



European Aviation Safety Agency – Rulemaking Directorate
Comment-Response Document 2013-08

Requirements for service providers and the oversight thereof

CRD TO NPA 2013-08 — ANNEX C

RMT.0148 (ATM.001 (A)) & RMT.0149 (ATM.001(B)) AND RMT.0157 (ATM.004(A)) & RMT.0158 (ATM.004(B)) — 6.6.2014

EXECUTIVE SUMMARY

This Comment-Response Document (CRD) contains the comments received on Notice of Proposed Amendment (NPA) 2013-08 on 'Requirements for ATM/ANS providers and the oversight thereof' (published on 10 May 2013), and the responses provided thereto by the Agency.

Given the importance of the subject and the requests received, the Agency decided to extend the initially proposed standard 3-month consultation period by 12 weeks with the aim to provide stakeholders with the necessary time to ensure a constructive, coherent and consistent commenting. On 2 July 2013, the Agency organised a workshop in Cologne to present the NPA to the stakeholders and to facilitate the consultation process in general. Both the participants and the Agency itself evaluated the workshop as being very beneficial.

As a result of the public consultation, the Agency received 2 357 comments. The Agency expresses its appreciation to the stakeholders who have not only provided their individual comments on the draft proposals, but also expressed their coordinated views through the relevant European stakeholder groups. The Agency considers that the comments received contribute essentially to the improvement of the proposed rules.

The Agency reviewed the comments and provided responses thereto. In order to be able to take an informed decision, the Agency also carried out focussed consultation comprising a series of thematic meetings with the aim to commonly identify and analyse the issues and to establish guidance for the review of the proposals towards drafting the final Opinion. These meetings involved not only experts from the rulemaking groups of the subject RMTs (ATM.001 and ATM.004), but also new experts who contributed actively to the NPA consultation.

The Agency trusts that the responses in this CRD (Annexes C, D and E) satisfy the commentators insofar as they provide further clarification on the subjects addressed. Without prejudice to the final text to be proposed in the Agency's Opinion to be issued as the final step of the subject rulemaking activity, the resulting text (draft Regulation/AMC/GM — Annexes A and B) is also provided in the CRD in order to facilitate the understanding and the evaluation of the changes proposed in the responses to the comments. In addition, the overview of changes resulting from the NPA 2013-08 consultation is presented in the Explanatory Note to be found in Annex A.

**REACTIONS TO THIS CRD SHOULD BE SUBMITTED VIA THE CRT BY CLICKING THE 'ADD A GENERAL REACTION' BUTTON.
PLEASE INDICATE CLEARLY THE APPLICABLE PAGE AND PARAGRAPH.**

Applicability		Process map	
Affected regulations and decisions:	Regulations (EU) Nos 1034/2011 and 1035/2011	Terms of Reference (ATM.004):	30.8.2010
Affected stakeholders:	Member States, competent authorities/National Supervisory Authorities, service providers, Network Manager, and the Agency	Terms of Reference (ATM.001):	29.9.2010
Driver/origin:	Legal obligation (Basic Regulation, EASp and ICAO SARPs)	Concept Paper:	No
Reference:	N/A	Rulemaking group:	Yes
		RIA type:	Full
		Technical consultation during NPA drafting:	No
		Publication date of the NPA:	10.5.2013
		Duration of NPA consultation:	5 months and 3 weeks
		Review group:	No
		Focussed consultation:	Yes
		Publication date of the Opinion:	2014/Q4
		RMT.0148 (ATM.001 (A)) and RMT.0157 (ATM.004(A))	
		Publication date of the Decision:	2015/Q2
		RMT.0149 (ATM.001 (B)) and RMT.0158 (ATM.004(B))	

I. CRD table of comments and responses

(General Comments)

-

comment

46

comment by: HANSA

Attachment [#1](#)

The following comments are submitted on behalf of:
 Mr Konstantinos Simaiakis
 Head of International Relations and Legal Affairs Section
 Hellenic Air Navigation Supervisory Authority (HANSA)

response

Partially accepted

The Agency takes the HANSA's comments in due consideration and would like to provide its answers, referring to the comment number used by HANSA.

#1: WG04 has taken ICAO Doc 7192 into consideration, but the latter was not taken as a basis 'sensu stricto' to draft the rules. This document helped in assessing and getting the appropriate information to develop the rules.

#2: Article 9 and point 3.3 of Annex II to Regulation (EU) No 1035/2011 will no longer exist as the entire Regulation (EU) No 1035/2011 will be repealed. Therefore, the statement in the NPA is correct. The Agency is aware of the different recognitions of ATSEP status across Europe. Nevertheless, the NPA only lays down rules put on the service providers to ensure that their personnel are adequately trained and assessed competent to perform their task. Whatever the form of this recognition, the objective of the proposal is independent of the delivery of a license or not of ATSEP.

#3: Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted to address the comment. The proposal is that the ANS applying for a limited certificate under (b)(2) shall comply, as a minimum, with the requirements in (c)(1) to (4) and with the requirements in Annex IV. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

#4: As mentioned in #3, the criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group 'based on the criteria and

requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. This issue was also thoroughly discussed at the thematic review meeting which provided the Agency with advice on how to proceed with the subject. The subject provision ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' is redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

#5: After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200. Furthermore, it should be noted that ATM/ANS.OR.B.005 (former ATM/ANS.OR.B.015) replaces the existing requirements for the safety and quality management of services with a more comprehensive management system requirement. It is important to highlight that the Basic Regulation requires all service providers to have in place a risk-based management system. Neither the current Regulation nor ICAO require all providers to have in place a safety management system, but a quality system. Therefore, the intention of the Agency has been to build the regulation so that it allows integration of all the management systems being required if the regulated organisation so wishes. As such, the ICAO Annex 19 SMS framework, adopted by the proposal, only applies to ATS providers.

