the element of (a)(3) is not required for the OSC of this aircraft

comment *435* comment by: *IACA International Air Carrier Association*

For people who have been already trained, will additional training still be necessary should the OSC be adopted ?

comment 495 comment by: *Cargolux Airlines International*

Relevant Text:
"*2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:*
a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and
b. Specific areas of emphasis which are related to the particular aircraft type; and
c. a minimum duration"

Comment:
For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is jeopardizing the industry's efforts to move towards performance based training programmes. This is completely unacceptable.

Proposal:
Delete para 2c (minimum duration) from the OSC

comment 536 comment by: *ETF*

GM No 1 to 21A.62~~(b)~~ Replace by (a)

Comment:

Typing error.

comment 883 comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

GM No. 1 to 21A.62(b) and (c).

The GM refers to 21A.62(b), but it appears that the correct reference should be to 21A.62(a). A similar problem appears in GM 21A.62(c).

comment 969 comment by: *kapers Cabin Crew Union*

GM No 1 to 21A.62~~(b)~~ Replace by (a)

Comment:

Typing error.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM No. 2 to 21A.62(b) Determination of type or variant p. 63

comment 39 comment by: *EUROCOPTER*

Typo: title should be 'GM N° 2 to 21A.62**(a)**'

Precision: the sentence should end with "Certification Specifications for maintenance certifying staff, pilots and cabin crew **training**."

comment *74* comment by: *CAA-Norway TFH*

GM 2 consists of a 57 word sentence. Can it be rewritten to be made more readable and easier to interpret? We are not sure we understand the intent of this GM.

comment *374* comment by: *Airbus*

Relevant text:

GM No. 2 to 21A.62(b)

Determination of type or variant

The criteria for the determination of whether an aircraft with a new type certificate (TC) is considered a new type or is a variant with reference to another aircraft type from the same TC holder for the purpose of the specific OSC element are provided in the applicable Certification Specifications for maintenance certifying staff, pilots and cabin crew.

Comment: Reference is erroneous and should read 21A.62(a). In addition, the criteria for determination of type of variant do not apply only when an aircraft is under a new type certificate, but also for an amended type certificate (derivative aircraft).

Proposal: text to read:

GM No. 2 to 21A.62(a)

Determination of type or variant

The criteria for the determination of whether an aircraft with a new or amended type certificate (TC), is considered a new type or is a variant with reference to another aircraft ~~type~~ from the same TC holder for the purpose of the specific OSC element are provided in the applicable Certification Specifications for maintenance certifying staff, pilots and cabin crew.

comment *514* comment by: *ECA - European Cockpit Association*

See comment 510. ECA cannot accept the shift of an integral element of pilot qualification, such as a type rating, to a maintenance-centered document. This is especially important so long as there is no definition of the procedure published (CS-pilot type rating training).

comment 537 comment by: ETF

GM No. 2 to 21A.62 ~~(b)~~ replace by (a)

Comment: Typing error.

comment 970 comment by: kapers Cabin Crew Union

GM No. 2 to 21A.62 ~~(b)~~ replace by (a)

Comment: Typing error.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - .AMC 21A.62(b) Concept of minimum syllabus for maintenance certifying staff and pilots type rating training p. 63

comment 40 comment by: EUROCOPTER

Typo: title should be AMC 21A.62**(a)**'

comment 75 comment by: CAA-Norway TFH

What shall syllabus be based on?

comment 120 comment by: AEA

Relevant Text:
"*2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:*
a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and
b. Specific areas of emphasis which are related to the particular aircraft type; and
c. a minimum duration"

Comment:
For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is jeopardizing the industry's efforts to move towards performance based training programmes. This is completely unacceptable.

Proposal:
Delete para 2c (minimum duration) from the OSC

comment *148* comment by: *Bombardier Aerospace*

Bombardier has made several comments on the use of the "minima" concept for the OSC. Whether the final rule is based on the OSC (option 4) or other options (such as option 3, using the existing TC), the appropriateness of the TC Holder and EASA agreeing on a *minimum* standard for the type-rating programs and MMEL will require some new thinking.
For sure, clear minima can be established, such as "minimum of 2 landings in abnormal flap configurations on a Level 3 FTD". This would presumably translate well whereby no actual training program would or could offer less than 2 landings or use an FTD with lower fidelity or features. Similarly, if an MMEL would allow dispatch with one of three VHF radios inoperative for 3 days, then an operators MEL would not be approved if it proposed dispatch for 10 days (notwithstanding the operators request to use alternate means as an equivalent safety level). However, not all aspects of the OSC elements are anticipated to be as clear in establishing minima, unless EASA can clarify what is exactly meant by this term.
One possibility for a definition of minima could be that the scope, depth and level of detail (technical content) of the operators training programs and MEL must at least contain all the features of the approved OSC elements. With this view, an MEL must contain all the items and their limitations, operational and maintenance procedures from the MMEL without change – or be shown to be more "conservative" (by restricting the dispatch with the single inoperative radio to 1 day, for example). Pictorially, it means that the MEL would 'envelope' the MMEL, as all the approved content of the MMEL would be apart of the MEL.
If this interpretation of minima is close to the EASA expectation, then the question must be answered if more than one minimum can be permitted – can an SOSC change the minimum? If it is possible, then use of the term is incorrect. Even if EASA anticipates that an SOSC can provide an 'alternate' to the minimum standard established by the OSC, then there will be difficulty in accepting the initial OSC as a minimum standard – it would be considered only one of many acceptable standards.

