

European Aviation Safety Agency

DECISION N° 2011/002/R OF THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY

OF 19 APRIL 2011

on

termination of rulemaking task M.022 "Amend AMC M.A.706(e) to cover additional cases for the competent authority to accept that the nominated post holder in the operator/Part-M Subpart G organisation be employed by the contracted Part-145 organisation" without amending Decision No 2003/19/RM of the Executive Director of the European Aviation Safety Agency of 28 November 2003 on acceptable means of compliance and guidance material to Commission Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY,

Having regard to the Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC¹ (hereinafter "The Basic Regulation"), and in particular Article 18(c) thereof,

Having regard to the Decision 08/2007 of the Management Board concerning the procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material ("Rulemaking Procedure") adopted on 13 June 2007², and in particular Articles 3, 4, 5, 6, 7 and 8 thereof,

Whereas:

- (1) The Executive Director issued Acceptable Means of Compliance and Guidance Material to Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the

¹ OJ L 79, 19.03.2008, p. 1. Regulation as last amended by Regulation (EC) 1108/2009 of 21 October 2009 (OJ L 309, 24.11.2009, p. 51).

² Management Board Decision concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material (Rulemaking Procedure), EASA MB/08/07, 13.6.2007.

approval of organisations and personnel involved in these tasks³ in the Annex to Executive Director Decision No 2003/19/RM of 28 November 2003 (Initial Issue)⁴.

- (2) The Executive Director, taking into account requests from stakeholders within industry and competent authorities, established a rulemaking task M.022 "Amend AMC M.A.706(e) to evaluate the need for covering additional cases for the competent authority to accept that the nominated post holder in the operator/Part-M Subpart G organisation be employed by the contracted Part-145 organisation" as specified in the Terms of Reference (ToR) M.022 published on 15 July 2009, with the objective to address situations for independent maintenance organisations where the accountable manager is also the nominated post holder of the operator/Part-M Subpart G organisation.
- (4) Following a survey conducted via AGNA to obtain the position of Member States' competent authorities and based on the Regulatory Impact Assessment (RIA) relating to the NPA, the Agency concluded that not amending the AMC was its preferred option.

This was supported by:

- (a) a possible negative impact on safety when allowing the nominated post holder to be employed by the contracted Part-145 organisation in all cases;
 - (b) the impossibility to clearly establish the potentially positive economic impact;
 - (c) the possibility already provided to competent authorities to approve an alternative means of compliance to AMC M.A.706(e) on a case-by-case basis.
- (5) The Agency, pursuant to Article 52(1)(c) of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure, has widely consulted by means of Notice of Proposed Amendment (NPA) 2010-07 interested parties on the above conclusion not to amend the AMC to M.A.706(e) and has provided thereafter a written response in the Comment Response Document (CRD) 2010-07 to the 13 comments received⁵.
 - (6) The feedback from the above consultation showed prevailing support to the conclusion not to amend AMC to M.A.706(e) and to terminate the task.

HAS DECIDED:

Article 1

The rulemaking task M.022 "Amend AMC M.A.706(e) to cover additional cases for the competent authority to accept that the nominated post holder in the operator/Part-M Subpart G organisation be employed by the contracted Part-145 organisation" is hereby terminated without an amendment to AMC M.A.706(e).

³ OJ L 315, 28.11.2003, p. 1. Regulation as last amended by Regulation (EU) No 962/2010 of 26 October 2010 (OJ L 281, 27.10.2010, p. 78).

⁴ Executive Director Decision No 2003/19/RM of 28 November 2003. Decision as last amended by Decision 2010/006/R of 31 August 2010 (De-Icing/Anti-Icing/AMC and GM following A-NPA 2007-11).

⁵ For NPA 2010-07 and CRD 2010-07 see the Rulemaking Archives page <http://easa.europa.eu/rulemaking/r-archives.php>.

Article 2

This Decision shall enter into force on 19 April 2011. It shall be published in the Official Publication of the Agency.

Done in Cologne, on 19 April 2011.

P. GOUDOU