#6:

- (a) The notion of 'functional separation' is clarified through the newly developed GM1 and GM2 to Article 4(4) on the subject.
- (b) Total system approach is a high-level policy the Agency has chosen to achieve its objectives, in particular high and uniform level of aviation safety. It would be very difficult to define such a policy in an implicit manner. In EASA Opinion No 01/2008 'Extension of EASA system to ATM/ANS', the total system approach to safety has been illustrated as means where all elements of the aviation safety chain are to be analysed in a centralised manner, in particular interfaces, so as to specify to each player in the safety chain what mitigating measures they need to implement to reduce not only their own contribution to the risks, but also the overall level of exposure. Taking into account the level of technical integration of the aviation system now and in the future, the Agency continues to see this as an essential aviation safety policy in Europe.
- (c) The growing complexity in the aviation systems demands an evolution in the management of safety towards a performance-based approach that focusses on the management of risks. But this cannot be done without thorough consideration, since the performance-based approach will, indeed, complement the more traditional forms of a prescriptive regulatory system. It would also necessitate some investment at least in the beginning in order to set up processes which measure performance. The proposed approach in the NPA is based on the 'management system' approach which is purposed to leave it to the organisation itself to set up the system to manage its different (regulated) management objectives. It follows the international level best practices and approaches taken in the other aviation domains too.
- (d) With regard to the management system, a new GM1 addressing definitions and concept of management system is introduced.
- (e) The definition on 'functional system' will be part of another rulemaking

activity and will be duly consulted through the work of RMT.0469.

- (f) It should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule which has a dual legal basis, the above provisions are reflected accordingly and it is considered inappropriate to repeat the same definitions in an Implementing Rule to the above-mentioned Regulations.

#7: Noted.

#8: As said in #6, the notion of 'functional separation' is clarified through the newly developed GM1 and GM2 to Article 4(4) on the subject.

#9: Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue one Opinion within the time frame of the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on 'assessment of changes to functional systems' (resulting from the work of RMT.0469) after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

#10: The Agency is of the opinion that a development of an AMC would require more efforts on this horizontal subject and, therefore, at this stage it would be more appropriate to provide non-binding material to help and illustrate the meaning of the requirements and to support the interpretation. The Agency further developed the GM proposed on the subject and is proposing additional GMs.

#11: It should be noted that the explanations refer to point (b)(5) and (6) which regulate the processes with regard to certified providers and service providers making declarations respectively. Furthermore, it should be noted that a flight information services provider declaring its activities shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority in accordance with ATM/ANS.OR.A.015(e). With regard to 'enforcement measures', it is defined in Article 2(3) of the draft proposed Regulation.

#12: The oversight in a performance-based environment is a new approach for the competent authorities to discharge their responsibilities, as it considers the criteria of the service providers' safety management implementation in a controlled process. This controlled process is also linked to the introduction of a finding classification scheme. The level and frequency of these findings over an oversight planning cycle will provide the control to adjust the planning in a next phase. However, it should be emphasised that before taking any decision by the CAs/NSAs on extension of the oversight cycle, a full 24-month oversight cycle of the certified ATM/ANS providers shall apply. Furthermore, it should be noted that this is an option based on certain criteria, as the rule says 'may be extended'.

#13: The Agency is to publish a separate NPA for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this

draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Based on the outcome of the said NPAs, the Agency will issue a single Opinion in the 4th quarter of 2014. Furthermore, based on the comments received and the focussed consultation performed after the closure of the NPA consultation, the mentioned provisions are redrafted to better clarify the scope of the changes and their management.

#14: 'Continued validity' is a new element in relation to the validity of the certificate of the service provider in order to facilitate and promote the implementation of a risk-based oversight scheme by the competent authority, and also to ensure a continuous oversight based on the identified-risks instead of an oversight aiming at ensuring compliance and closing the findings only at the moment of the re-certification process. Moreover, service providers' own management system aims at ensuring that they achieve the objectives for the provision of the services and continuously comply with the applicable requirements (i.e. compliance monitoring system). This is also supported by the fact that providers also have to develop performance indicators with regard to their management system and also with regard to the provision of their services. The analysis of these performance indicators is used by the providers for their continuous improvement. This approach also avoids unnecessary (or non-prioritised) use of valuable resources (provider and competent authority) in a re-certification activity. Instead, these resources can concentrate on high-risk areas. This proposal is also aligned with other fields of aviation such as aerodromes, ATCO training organisations, aircraft operators, and initial and continuing airworthiness organisations.

#15: As mentioned in #13, based on the comments received and the focussed consultation performed after the closure of the NPA consultation, the mentioned provisions are redrafted to better clarify the scope of the changes and their management. The changes are also reflected in the associated AMC/GM. A GM on 'key elements' is introduced to better illustrate the meaning of the provision. As explained already, the Agency is to publish a separate NPA for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion in the 4th quarter of 2014.

#16: Considering the NPA 2013-08 feedback received, the commented AMC is retained, it is renumbered, however, to AMC1 ATM/ANS.OR.B.005(a). It should be noted that it is an AMC associated to ATM/ANS.OR.B.005 (former ATM/ANS.OR.B.015) 'Management system'. Furthermore, having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

#17: Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).

#18: After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.

#19: Noted

#20: The Agency proposes to use the term 'operationally desirable accuracy' in

order to in line with ICAO Annex 3 (attachments A and B of Part II).

#21: As said in #6, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule which has a dual legal basis, the above provisions are reflected accordingly.

#22: Having adopted the ICAO Annex 19 SMS framework into Annex IV, only the ATS providers are required to have an SMS. As such, the commented provision is revised and makes reference only to the requirements for air traffic safety electronic personnel.

#23: On a general basis, pending more information from the competent authorities regarding their current national legislative framework and quantitative information on the specific impacts envisaged by them, the identified impacts are deemed to be valid. With the period of transition proposed by NPA 2013-08, it is foreseen that the potential additional costs would be smoothly introduced and balanced with other positive aspects, like better working conditions through harmonised requirements (e.g. facilitation of the SSP implementation as required by ICAO) and more flexibility, thanks to this regulatory harmonisation. Unless more precise and significant information would be given, especially on the impact foreseen by the commentator, a general review of the RIA cannot be undertaken.

In any case, the Agency has the view that the similarity of the authority requirements and organisation requirements with those in other domains, will alleviate the possible impact due to the experience that the competent authorities will have obtained, but also due to commonality of the requirements (e.g. common internal procedures, common ways of treating findings, etc.).

#24: Considering the NPA 2013-08 feedback and the focussed consultation held after the NPA closure, the commented provision is removed. It should be noted that compliance of the providers declaring its activities will be ensured through the continuous oversight performed by the competent authority.

#25: The commented provision sets up the framework for the establishment of conditions under which the service providers are allowed to provide services, based on the safety risk posed by non-compliances, including concrete rules for possible suspension and revocation of certificates. However, the scope of the penalties for violation remains within the Member States' responsibilities.