To prevent prolonged comments at this stage, EASA are invited to explain what the Agency means by minima and what, if any, opportunities an SOSC applicant would have in changing an OSC-established minimum standard.

comment *230* comment by: *Icelandair*

Relevant Text:
"*2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:*
a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and
b. Specific areas of emphasis which are related to the particular aircraft type; and
c. a minimum duration"

Comment:
For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is

jeopardizing the industry's efforts to move towards performance based training programmes. This is completely unacceptable.

Proposal:
Delete para 2c (minimum duration) from the OSC

comment 236 comment by: *Deutsche Lufthansa*

Paragraph AMC 21A.62(b)

Text : c. A minimum duration.

Comment: Mandating a duration is against the principle of competence based training; duration may vary depending on the training media used. Some flexibility provisions have to be defined, so that an operator can adapt a training program to its needs.

Proposal:

c. A reference duration, to give the operator guidance when building his syllabus. Guidance material to be defined in the Certification Specifications for flight crew.

comment 293 comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"*2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:*
a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and
b. Specific areas of emphasis which are related to the particular aircraft type; and
c. a minimum duration"

Comment:
For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is jeopardizing the industry's efforts to move towards performance based training programmes. This is completely unacceptable.

Proposal:
Delete para 2c (minimum duration) from the OSC

comment 377 comment by: *Airbus*

Relevant text:

AMC 21A.62(b)

Concept of minimum syllabus for maintenance certifying staff and pilots type rating

training

1. The minimum syllabus is the result of the approval and is referenced in the Operational Suitability Certificate Data Sheet (OSCDS) which the Agency will publish for each OSC issued.

2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:

a. Training elements which may refer to applicable requirements (e.g. Part66, PartFCL) and which should be tailored to the aircraft type; and

b. Specific areas of emphasis which are related to the particular aircraft type; and

c. A minimum duration.

3. Prerequisites or prior knowledge requirements should be included as part of the minimum syllabus, when applicable. An example is when a reduction on training between types or variants is applied for.

Comments:

- Erroneous reference this AMC applies to 21A.62 (a-1) and (a-2)
- Airbus considers that the words "minimum syllabus" that were introduced in the Basic Regulation under Article 5 (§ 5 e), and which are used in this NPA, are very misleading. Most of the readers may interpret this as a minimum training course. As the OSC is mandated to the TC Holder, it cannot be a minimum training course, and imposing a duration at TC Holder level is innappropriate. This is true whether it is related to pilots or maintenance certifying staff. Moreover "standards" (minimum duration) are respectively defined in Part FCL and Part 66.
- In addition Airbus would like to stress that mandating duration is against a performance/competency based approach that EASA was willing to promote.

Proposal : text to read:

AMC 21A.62(a1) & (a2)

Concept of minimum syllabus for maintenance certifying staff and pilots type rating

training

1. The minimum syllabus is the result of the approval and is referenced in the Operational Suitability Certificate Data Sheet (OSCDS) which the Agency will publish for each OSC issued.

2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:

a. Training elements which may refer to applicable requirements (e.g. Part 66, Part FCL) and which should be tailored to the aircraft type; and

b. Specific areas of emphasis which are related to the particular aircraft type; ~~and~~

~~c. A minimum duration.~~

3. Prerequisites or prior knowledge requirements should be included as part of the minimum syllabus, when applicable. An example is when a reduction on training between types or variants is applied for.

comment *538* comment by: *ETF*

AMC 21A.62 ~~(b)~~ replace by (a)

Comment: Typing error.

comment *643* comment by: *EUROCOPTER*

The wording "minimum syllabus" has introduced confusion between respectively what is OEM or ATO responsibilities:
This term must be understood as the list of mandatory knowledge – both theoretical and practical - (flight operations safety) one must acquire before operating or maintaining a (new) helicopter. Only the OEM – after a « Safe Operating Needs Analysis" - could produce such list based on its flight envelop, general complexity, airframe, systems, engines, mechanical particularities, etc. etc. This and the major characteristics would produce a coherent minimum package on which one could build any subsequent type rating then expertise.
It is then to the ATO, to produce the resulting type rating syllabus deduced from the OEM recommendations and approved by the EASA.

The minimum duration will have to be defined in accordance with the outcome of the sub-groups in charge of developing the related Certification Specifications .

comment *857* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*2. The content of the minimum syllabus will depend on the aircraft type and types of operations being evaluated. The minimum syllabus should provide at least the following:*
a. training elements which may refer to applicable requirements (e.g. Part-66, Part-FCL) and which should be tailored to the aircraft type and
b. Specific areas of emphasis which are related to the particular aircraft type; and
c. a minimum duration"

Comment:
For safety and efficiency reasons training programmes need to be linked to the operations but can-not be fully developed by TC holders/OEMs, In particular there is not a one size fits all solution for the minimum duration of the training courses which needs to be linked to the individual and particular operations but should not be part of the O-SC. Through imposing such a requirement, EASA is jeopardizing the industry's efforts to move towards performance based training programmes. This is completely unacceptable.