The requirement on the 'continuity of services' is already set by the legislator in Article 7(7) of Regulation (EC) No 550/2004. Due to its dual legal basis, the proposed Implementing Regulation should implement the objectives from the said higher ranking Regulation.

#26: Having adopted the ICAO Annex 19 SMS framework into Annex III, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

#27: The commented provision is sourced from point 8.2 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

#28: Should the comment be correctly understood, the issue is already addressed in ATM/ANS.OR.B.015 (former ATM/ANS.OR.B.020). Furthermore, the

requirement in ATM/ANS.OR.B.005(f) related to the establishment of interfaces with the relevant service providers and aviation undertakings should be noted.

#29: There are indeed no requirements on training organisations in the proposed rules. The NPA covers the certification of service providers which are not training organisations. The EASA Basic regulation does not require training organisations to be certified other than those related to ATCO.

#30: Not accepted, as the proposal is already catered for in ATM/ANS.AR.B.015(a)(2) on record keeping of Annex I.

#31: Not accepted. As explained in the related guidance material, the intent is to not impose any language even though it is known that English is the aviation language. In some parts of Europe, ATSEP do not need to speak English to perform their tasks in an efficient way, and only communicate in their own native language. Yet, the service provider may consider that for the purpose of the job ATSEP will perform, English is necessary, but it is left to the service provider to decide so.

#32: The term 'qualification method' is not understood. The Agency would like to have further clarification on this comment.

#33: When drafting the ATSEP rules, the Agency took a very careful approach. Because of the novelty of the subject to be regulated at European level and the lack of harmonised documentation for S/E rating training, the Agency only proposed high-level requirements for the training phases after the initial training. It is expected that, at a later stage, further detailed requirements would be developed with proper consultation of stakeholders. Therefore, the comment is welcome, and ICAO Doc 7192 will be appropriately used when this Part will be updated.

#34: The Agency acknowledges that some level of training for instructors and assessors need, in the future, to be developed. At this time, it was not included in the NPA because the expert group needed to prioritise the work.

#35: Correct, the title is amended in the revised text. With regard to the proposal to insert a maximum period for which ATSEP can still be considered as competent after some absence, the continuation training ensures that, after some absence, ATSEP are still up to date with their competence. Each service provider will decide on the maximum time to be allowed without continuation training as it depends on the task of the ATSEP and the environment in which he/she is working in.

#36: This is correct, the taxonomy level is not at the level of requirement, but at AMC level. However, if followed, service providers need to comply with the AMC.

#37: The term 'ATM/ANS service providers' is now changed to 'service providers' which includes ATS and CNS.

comment 48

comment by: *Glasgow Prestwick Airport Ltd*

Attachments [#2](#) [#3](#) [#4](#) [#5](#) [#6](#) [#7](#)

Dear Sirs

Please find below Prestwick Airport consolidated response to CAA Information Notice IN-2013/092 – EASA Notice of Proposed Amendment 2013-08 – Safety Oversight of Air Traffic Management/Air Navigation Services Providers

Prestwick Airport - Response to EASA Notice of Proposed Amendment (NPA) 2013-08 - to Requirements for Air Traffic Management/Air Navigation Service Providers and the Safety Oversight Thereof

We have attached copies of our review documentations, which attempts to capture all the salient points of the legislation that we believe is relevant to us as an ANSP, and have made best efforts to check our compliance to date against the proposed amendments to the legislation.

Our principal focus has been on reviewing our compliance against what is being proposed for Air Traffic Safety Electronics Personnel (ATSEP), and this forms the bulk of our response to the NPA, which we offer for consideration as to our experience in rolling out the principal of ATSEP here at Prestwick Airport over the last 3 years.

We have also attached a list of high level questions that would be good to get a response to. Additionally, we list them here for your consideration as part of our consolidated response to the NPA.

High Level Questions

1. Why was a consolidated questionnaire of the NPA not created and sent to ANSP's, etc – to allow more focussed response to the EASA legislation ? To ask ANSP's to read through over 600 pages of EASA documentation and capture the salient points is we believe most challenging for small to medium size organisations, to the point that many will give up. A more concise questionnaire that had captured all the relevant sections of the EASA documentation would we believe have resulted in a better response rate from ANSP's, etc.

2. Will funding support be available to all ANSP's to be compliant with ATSEP legislation – if and when it is adopted across all member states ?

We have attached a summary document (see 9 below) of what we believe have been our costs to deliver an ATSEP framework for Airport Engineering staff here at Prestwick, and welcome your feedback on our experience in rolling ATSEP out.

3. Rollout Period – How long to:

a). Full compliance ?

b). 1st audit against ATSEP legislation ?

4. Will there be an associated ATSEP CAP Document ? – or will it be a subset of CAP 670 (*Air Traffic Safety Requirements*) or CAP584 (*Air Traffic Controllers – Training*) ?

5. Will grandfather rights apply to individuals who already have valid PTC's on equipments covered under the legislation – and have not undertaken a Training Plan that follows the ATSEP requirements ?

6. Qualification Training covers all types of equipment, yet they are not all relevant (or deployed) to individual ANSP's. Can we assume that it is only necessary to train staff on equipment that is deployed by the ANSP at their airfield ?

7. Can Human Factors (HF) training be delivered by an outside agency or from an airport wide training provider (eg Human Resources Dept) ? We do not believe that any in house technical trainer (in our case Airport Engineering Training Officer – AETO) should have to focus in delivering such training that could be better delivered by a third party ?

8. This legislation only appears to focus on PTC Level 1 equivalent (Qualification Training). Most ANSP's train their staff to PTC Level 2 equivalent (System Equipment Training) – will the legislation also cover the compliance and syllabus requirements of Level 2 (System Equipment Training) ?

9. Attached is our GPA ATSEP Compliance Matrix vs NPA 2013-08 (C) – Annex XII. This GPA ATSEP Compliance Matrix was originally compiled in August/Sept last year (2012) in relation to the correspondence between CAA and AOA against Draft ATSEP AMC-GM Annex XI and Draft ATSEP IR Material – Annex XI (as detailed in attached email – '*Potential Impact of Emerging European Regulations on ATSEPS – Input Please*').

This GPA ATSEP Compliance Matrix has been updated to reflect the NPA 2013-08, and provides you with a summary of where we believe we are as an organisation in complying with the principals of ATSEP vs forthcoming legislation.