Proposal:
Delete para 2c (minimum duration) from the OSC

comment *920* comment by: *AEI*

AEI propose the following text change:

3. Prerequisites or prior knowledge requirements should be included as part of the minimum syllabus, when the intent of the course is to endorse the type rating on a license.

This ensures licensed personell are sufficiently qualified / experienced to perform the priviliges required of their license.

AEI refer to NPA 2008-17a *"Implementing Rules for Pilot Licensing"*
Explanatory Note and Appendices:
Appendix 1, Subpart A paragraph 35 refers;

"However, in the case of professional licences, the FCL.001 rulemaking group recommended that the detailed syllabi were maintained as Appendices to the rule, justifying such recommendation with the sensitiveness of the safety aspects of the training of professional pilots, which content should not be allowed to vary."

AEI feel that for the OSC this pre-requisite for maintenance personell should be the current Part 66 Appendix I Basic Knowledge at the application date.

comment *945* comment by: *NFO Technical Commitee*

NFO believe that point 3 of AMC 21.A.62(b) should be ammended to reflect that prerequisites are to be included when the type rating training shall lead to an endorsment on the holder's license. For Certifying Staff this should be the current Part 66 App.I Basic Knowledge when applied for.

This ensures certifying personnel have the necessary knowledge and experience to carry out Certifying functions in a safe manner.

comment *971* comment by: *kapers Cabin Crew Union*

AMC 21A.62 ~~(b)~~ replace by (a)

Comment: Typing error.

associated simulator

comment *378* comment by: *Airbus*

Relevant text :

AMC 21A.62(b)(2)

Aircraft reference data to support the qualification of associated simulator

1. The aircraft reference data are composed of ground and flight test data, and data related to aircraft systems and avionics, which are used to confirm that the simulation model reflects the static as well as the dynamic performance characteristics of the aircraft and its systems

2. A validation data roadmap document (VDR) may also be provided. This document should contain guidance material from the aircraft manufacturer recommending the best possible sources of data to be used as validation data in the Qualification Test Guide (QTG). A VDR is particularly important in the case of interim qualification of a simulator for a new aircraft type.

3. The qualification of the associated simulator is used to validate and approve the aircraft reference data as well as to support the validation and approval of the minimum syllabus of pilot type rating training.

Comment:

- Erroneous reference - should refer to 21A.62 (a)(1)
- Title should be amended to be in line with suggested modifications of 21A.62 Scope (see comment N° 379)
- In addition, following consultation with simulators experts, assessment of current FSTD requirements, and in order to be in line with the specific responsibility of the TC Holder (who is NOT a simulator manufacturer), amended wording is suggested as per proposal below.
- It is Airbus understanding that one of the EASA concerns is to make sure that data used by simulator manufacturers/operators for the objective qualification are coming from a trusted source and preferably the TC Holder. To achieve this, we have proposed in below text, to use the wording "authenticated". The term "authenticated" in this sense means that the aircraft manufacturer guarantees that the data comes from an authorized source and thus that it has been sufficiently validated but not exclusively by the aircraft manufacturer.
- As approval of validation source data is unmanageable, due to the amount of configurations that a TC Holder has to monitor, Airbus strongly believes that a better approach, during the initial operational evaluation of a new aircraft and the qualification of the associated simulator, would be to validate the process under which the TC Holder releases those aircraft source validation data. Then the "updating" process would be facilitated and could be handled directly with the TC Holder. Only changes to the process should be submitted for validation/approval to EASA under the OSC.

Proposal: text to read

AMC 21A.62(a)(1)

Aircraft ~~reference~~ Validation source data to support the objective qualification of associated simulator

1. The aircraft ~~reference~~ validation source data are composed of ground and flight test data, ~~and data related to aircraft systems and avionics~~, as well as engineering data, as authenticated by the aircraft manufacturer, which are used to confirm that the ~~simulation model~~ simulator reflects the ~~static as well as the dynamic~~ performance and handling characteristics of the aircraft. ~~and its systems~~

2. A validation data roadmap document (VDR) may also be provided. This document should contain guidance material from the aircraft manufacturer recommending the best possible sources of data to be used as validation data in the Qualification Test Guide (QTG). A VDR is particularly important in the case of interim qualification of a simulator for a new aircraft type.

3. The qualification of the associated simulator is used to validate and approve the process for releasing the aircraft validation source data. ~~aircraft reference data as well as to support the validation and approval of the minimum syllabus of pilot type rating training.~~

comment *783* comment by: *Boeing*

Page 63
Section AMC 21A.62(b)(2)

BOEING COMMENT: Boeing suggests that the following changes to the proposed text be made:

AMC 21A.62(b)(2)
Aircraft reference data to support the qualification of associated simulator

1. The aircraft reference data are composed of ground and flight test data, ***engineering simulation data,*** and data related to aircraft systems and avionics, which are used to confirm that the simulation model reflects the static as well as the dynamic performance characteristics of the aircraft and its systems

2. A validation data roadmap document (VDR) may also be provided. This document should contain guidance material from the aircraft manufacturer recommending the best possible sources of data to be used as validation data in the Qualification Test Guide (QTG). A VDR is particularly important in the case of interim qualification of a simulator for a new aircraft type.