We have also enclosed a summary document submitted to the AOA in September 2012 in response to request from CAA for feedback from industry in relation to Emerging European Regulations on ATSEP – namely '*IMPLEMENTATION COSTING ESTIMATE FOR POSSIBLE INTRODUCTION OF REGULATION OF AIR TRAFFIC SAFETY PERSONNEL – Prestwick Airport Response – August 2012*' attached, together with the '*GPA AENG – ATSEP Training Progress Matrix*' developed to track Airport Engineers progress against ATSEP Training Modules for our particular CNS equipment installed here at Prestwick Airport. This summary document we submitted to AOA gives a summary of the approach we have taken to comply with the forthcoming legislation, together with the costs incurred to implement an ATSEP Training Plan , associated syllabus and training regime for our Airport Engineers (AE's). This material may also be useful to CAA in terms of the consolidated UK response to NPA 2013-08.

1010. We have also attached the document '*ACCEPTABLE MEANS OF COMPLIANCE WITH NPA 2013-08*' which summarises Prestwick Airport's feedback on the consultation, and respectfully requests EASA consider this as part of our response to the consultation.

Kind Regards
 Steve Thomson
 Airport Engineering Manager
 Glasgow Prestwick Airport

response

Noted

The Agency takes the comments in due consideration and would like to respond one by one to the high-level questions raised in the comment.

1. Such questionnaire is not usually created. The draft rules presented by the Agency is the outcome of the experts' groups who contributed to the drafting of the text proposals. The EASA rulemaking procedure foresees a dedicated public consultation of the proposal and constitutes the means by which the Agency can receive the comments and improve the rule text.
2. This is not in the remit of the Agency, but is in the competence of each national authority. The Agency can offer technical support and is willing to do so by ways of workshops, meetings, etc.
3. The entry into force of the Regulation will be in the course of 2016, however, some transitional measures are foreseen in order to allow service providers some time to be fully compliant with the Regulation. As these measures are not fixed yet, it is difficult to give a good estimation but it could be in 2017 when compliance will be required.
4. This is to be answered by the UK CAA. Please be aware that European regulations are directly applicable in the European Member States without further transposition.
5. Grandfather rights will be foreseen and the intent is to not impose that already rated ATSEP re-do the training for the position they are working on at the time of the adoption of the Regulation.
6. This statement is correct. According to the proposed rules, only training on those equipment/systems on which the ATSEP will work on need to be selected by the service provider.
7. Any training can be delivered by an outside organisation/entity. One

requirement covers this situation in Annex II (on contracted activities).

8. The training at S/E level is left very general in the proposed text. This is made on purpose for several reasons. One of them is the lack of current harmonised document on which the Agency could have based a proposal. If deemed necessary, more detailed rules may be proposed in the future after proper consultation with experts.

9. Noted.

10. The Agency takes the comments in due consideration and would like to provide the following answers:

- ATM/ANS.OR.B.015 (page 1): It is difficult for the Agency to determine if Prestwick Airport is adequately covered under its SMS manual as the Agency does not have a copy of it. Yet, Prestwick Airport should check with the competent authority if this is the case, once the rules are in force. The compliance shall be made against all the elements contained in ATM/ANS.OR.B.005.
- ATM/ANS.OR.C.040: Yes, the report includes informal consultation process with users and human resources policy.
- MET.OR.250: Reading the comment on this provision, the Agency assumes that at Prestwick Airport, no MET observation is done. According to the proposed rules, the State is the one who is responsible for deciding if a MET station should be established or not at an aerodrome. Therefore, it is up to Prestwick Airport to agree with the authority concerned to maintain this dispensation. Please advise if the assumption of the Agency is correct or provide more details on the kind of dispensation currently in force at Prestwick Airport.

With regard to the implementation costs, the Agency takes the provided document in due consideration. The Agency would like to comment as follows: the Agency is of the opinion that this assessment indicates the total ATSEP training costs for Prestwick Airport. It is understood that this assessment does not differentiate the additional costs induced by NPA 2013-08 from the total costs they currently have, nor does it mention that the new proposed requirements will induce additional costs. The costs assessment indicates that the ATSEP highly value this training and see it as beneficial to the airport's investment in the future. Also, this cost assessment cannot be extended to other service providers because of lack of information, e.g. technology used is not described, number of movements, etc.

This NPA on ATSEP issues was developed with the assumption that ATSEP have always received training to accompany the introduction of new technology and the Agency considers that the harmonisation of ATSEP will provide medium-/long-term benefits, after the transition phase with additional costs due to the adaptation of the current training. The medium-term benefits will be a training cost reduction thanks to the harmonisation (assuming that a majority of AMCs will not be applied differently by the service providers). The long-term benefits will be the support of the ATSEP mobility from one service provider to another thanks to the harmonised training requirements.

comment 65

comment by: AIRBUS

Airbus flags that the volume and the complexity of this NPA is hindering a holistic understanding of all the elements that it contains. The high volume of pages of

this NPA (646 pages) makes the comment process extremely difficult. The complexity of this NPA, with a lot of intricated parts and some missing, does not help the reader to clearly understand its overall objectives. The overall objectives of this NPA should be much closer to the international framework / standards (ICAO). In particular the ATS.OR part should transpose in a simpler and more practical way the corresponding ICAO SARPS provisions contained in the applicable annexes. **Airbus raises instances of concerns in regard to the quantitative safety levels to be derived for the functional systems. As a matter of fact, the consideration of the human factors in the safety approach for ATM has to be compatible with consideration of human factors in the airworthiness approach.**

response

Noted

The Agency acknowledges the volume and the complexity of the commented NPA. However, considering the feedback received from the NPA 2013-08 consultation, the Agency is pleased to conclude that the newly proposed rule structure has been well received and recognised by the stakeholders, on the one hand, aiming at reorganising the requirements in a better and fully aligned manner, and, on the other hand, at paving the way for future amendments of the Regulation taking into account the foreseen rulemaking tasks directly stemming from the Basic Regulation and from SES considering its dual legal basis.

After due consideration of the stakeholders' feedback regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200 replacing the current Implementing Rule provision.

Furthermore, taking into account the advice received during the focussed consultation, which provided the Agency with further valuable advice on how to proceed with the subject, the Agency is to publish the NPA resulting from the work of RMT.0469 for consultation in parallel with CRD to NPA 2013-08 (in the 2nd quarter of 2014). That NPA will propose provisions for 'assessment of changes to functional systems' to this draft Rule. Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion. Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirement under subparagraph 5(b)(iv) of Annex Vb. Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, cognitive abilities, are already part of regulatory proposals produced by the Agency. The Agency sees the consideration of human factors/human performance as a transversal activity, to be progressed along with the development of specific provisions implementing the Essential Requirements in the Basic Regulation. For example, safety regulation addressing ATM/ANS system and constituents and where human factors shall be carefully considered and addressed, is yet to be developed.

The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting the ATM/ANS safety regulation. The Agency also acknowledges positively the consideration that the human factors in the safety approach for ATM should be

compatible with the consideration of human factors in the airworthiness approach. Also, in this sense, further work for the total system approach should be done.

comment

66

comment by: AIRBUS

Regarding the provisions of ATS services for flight testing, Airbus applauds the inclusion of provisions for rules and procedures that will allow flight test organisations to perform flight tests in the new environment proposed by this project. Airbus will support any discussion to be organized for the detailed elaboration of these texts, including AMC/GM.

response

Noted

comment

100

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
General	The following service is not clearly covered by this NPA: - Air traffic services as established in Annex Vb.2(c) of regulation (CE) No 216/2008.	Maintenance and operation of ATS systems are not covered directly by the current regulation (UE) No 1035/2011. It is important to cover this issue, in order to achieve the requirements established in Annex Vb.2(c) of regulation (CE) No 216/2008.

response

Noted

The Agency takes note of the comment.

As explained in paragraph 12 of the Explanatory Note to NPA 2013-08, in order to implement the remaining Essential Requirements under point 2 of Annex Vb to the Basic Regulation, the Agency has planned separate rulemaking tasks which are included in the revised 4-year Rulemaking programme.

In reference to the mentioned by the commentator Essential Requirements, the Agency is to launch a rulemaking task (RMT.0464 on 'Requirements for ATS'). The objective of this rulemaking task is to ensure that air traffic services are safely provided across EU. In order to achieve this general safety objective, the rulemaking task shall:

- implement the relevant ICAO provisions on air traffic services, thus,

contributing to a harmonised implementation of ICAO as a baseline for the EU aviation law;

- define a sufficient level of harmonization throughout the EU, based on mandatory and flexible requirements; and
- define proportionate and cost-efficient rules.

The main activity of this rulemaking task is to develop draft Implementing Rules (IRs) with the related Acceptable Means of Compliance (AMC) and Guidance Material (GM), to fully implement the Essential Requirements under paragraph 2(c) of Annex Vb to the Basic Regulation concerning the provision of air traffic services.

comment 101

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
General	It would be quite useful to include a clear procedure for the handling of small organizations from the point of view of the proportionality in the applicability of mandatory requirements.	The principle of proportionality has to be clearly applied to small organizations in order to allow them giving a safe and cost-effective service. This would entail a clear definition (short list) of those requirements that should be mandatory and those that could be optative in relation to the size of the organisation.

response Accepted

The Agency takes the comment into consideration.

The proposed draft rules are further developed and more AMCs are introduced to address proportionality.

comment 102

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION

General	It would be quite useful to include a clear procedure for the handling of those service providers that apply for a certificate though they are not yet providing a service, in particular for MET services.	There is a number of requirements (both general and technical) that can only be verified once the provider is actually providing the service as these requirements are only meaningful with an organization in operation.
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response *Noted*

It should be noted that the provision dealing with initial certification is ATM/ANS.OR.A.005 (former ATM/ANS.OR.A.10 'Application for an ATM/ANS provider certificate') which originates from Article 4 of Regulation (EU) No 1035/2011 on 'Granting of certificates'. It is amended to reflect the fact that this is only applicable to service providers and not to competent authorities. The provisions related to the acts by the competent authority when receiving an application for an service provider's certificate are placed in Annex II to the new proposed regulation, namely ATM/ANS.AR.C.005(a)(1).

comment 213

comment by: *CANSO Civil Air Navigation Services Organization*

General	Consistency with abbreviations and terminology , particularly with regards to the definitions in the BR and the SES regulation 549.	CANSO would welcome a defined scope for the terminology used: e.g. NM and ATFM, ATM / ANS providers and providers of ATM/ANS, provision of ATM/ANS, in the field of ATM/ ANS, ... Or use the term ATM/ANS provider consistently
General	Consistency	ATM/ANS provider or ATM/ANS providers. Should be singular unless it really needs to be plural.

response *Accepted*

The Agency takes the comment into consideration and the subject provisions are amended accordingly.

comment	<p data-bbox="360 215 416 241">270</p> <p data-bbox="1155 215 1484 241" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="360 300 504 327">Comment:</p> <p data-bbox="360 331 1484 394">To modify the title of the IR to Requirements for ATM/ANS providers and the supervision thereof.</p> <p data-bbox="360 430 533 456">Justification:</p> <p data-bbox="360 461 1484 618">The process to be established by the competent authority under this regulation requirement goes beyond the oversight activity and covers the whole verification process of the ATM/ANS providers' compliance with applicable requirements. The process starts before the issue or renewal of a certificate and is going on with the continued compliance verification.</p> <p data-bbox="360 622 1484 685">If the title will be maintain it will be too narrow for some provisions, e.g. Art.3, ATM/ANS.AR.C.010.</p> <p data-bbox="360 689 1484 792">On the other hand certification and oversight in other ATM domains then safety are the responsibility of EASA and these activities are exercide as part of the CA supervision.</p>
response	<p data-bbox="360 846 603 873"><i>Partially accepted</i></p> <p data-bbox="360 931 1484 1088">The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. Based on the outcome of the NPA consultation, the title is amended to 'Requirements for service providers and the oversight thereof'</p>
comment	<p data-bbox="360 1178 416 1205">271</p> <p data-bbox="1155 1178 1484 1205" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="360 1263 504 1290">Comment:</p> <p data-bbox="360 1294 1484 1357">To have consistency with abbreviations and terminology , particularly with regards to the definitions in the BR and the SES regulation 549.</p> <p data-bbox="360 1393 533 1420">Justification:</p> <p data-bbox="360 1424 1484 1527">A defined scope for the terminology used is necessary: e.g. NM and ATFM, ATM / ANS providers and providers of ATM/ANS, provision of ATM/ANS, in the field of ATM/ ANS, ...</p>
response	<p data-bbox="360 1556 488 1583"><i>Accepted</i></p> <p data-bbox="360 1641 1484 1704">The Agency takes the comment into consideration, and the subject provisions are amended accordingly.</p>
comment	<p data-bbox="360 1794 416 1821">272</p> <p data-bbox="1155 1794 1484 1821" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="360 1879 504 1906">Comment:</p> <p data-bbox="360 1910 523 1937">Consistency</p> <p data-bbox="360 1973 533 2000">Justification:</p>