3. The ***initial*** qualification of the associated ***training device*** ~~simulator~~ is used to ***implicitly*** validate and approve the aircraft reference data ~~as well as to support the validation and approval of the minimum syllabus of pilot type rating training~~.

JUSTIFICATION: Engineering simulation data can also be an acceptable

source of validation data. The AMC should reflect this.

For the suggested change in the 3rd part, the regulatory authority in approving a device is also implicitly approving the reference data supporting the qualification.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - AMC 21A.62(b)(3) Type specific data for cabin crew training p. 64

comment *34* comment by: *FSC - CCOO*

In order to comply with the objectives set in TOR's relevant for this task

- minimum number and composition of cabin crew;

- minimum syllabus of cabin crew type rating training;

- conditions for mixed fleet flying operations by flight crew and cabin crew;

should be included in this list.

comment *41* comment by: *EUROCOPTER*

Typo: title should be AMC 21A.62**(a)(3)**'

comment *114* comment by: *AEA*

Relevant Text:
"2. This includes but is not limited to:
a. Aircraft generic information;"

Comment:
This should only refer to aircraft generic information relevant for cabin crew operations

Proposal:
Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"

comment *121* comment by: *AEA*

Comment:
The basic regulation does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any cabin crew matters, which is not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and

variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete this NPA and all references to cabin crew.

comment *231* comment by: *Icelandair*

Relevant Text:
"2. This includes but is not limited to:
a. Aircraft generic information;"

Comment:
This should only refer to aircraft generic information relevant for cabin crew operations

Proposal:
Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"

comment *232* comment by: *Icelandair*

Comment:
The basic regulation does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any cabin crew matters, which is not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete this NPA and all references to cabin crew.

comment *294* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"2. This includes but is not limited to:
a. Aircraft generic information;"

Comment:
This should only refer to aircraft generic information relevant for cabin crew operations

Proposal:
Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"

comment *295* comment by: *KLM EASA DOA 21J.012*

Comment:
The basic regulation does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any cabin crew matters, which is not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete this NPA and all references to cabin crew.

comment *380* comment by: *Airbus*

Relevant text:

AMC 21A.62(b)(3)

Type specific data for cabin crew training

1. Type specific data for cabin crew training should include all information necessary to support the establishment of the aircraft type training programme for cabin crew.

2. This includes but it is not limited to:

a. Aircraft generic information;

b. Description of any system relevant to cabin crew operations (e.g. electrical system,communications system, dropout oxygen system, smoke and fire protection system);

c. Operations of doors, exits and associated equipment including slides, liferafts, sliderafts (when installed) and their applicable limitations;

d. Type related instructions for normal, abnormal and emergency situations including communication management;

Comments:

- Erroneous reference, this AMC should refer to 21A.62 (a)(3)
- As already said in comment N° 292, those data should not be part of the perimeter of OSC, as in fact there is no reference in the Basic

Regulation, and this was not part of JOEB TORs.
- However if this is to be retained, text needs to be amended, as a TC Holder cannot provide ALL information, BUT only the generic type data related information. Anything in relationship with Cabin layout is specific to the operator and should remain under the Operator's responsibility.
- Subparagraph 2.a mentions "Aircraft generic information". Airbus does believe that what was meant was aircraft general information, like aircraft dimensions, weight, passenger capacity ...
- Instructions for normal, abnormal, emergency situations can only be recommended by the TC Holder, as the operators may have to tune them to fit in their environment.

Proposal:

Amend the text to read as follows:

AMC 21A.62(a)(3)

Type specific data for cabin crew training

1. Type specific data for cabin crew training should include ~~all~~ information necessary to support the establishment of the aircraft type training programme for cabin crew.

2. This includes but it is not limited to:

a. Aircraft ~~generic~~ general information;

b. Description of any system relevant to cabin crew operations (e.g. electrical system,communications system, dropout oxygen system, smoke and fire protection system);

c. Operations of doors, exits and associated equipment including slides, liferafts, sliderafts (when installed) and their applicable limitations;

d. Recommended Type related instructions for normal, abnormal and emergency situations including communication management;

comment 496 comment by: *Cargolux Airlines International*

Relevant Text:
"2. This includes but is not limited to:
a. Aircraft generic information;"

Comment:
This should only refer to aircraft generic information relevant for cabin crew operations

Proposal:
Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"

comment 497 comment by: *Cargolux Airlines International*

Comment:
The basic regulation does not refer to cabin crew in the context of the O-SC.

Therefore the OSC should not include any cabin crew matters, which is not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete this NPA and all references to cabin crew.

comment *539* comment by: *ETF*

AMC 21A.62~~(b)~~replace by (a)

Comment: Typing error.

comment *540* comment by: *ETF*

AMC 21A.62 (a) (3)

~~Type specific data for cabin crew training~~ should include

Replace by:

Determination of the minimum content of the cabin crew training programme for type of aircraft or variants of types should include...