response	<p>ATM/ANS provider or ATM/ANS providers. Should it be the singular, except where a plural is intended?</p> <p><i>Accepted</i></p> <p>The Agency takes the comment into consideration, and the subject provisions are amended accordingly unless specific cases exist.</p>
comment	<p>273 comment by: ROMATSA</p> <p>Comment: AMC or GM.</p> <p>Justification: Clarity and harmonisation is required to know what text should be at what level (e.g. the questions to stakeholders 96,115, 124, and annex XII...). Throughout the document it has been noted that some GM is written "as AMC" and vice-versa.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>In reference to the mentioned by the commentator paragraph, it should be noted that, on purpose, the Agency put questions in order to consider the stakeholders' feedback to take an informed decision. After the NPA consultation, the resulting text presented with this CRD clearly indicates the IR and associated AMC/GM provisions.</p>
comment	<p>274 comment by: ROMATSA</p> <p>Comment: Change</p> <p>Justification: The use of the word change is unclear and defining, throughout the NPA, what kind of change is referred to would lend clarity to the provisions. GM would be appreciated with some examples of Functional Changes, Organisational Changes, Procedural Change, ...</p>
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation, the subject provisions are revised to better clarify the issue, especially the scope of the changes. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Furthermore, the Agency will issue a dedicated NPA on the provisions related to the assessment of changes to functional systems. The final outcome of the consultation on NPA 2013-08 and of the following one will be issued in a single EASA Opinion.</p>

comment	<p data-bbox="360 277 416 313">275</p> <p data-bbox="1155 277 1498 313" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="360 367 504 398">Comment:</p> <p data-bbox="360 400 1498 495">The EASA intention to complement the ATSEP training and competence assessment requirements with specific requirements for other personnel is supported.</p> <p data-bbox="360 497 1498 562">ATM/ANS provision personnel shall hold a valid license (including AIS, ATSEP, FIS, MET personnel, etc.).</p> <p data-bbox="360 593 536 624">Justification:</p> <p data-bbox="360 627 1498 786">In Anexa Vb/BR (5(a) iv) it is provided that a service provider shall use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the personnel. In that respect the qualification and training requirements the other personnel envisaged need to be explicitly provided.</p>
response	<p data-bbox="360 795 541 831"><i>Not accepted</i></p> <p data-bbox="360 896 1498 990">The EASA Basic Regulation does not foresee a licensing scheme for personnel other than ATCO, and puts the obligation of personnel training and competence assessment on the service provider.</p>
comment	<p data-bbox="360 1070 416 1106">276</p> <p data-bbox="1155 1070 1498 1106" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="360 1169 504 1200">Comment:</p> <p data-bbox="360 1202 1498 1330">Definition of/clarification on the “services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation” in the context of this Regulation shall be inserted.</p> <p data-bbox="360 1361 536 1393">Justification:</p> <p data-bbox="360 1395 1498 1554">By the definition (Article 2 of Reg (EC) 216/2008), ATM/ANS means ATM functions, ANS and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation. For the purpose of this Regulation these services should be clarified.</p>
response	<p data-bbox="360 1568 488 1603"><i>Accepted</i></p> <p data-bbox="360 1664 1498 1823">The Agency takes the comment into consideration. This subject was tabled and also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The subject provisions are significantly reworked to address the aspects raised by the commentator.</p>
comment	<p data-bbox="360 1901 416 1937">277</p> <p data-bbox="1155 1901 1498 1937" style="text-align: right;">comment by: ROMATSA</p>