Reason:

Type specific data only includes hard data and references to selected airworthiness codes and not minimum training. Type specific data is just one part of the TC process. It is incomprehensible for ETF that cabin crew minium training is not included.

comment *619* comment by: *International Air Transport Association (IATA)*

"2. This includes but is not limited to:
a. Aircraft generic information;"

Comment:
This should only refer to aircraft generic information relevant for cabin crew operations

Proposal:
Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"

comment 620 comment by: *International Air Transport Association (IATA)*

The basic regulation does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any cabin crew matters, which is not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

comment 858 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"2. This includes but is not limited to:
a. Aircraft generic information;"

Comment:
This should only refer to aircraft generic information relevant for cabin crew operations

Proposal:
Amend 2.a to read : "a. Aircraft Generic information relevant for Cabin Crew operations"

comment 860 comment by: *Swiss International Airlines / Bruno Pfister*

Comment:
The basic regulation does not refer to cabin crew in the context of the O-SC. Therefore the OSC should not include any cabin crew matters, which is not asked for by the airline industry.

There is no legal basis for linking those cabin crew related requirements to Part-21 (Operational Suitability Certificates). In addition, type and variants for the purpose of cabin crew are not identical as type and variants for the purposes of flight crew. Therefore this should be left as an operator requirement taking into account the fact that OEMs cannot define the type and variant for cabin crew which are the result of types of exits and the location and type of safety equipment.

We therefore urge EASA to align its requirement with EU-OPS 1.1030 (Operation on more than one type or variant)

Proposal:
Delete this NPA and all references to cabin crew.

comment 972 comment by: *kapers Cabin Crew Union*

AMC 21A.62~~(b)~~replace by (a)

Comment: Typing error.

comment *973* comment by: *kapers Cabin Crew Union*

AMC 21A.62 (a) (3)

~~Type specific data for cabin crew training~~ should include

Replace by:

Determination of the minimum content of the cabin crew training programme for type of aircraft or variants of types should include...

Reason:

Type specific data only includes hard data and references to selected airworthiness codes and not minimum training. Type specific data is just one part of the TC process. It is incomprehensible for ETF that cabin crew minium training is not included.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.62(c) Clarification of the term "changes". p. 64

comment *42* comment by: *EUROCOPTER*

Typo: title should be GM 21A.62**(b)**'

comment *115* comment by: *AEA*

Relevant Text:
"*The term 'changes' includes amendments, deviations, additions and supplements*."

Comment:
This statement is unclear.

Proposal:
Delete the GM

comment *233* comment by: *Icelandair*

Relevant Text:
"*The term 'changes' includes amendments, deviations, additions and supplements*."

Comment:
This statement is unclear.

Proposal:

Delete the GM

comment *296* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
"*The term 'changes' includes amendments, deviations, additions and supplements*."

Comment:
This statement is unclear.

Proposal:
Delete the GM

comment *373* comment by: *Airbus*

Relevant text:

GM 21A.62(c)

Clarification of the term "changes".

The term "changes" includes amendments, deviations, additions and supplements.

Comment: reference 21A.62 (c) is erroneous.

Proposal GM title should read: GM 21A.62(b)

comment *498* comment by: *Cargolux Airlines International*

Relevant Text:
"*The term 'changes' includes amendments, deviations, additions and supplements*."

Comment:
This statement is unclear.

Proposal:
Delete the GM

comment *861* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
"*The term 'changes' includes amendments, deviations, additions and supplements*."

Comment:
This statement is unclear.

Proposal:

Delete the GM

comment *922* comment by: *AEI*

AEI proposes the following text changes to include “alterations”:

GM 21A.62(c)
Clarification of the term “changes”.
The term “changes” includes amendments, deviations, additions, alterations and supplements.

comment *947* comment by: *NFO Technical Commitee*

The term "changes" should include ALTERATIONS.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.65(b) Information about type of operations p. 64

comment *116* comment by: *AEA*

Relevant Text:
" 1. *The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed*"

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

comment *234* comment by: *Icelandair*

Relevant Text:
" 1. *The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed*"

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

comment *297* comment by: *KLM EASA DOA 21J.012*

Relevant Text:
" 1. *The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed*"

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

comment *369* comment by: *Virgin Atlantic Airways*

Relevant Text:

The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

comment *381* comment by: *Airbus*

Relevant text:

GM 21A.65(b)

Information about type of operations

1. The OSC applicant/holder may apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations (e.g. ETOPS, RNP, LVO) the impact on the elements of 21A.62(b) should be addressed.

2. The OSC applicant/holder may wish to apply for the approval of differences training between variants or types to reduce training, checking or currency requirements for operations of more than one type or variant. This is regarded as an optional element in addition to the required elements of 21A.62(b).

Comment:

This text is an attempt, upon OEM request, to have some kind of provisions for "optional elements" of OSC, due to the change of concept between the JOEB (option/voluntary/elect to demonstrate) versus OSC (mandatory/compulsory). The examples given are operations-oriented, and in fact most of them are already covered in AMC-20 documents and other ops regulations and/or AMC/GM. In addition there is no room for other potential extension to optional elements than those described. The main objective, which under a JOEB process was a voluntary act to make a "generic " demonstration to assist operators for the EIS of a new aircraft, is considered by Airbus as a necessity. However, under the OSC, due to the new legal framework, TC Holder may not want anymore to invest in these demonstrations due to the imposed burden of the new legal framework.