response	<p>Comment: The provisions of this IR should be extended at the level of the entity responsible for the design of system and constituents.</p> <p>Justification: There are several provisions regarding the entity responsible for the design of system and constituents, e.g. safety reporting requirements by the ATM/ANS to these entities (ATM/ANS.OR.A.060). The process shall be completed by inserting provisions on the way in which these reports are used in order to contribute to safety.</p> <p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>The issue of systems and constituents, and the involved organisations will be addressed through a different rulemaking task, in the future.</p>
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comment	<p>303 comment by: IFATCA</p> <ol style="list-style-type: none"> 1. The NPA is not ready for consultation as too many important elements are missing and the proposed mitigation process (e.g. transition period) are opening the field for tire-some political discussions instead of a good rule making process. It is therefore proposed to delay the further work on this NPA until all elements are known and can be proposed to a proper stakeholder consultation. 2. Further IFATCA is opposed to alternative means of compliance for such an important regulation. Recent experience from our members shows that alternative means of compliance are detrimental to the quality of service of ATM and in particular Air Traffic Control service 3. Though the RIA is understood, IFATCA wonders what will be the final costs for all the actors involved to get the system up and running. There seems to be a financial and legal uncertainty with regard to the missing parts which will be included at a later stage. The overall costs during transition phase and setting up new regulatory means seems not to be taken into account and therefore it suggested by IFATCA to re-do a complete RIA when all the articles and elements of the future NPA are known. E.g. NPA 2013-08 (D page 27 is not reflecting this sufficiently) 4. Human Factors are transposed with only 3 categories. For a forward looking rulemaking this is not enough as with the future requirements of the performance scheme and in the increased requirements for understanding of a total system approach including Human Factors it would be a good opportunity to introduce some of the categories suggested by IFATCA. When reading through the Human Factor IFATCA finds an imbalance between criminalisation (cognitive impairment due to psychoactive substance) approach and other Human Factor issues. Stress is outlined, Fatigue is not ready and the rest is simply ignored. This is a disappointment in particular with upcoming challenges such as SESAR deployment and future automation. 5. IFATCA has identified a risk with regard to the consultation mechanism, regarding elements which are not ready and are proposed to be included in the transition arrangements which will possibly not be submitted via a full
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response	<p>NPA process and will be included only in the Opinion. Namely fatigue and roster system. The adaptation time is explained, but not what has to be adapted. How will the Agency make sure that the elements which are not ready for consultation currently will not be subject to a “fast – track” political process, without consultation but only via an expression of Opinion to the European Commission.</p> <p><i>Noted</i></p> <p>1. Based on the outcome of the NPA consultation and the stakeholders’ advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the timeframe of the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on 'assessment of changes to functional systems' (resulting from the work of RMT.0469) after being consulted. This Opinion will additionally include the technical requirements for the provision of meteorological services based on the transposition of the latest ICAO Annex 3 edition. However, taking into account the difficulty in envisaging the outcome of different ongoing developments, including their adoption and applicability dates, the Agency believes that it would not be appropriate to bind the Comitology process as proposed by the commentator.</p> <p>2. It should be noted that EASA rulemaking is promulgated as Implementing Rules (IRs), Acceptable Means of Compliance (AMCs), or Certification Specifications (CSs).</p> <p>IRs are binding in their entirety and are used to specify high and uniform level of safety and uniform conformity and compliance without variation, while AMCs are non-essential and non-binding. Furthermore, AMCs serve as a means by which the requirements contained in the IRs can be met, offering, thus, the benefit of presumption of compliance. However, applicants may decide to show compliance with the requirements using other means and may propose an alternative means of compliance, based, or not, on those issued by the Agency. These alternative means of compliance (AltMoC) must only be used when it is demonstrated that the safety objective set out in the Implementing Rules is met. When the competent authority uses an AltMoC, it must notify the Agency. As such, the Agency does not share the view that the AMC would be detrimental to the quality of service of ATM and in particular Air Traffic Control service.</p> <p>In addition to the AMCs proposed with the subject NPA, Guidance material (GM) are introduced as well which are also non-binding material developed by the Agency that helps to illustrate the meaning of a requirement or specification and is used to support the interpretation of Regulation (EC) No 216/2008, its Implementing Rules and AMCs. As such, the mentioned by the commentator provisions are not binding requirements.</p> <p>3. On a general basis, pending more information from ANSPs and competent authorities regarding their current national legislative framework and quantitative information on the specific impacts envisaged by them, the identified impacts are deemed to be valid. With the period of transition proposed by NPA 2013-08, it is foreseen that the potential additional costs would be smoothly introduced and balanced with other positive aspects, like better working conditions through harmonised requirements (e.g. facilitation of the SSP implementation as required by ICAO) and more flexibility, thanks to this regulatory harmonisation. Unless more precise and significant information would be given, a general review of the RIA cannot be undertaken. Furthermore, a full RIA on the extension of the</p>
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Agency's remit to ATM/ANS has been published with Opinion No 01/2008. However, the evaluation of the impact of the regulatory solutions to be proposed with the development of the Implementing Rules resulting from RMTs.0469, 0477, 0593, particularly when some options are proposed during the drafting of the implementing measures, is envisaged. The impact of the proposed regulatory solutions will be assessed by means of an associated RIA which will be part of the following NPAs.

4. The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirement under subparagraph 5(b)(iv) of Annex Vb.

Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, cognitive abilities, are already part of regulatory proposals produced by the Agency.

The Agency sees the consideration of human factors/human performance as a transversal activity, to be progressed along with the development of specific provisions implementing the Essential Requirements in the Basic Regulation. For example, safety regulation addressing ATM/ANS system and constituents and where human factors shall be carefully considered and addressed, is yet to be developed.

The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting the ATM/ANS safety regulation.

5. The Agency has the obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements under subparagraph 5(b)(i) of Annex Vb on fatigue of air traffic controllers.

The proposed measures covering fatigue were developed as required by and in accordance to the Terms of Reference for ATM.001 (a) & (b) (RMT.0148 & RMT.0149). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.

comment 342

comment by: German NSA

The Notice of Proposed Amendment (NPA) „Requirements for ATM/ANS providers and the safety oversight thereof“ (2013-08) in its present form is considered critical by the German NSA. While from the perspective of harmonisation, merging the two Regulations (EU) No 1034/2011 and No 1035 /2011 into one seems reasonable, no added value can be seen from the operational side (ATS, CNS and AIS-services). However, the expansion and fine-tuning of the requirements concerning MET und the proposed equal treatment of all services is explicitly welcomed by the German NSA.

Points of criticism are the missing adherence to competences by EASA (I.) and the formal approach taken (II.), as well as the time schedule (III.).

I. Competences

Firstly, it does not fall within the competences of EASA to regulate internal practices and administrative processes. For example, NSAs should not have to establish an extensive and detailed management system as the ANSP are required to do. At least the NSAs should be given a considerable amount of discretion on how they set up their management system. In general, the requirements of the

affected stakeholders, especially with regard to non-safety relevant issues, should be taken more into account, when applying the SES framework regulations. Secondly, the approach taken by EASA comprises more than the transposition of the EU regulations 1034/2011 and 1035/2011. For example detailed requirements concerning the ATSEP Personal (APPENDIX 2 TO ANNEX XII SUBPART A – TECHNICAL AND ENGINEERING ELECTRONIC PERSONNEL) have been incorporated in the NPA. However, requirements concerning ATCOs are already included in Regulation (EU) No 805/2011 (Appendix II). Even though the proposed provisions for ATSEP-training are endorsed with regard to their content, this should be accomplished in one set of rules, analogue to the German FSPersAV (Regulation concerning the training of air traffic control personal). An incorporation of the ATSEP requirements in the current NPA, while simultaneously revising Regulation EU No 805/2011, will lead to a fragmentation and will complicate the matter even more. Therefore this approach chosen is not endorsed by the German NSA. Contrary, the German NSA is proposing a European approach creating one complete set of rules, analogue to the FSPersAV (including ATCO, ATSEP, AIS) and incorporating requirements for MET personnel as well.

II. "Reserved" items

Moreover, the German NSA considers the publication of an NPA as problematic, in which core elements, especially safety requirements, have not yet been defined. In the current NPA essential elements that relate to the safety of services are not even included in the draft. For example, the definitions of safety assurance, safety objective, and safety requirement have not been included in this proposal because they are used in the requirements related to safety assessment of changes to functional systems and the requirements in the current regulation are being reviewed separately under rulemaking tasks RMT.0469 and RMT.0470.

Additionally, new services (DAT, ASM, ASD) are listed (*cf. Annex XI, IX, X*, marked "reserved"), but are not further elaborated in the current draft. This approach is not just unusual from a legal perspective, but also complicates the overall assessment of the whole NPA. Due to the missing provisions and the extensive AMC and GM it remains uncertain, whether the stakeholders can exert influence in the further process. In particular, it remains unclear, if there will be further consultations on the provisions that are not yet included in the NPA.