Recommendation:

Airbus strongly recommends EASA to find an adequate/flexible solution so that incentive for OEMs to go beyond the initial scope of the required OSC elements can be kept, for the benefit of safe entry into service of new aircraft.

comment *520* comment by: *Cargolux Airlines International*

Relevant Text:
" 1. *The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed*"

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

comment *525* comment by: *EUROCOPTER*

Title should be changed to "**OSC application content**" instead of "Information about type of operations" because this GM does not only deal with type of operations but also with optional elements.

comment *541* comment by: *Dassault Aviation*

GM 21A.65(b)

See comment 501.

comment *546* comment by: *EUROCOPTER*

Comment on § 2:

We propose the following wording modification:

'2. The OSC applicant/holder may wish to apply for the approval of ***optional elements in addition to the required elements of 21A.62(b), such as:***

- differences training between variants or types to reduce training,

- aircraft instruments / equipment compliance to Part OPS,

Reason: the possibility offered by the current OEB process to go beyond the strict scope of the OSC has to be kept for the benefit of safe entry into service of aircraft.

comment *621* comment by: *International Air Transport Association (IATA)*

" 1. *The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed*"

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

comment *862* comment by: *Swiss International Airlines / Bruno Pfister*

Relevant Text:
" 1. *The OSC applicant/holder may wish to apply for the approval of different types of operations. If the aircraft is certificated for certain type of operations e.g. ETOPS, RNP, LVO,…) the impact on the elements of 21.A.62(b) should be addressed*"

Comment:
The OSC should not refer to specific types of operations which are already covered by the corresponding AMC 20 material and associated ops regulations as well as the TC for the airworthiness aspects.

Proposal:
Delete information about type of operations from the OSC

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.69(d) Operational Suitability Certificate with Limited applicability p. 64

comment *117* comment by: *AEA*

Relevant text:

"*There may be a need to make one or several approved elements available before all elements*
of the OSC can be approved. Therefore, the Agency can approve only one or several elements
under an OSC, the use of which is limited to specific purposes.
For example, there may be a need to start training activities before all elements contained in
the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation.

Proposal:
Reconsider the OSC concept (preferred option see previous AEA comments). If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.

comment *235* comment by: *Icelandair*

Relevant text:
"*There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes.*
For example, there may be a need to start training activities before all elements contained in the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation.

Proposal:
Reconsider the OSC concept . If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.

comment *298* comment by: *KLM EASA DOA 21J.012*

Relevant text:
"*There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes.*
For example, there may be a need to start training activities before all elements contained in the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation.

Proposal:
Reconsider the OSC concept (preferred option see previous AEA comments). If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.

comment *370* comment by: *Virgin Atlantic Airways*

Relevant text:
"There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes.
For example, there may be a need to start training activities before all elements contained in the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as an acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information required to put the aircraft into operation is available to EU airlines.

Proposal:
Reconsider the OSC concept. If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.

comment *521* comment by: *Cargolux Airlines International*

Relevant text:
"*There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes.*
For example, there may be a need to start training activities before all elements contained in the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation.

Proposal:
Reconsider the OSC concept (preferred option see previous AEA comments). If the OSC is a mandatory requirement then link the OSC to the TC rather than

having an incomplete OSC with limited applicability.

comment 622 comment by: *International Air Transport Association (IATA)*

"*There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes.*
For example, there may be a need to start training activities before all elements contained in the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation.

Proposal:
Reconsider the OSC concept (preferred option see previous AEA comments). If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.

comment 671 □ comment by: *Airbus*

21A.69(d) would provide for the possibility of issuing an OSC with appropriate limitations before showing of compliance of all elements in the application. Airbus questions the added value of this administrative step. It would sufficient to approve the element(s) needed for the specific purpose(s) (e.g. training), without issuing a "limited" OSC, and to point the end-user (operator, training organisation...) to this (these) approved element(s).

comment 863 comment by: *Swiss International Airlines / Bruno Pfister*

Relevant text:
"*There may be a need to make one or several approved elements available before all elements of the OSC can be approved. Therefore, the Agency can approve only one or several elements under an OSC, the use of which is limited to specific purposes.*
For example, there may be a need to start training activities before all elements contained in the OSC application can be approved."

Comment:
Our preferred option is to reconsider the OSC concept and to replace it with an approved data package for type training to be used as acceptable means of compliance. However, if the OSC becomes mandatory for EU airlines than the OSC should be linked to the TC. No EASA TC should be issued before all information is available to EU airlines to put the aircraft into operation.

Proposal:
Reconsider the OSC concept (preferred option see previous AEA comments). If the OSC is a mandatory requirement then link the OSC to the TC rather than having an incomplete OSC with limited applicability.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart C - Operational Suitability Certificate and Supplemental Operational Suitability Certificate - GM 21A.79 Criteria for the classification of major and minor changes p. 65-66

comment *43* comment by: *EUROCOPTER*

§ 2 b. Classification process: the sentence "*Special attention should be paid to avoid the confusion between the classification of a design change for type certification compliance reasons and the classification of its repercussions on the OSC elements.*" should be deleted because useless, the title of § 2 clearly indicating that only changes to OSC elements are dealt in this paragraph.

comment *180* comment by: *UK CAA*

Page No: 65

Paragraph No: GM 21A.79, Paragraph 1

Comment: Suggested improved wording.

Proposed Text (if applicable): Classification of changes to any element of an OSC into MAJOR or MINOR is *necessary in order* to determine the approval process to be followed when the OSC~~'s~~ holder *also* holds ~~also~~ a Design Organisation Approval in accordance with Part-21 Subpart J, and has obtained the privilege to classify changes and approve minor changes to the OSC elements.

comment *181* comment by: *UK CAA*

Page No: 65

Paragraph No: GM 21A.79, Paragraph 2b, fourth sub-para

Comment: Typo

Proposed Text (if applicable): Reasons for a classification decision should be recorded and made ~~readably~~ readily available to Agency staff upon request.

comment *184* comment by: *EUROCOPTER*

Comments on § 2 c.:

- None of the conditions defined in (i), (ii), (iii), (iv) cover the examples of major changes to the MMEL defined in § 3 b. Consequently aditional conditions should be added in order to cover the examples defined in § 3 b..

- Typo: write "A change to the elements of ~~**21A.65(b)**~~ **21A.62(a)** ..."

- Typo: condition (v) should be (iv)

- Precision: condition (v): write "*The change is made mandatory by a **safety** directive issued by the Agency*"

comment *185* comment by: *EUROCOPTER*

Comment on § 3 a. General considerations: this § should be deleted because it is not consistent with the proposed Article 4b § c. which only requests the evaluation of the operation repercussions in case of major design changes.

Proposal:

~~a. The introduction of a design change into an aircraft can have minor repercussions on the type certification of the aircraft, however the operational repercussions may sometimes be more significant and it is justified to have a more detailed evalu process with the involvement of the Agency.~~

comment *186* comment by: *EUROCOPTER*

Comment on § 3 c. (i): precise the criterion as follows:

" *(i) Changes to the MMEL applicability for configuration management purposes (**example: introduction of a new variant to the aircraft type having no impact on the MMEL**)"*

comment *350* □ comment by: *Airbus*

Relevant text

21A.79 Classification of changes

Changes to the elements of 21A.65(b) as approved under the operational suitability certificate

are classified as minor or major. A major change is one that has appreciable effect on the

operation of the aircraft. All other changes are minor.

Comment:

The definition of major change is meaningless, as the words appreciable effect can be interpreted in many different manners, and there may even be a specific definition for each of the OSC elements.

Proposal:

If this idea of classification of changes is retained, then there should be adequate criteria defined in each relevant CS. Consequently the sentence: " A major change is one that has appreciable effect on the operation of the

aircraft. All other changes are minor" should be deleted from 21A.79, and 21A.79 should point to applicable criteria as defined in the relevant CSs.

comment *443* comment by: *IACA International Air Carrier Association*

As developed here above, this NPA should only be applicable to new TCs to be issued, therefore there will be no previously approved changes for review.

comment *555* ☐ comment by: *DGAC France*

1b. AFFECTED PARAGRAPH:

CE 1702/2003, 21.A.79 and GM 21.A.79

2. PROPOSED COMMENT:

Regardless of our comment that proposes a new paragraph 21.A.63 that replaces most of the A-NPA part 21 subpart C new paragraphs, DGAC France has concerns about the use of "appreciable effect" within 21.A.79:

DGAC believes the concept of "minor/major" change to OS Data is not mature to be discussed here. It seems to us that it is highly dependant on the parts it impacts. EASA has proposed to use the words "appreciable effect on the operation", but it seems very subjective and even with the GM, it seems not well defined.
What is given as an example in the GM for MMEL shall be discussed within the group in charge of the corresponding CS and be part of the NPA on this CS.

Until we agree on such a definition, there is no need to amend 21.A.263.

comment *884* comment by: *Embraer - Indústria Brasileira de Aeronáutica - S.A.*

GM 21A.79

There is no description of under which process an applicant is expected to evaluate or demonstrate no effect on the OSC. Presumably that would be part of the type design application process and would not require separate application or justification. Embraer would appreciate EASA's clarification on that point.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart J - Design organisation approval - AMC 21A.263(c)(8) Approval of minor changes to elements of the Operational Suitability Certificate - 1. Intent p. 66

comment *572* ☐ comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled

process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart J - Design organisation approval - AMC 21A.263(c)(8) Approval of minor changes to elements of the Operational Suitability Certificate - 2. Compliance with the relevant requirements of Subpart J p. 66-67

comment *572* ☐ comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart J - Design organisation approval - AMC 21A.263(c)(8) Approval of minor changes to elements of the Operational Suitability Certificate - 3. Procedure for the classification of changes to elements of the OSC p. 67-68

comment *572* ☐ comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - A. Proposed Amendment to AMC and GM to Part-21 - Section A - Subpart J - Design organisation approval - AMC 21A.263(c)(8) Approval of minor changes to elements of the Operational Suitability Certificate - 4. Procedure for the approval of minor changes to elements of the OSC p. 68

comment *572* ☐ comment by: *Airbus*

We propose that, after the initial approval of the OSC elements by the Agency, the TC/OSC holder have the privilege to approve minor ***and major*** changes to the OSC elements, under a procedure agreed with the Agency. The same kind of approach has been successfully implemented for the approval of major repairs by the TC holder (see 21A.437), through an approved and controlled process. It would optimise the use of Agency resources and avoid possible administrative bottlenecks.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - B. Proposed Amendment to AMC and GM to Part-M, Part-145, Part-66 and Part-147 - I. Part M - The following paragraphs of the AMC/GM to Part-M are amended by p. 69

comment *76* comment by: *CAA-Norway TFH*

What about Part-M subpart F?
Same requirement for certifying staff?

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - B. Proposed Amendment to AMC and GM to Part-M, Part-145, Part-66 and Part-147 - II. Part 145 - AMC 145.A.35(d) Certifying staff and category B1 and B2 support staff p. 70

comment *77* comment by: *CAA-Norway TFH*

The meaning of maintenance certifying staff type rating training is unclear.

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or

SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of measures could be called "OPERATIONAL SUITABILITY DIRECTIVES", as they are necessary to maintain the validity of an aircraft type's operational suitability element(s).

The above proposal would require splitting 21A.3C into:
21A.3C Safety Enhancement Directives
21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - B. Proposed Amendment to AMC and GM to Part-M, Part-145, Part-66 and Part-147 - II. Part 145 - The following paragraphs of the AMC/GM to Part-145 are amended by p. 70

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

Even if it is clarified that safety directives are related to OSC/SOSC only, the term "safety directive" is still encompassing two very different cases, which in fact should not be designated under the same generic term:

- o First category, "REACTING TO GENERAL SAFETY PROBLEMS":
  This is about requiring design reviews, and/or design changes, and/or manual changes, in order to address possible safety issues that were not considered in the type certification basis of in-service aircraft types. Those measures will result from a rulemaking process (CS-26). They will not address a deficiency in a specific aircraft type. Their aim is to enhance the general level of safety by introducing additional design requirements that were not existing in the past, for all aircraft in a given category (e.g. large aeroplanes) used under a given set of operating rules (e.g. commercial air transport). In order to reflect the intent of those measures, they could be called "SAFETY ENHANCEMENT INSTRUCTIONS".

- o Second category, "RESTORING THE LEVEL OF SAFETY OF OSC OR SOSC"
  This is about correcting a safety issue for a specific aircraft type, by requiring a change to the relevant element(s) of this aircraft type's OSC (or SOSC). By analogy with airworthiness directives, which are conditions to maintain the validity of airworthiness certificates, this second category of

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This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - B. Proposed Amendment to AMC and GM to Part-M, Part-145, Part-66 and Part-147 - III. Part 66 p. 70

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

The proposed definition of safety directives is too broad. It mixes mandatory amendments to the TC/STC and to the OSC/SOSC, and may be interpreted as including airworthiness directives (which indeed are as well issued with the objective of ensuring safe operation!). The so-called "safety directives" should only require amendments to OSC/SOSC. Required amendments to TC/STC are called "airworthiness directives"!

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21A.3D Operational Safety Directives

This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

B. DRAFT OPINION AND DECISIONS - II. Draft Decisions - B. Proposed Amendment to AMC and GM to Part-M, Part-145, Part-66 and Part-147 - IV. Part 147 p. 70

comment *568* comment by: *Airbus*

We do not see any reason to place the definition of safety directives in Article 1 of Regulation 1702/2003. If we make a parallel with airworthiness directives, those are neither defined in the Basic regulation, nor in the introductory articles of 1702/2003. They are introduced by 21A.3B, and there is no problem with that.

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21A.3C Safety Enhancement Directives

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This change of vocabulary would have to be mirrored in the other implementing rules and AMC/GM referring to safety directives.

Appendix A - Attachments

7907 EASA 6-12-09 EASA OSC NPA Comments.pdf
Attachment #1 to comment #64

A&C-09-278 NPA 2009-01 Comments Operational Suitability Certificate.pdf
Attachment #2 to comment #797

TCCA comments .pdf
Attachment #3 to comment #855

BA general comments to NPA2009_01.PDF
Attachment #4 to comment #47

GAMA09-29 Comments to EASA NPA 2009-01 Operational Suitability Certificates and SD - Cover Letter.pdf
Attachment #5 to comment #911

Doc5-JOEB-TOR-Doc1027.pdf
Attachment #6 to comment #292

Training_Structure_Outline_V1.0 - To EASA FCL NPA 2009-01.pdf
Attachment #7 to comment #767

IACA matrix EASA NPA 2009-01 OSC.pdf
Attachment #8 to comment #422

OSC Grandfathering.pdf
Attachment #9 to comment #457

TOR_NPA_2009-01_OSC.pdf
Attachment #10 to comment #33