For the stakeholders involved, it is currently difficult to assess the overall context of the NPA. The content, purpose and extent of the intended new rules are not identifiable under the current circumstances. Because of the existing gaps/"place holders" ("reserved"), the current draft is basically not ready for a decision and should be rejected for this reason.

It is proposed to remove the current "place holders" ("reserved") and to include the new services in the Regulation in due course on the basis of the then consulted NPAs. This approach allows adding new services progressively and to move on with the process instead of completely stopping it or having it significantly delayed. By doing so, also the latest developments in the field of SES and SES II+ could be taken into further consideration.

III. Approach taken by EASA and timescale

From the German NSAs perspective there is no need to rush through the process because the system of licensing and oversight is currently working well. Instead of moving quickly ahead, it should be ensured that the right place to start from is chosen. In the current NPA it is not sufficiently taken into account that the regulatory framework in the field of ATM/ANS will change quite significantly within the next couple of years. This especially holds true for the SES II+. Therefore it does not seem reasonable to quickly transform the Regulations No. 1034/2011 and No 1035/2011 into one new Regulation. Rather the swiftly changing and evolving field of ATM/ANS should be further taken into account and chosen as basis, instead of taking the status of 2003 as "starting point".

Furthermore, the timeliness of the present NPA and especially the synchronisation

with other provisions does not seem to be fully provided for in the draft. This applies in particular to the changes to ICAO Annex 3 and the question, how those should be synchronised with Annex 4 (METEOROLOGICAL SERVICES) of the current NPA. Due to the continuous development of ICAO provisions and the related necessary modification of EASA “specifications”, it appears indispensable that EASA establishes a process that ensures that changes to ICAO provisions are adequately and timely reflected in the EASA rulemaking process.

The swift procedure chosen by EASA seems even more problematic, when one considers that there are no further explanations with regard to the transitional provisions. In the view of the German NSA, it is important that no gaps occur in the application of the Regulations and legal uncertainty is avoided. This can only be prevented if it can be assured that the Regulations (EU) No 1034/2011 and No 1035/2011 apply up to the end of the transitional period.

IV. Conclusion

The overall impression is that the current NPA draft is not yet fully elaborated and that the quickly changing environment in the field of ATM/ANS is not adequately reflected in the draft. The content, the purpose and the extent of the intended revision is not sufficiently transparent under the current circumstances.

The further processing of the draft regulation in its present form, after the completion of the NPA process, in the SCC therefore should be avoided. Before completing the NPA process rather an agreement between all stakeholders should be reached, which contains the missing elements named above.

response

Noted

The Agency will duly consider and take note of the comprehensive comment. The Agency also does acknowledge the positive welcome of the proposal and hope that those aspects of criticism expressed by the commentator can be clarified and possibly improved in the next phases of the consultation process.

Management system of the competent authority — This NPA proposal is based on the requirements of Regulation (EU) No 1034/2011 and is complemented with certain requirements facilitating the implementation of the State Safety Programme (SSP) as required by ICAO Annex 19, and takes into account the critical elements of a safety oversight system as defined by ICAO. The Agency would also wish to emphasise that this approach is aligned with the authority requirements in other aviation domains, an approach which has been strongly supported especially by numerous State representatives. Furthermore, the Agency fully recognises the merit in moving towards a more performance-based regulation. The growing complexity in the aviation systems demands an evolution in the management of safety towards an approach that focusses on the management of risks. But this cannot be done without thorough consideration, since the performance-based approach will, indeed, complement the more traditional forms of a prescriptive regulatory system. In this sense, the proposed approach in the NPA is based on the ‘management system’ approach which is purposed to leave it to the organisation itself to set up the system to manage its different (regulated) management objectives.

When it comes to the ATSEP requirements, the Agency is pleased to note that the German NSA can endorse the proposal with regard to its contents. The further proposal by the NSA to create one complete set of rules incorporating (as necessary) requirements for different ANS personnel is, indeed, interesting and the Agency can acknowledge its suggested benefits.

The difficulty to assess the overall context of the NPA is fully understood by the Agency. This issue was comprehensively discussed at the focussed consultation meetings, which provided the Agency with further valuable advice on how to

proceed further with this matter. The Agency is going to publish the NPA resulting from the work of RMT.0469 for consultation in parallel with CRD to NPA 2013-08 (in the 2nd quarter of 2014). That NPA will propose provisions for 'assessment of changes to functional systems' to this draft Rule. Based on the outcome of the said NPAs, the Agency will issue a single Opinion by the end of the year. Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as the one on DAT after it has been consulted. The proposal to remove the current 'place holders' is fully acknowledged, but most likely it will be best to reach a final decision only when the proposal is progressed to the adoption process.

The comment also provided questions with regard to the lack of transitional provisions in the draft Rule. The Agency agrees that this is an important element to be proposed, but since it should reflect well the overall content of the proposed rule, it is envisaged to finalise it only in the forthcoming Opinion. The Agency can also share the view of the NSA, that it is important that no gaps occur in the application of the Regulations and that any legal uncertainty should be avoided. The proposed solution related to the transitional period seems, therefore, acceptable. Finally, the Agency is pleased to confirm that the proposal will not be progressed to the adoption process (by the SSC) before having all its elements consulted and issuing a single comprehensive Opinion. As necessary, further focussed consultation, such as workshops or thematic review meetings, can be arranged by the Agency whose advisory bodies play an important role in further defining such needs.

comment 361

comment by: Kerry Airport

Document: A – Explanatory Note**Page No:** General**Paragraph No:** General**Comment:** I have provided a copy of a general comment on NPA 2013-08 sent to the IAA, as the NSA for Ireland, for you information.

My concern relates to the proscriptive measures contained within the document and the potential impact the implementation of this proposal may have on smaller ANSP's.

Justification: The ATSEP requirements are over prescriptive and define training requirements to a far too intricate level of detail.

response Noted

Please see the Agency's response to the comment made by Kerry Airport on Annex XII ATSEP.

comment 390

comment by: European Transport Workers Federation - ETF

We welcome the work done so far and we encourage EASA to work further on staff competence requirements for other kinds of personnel such as FIS officers, MET officers (as listed in the **World Meteorological Organisation (WMO) Documents No.49 and No.258**), AIS/AIM officers, other safety-related maintenance staff outside the scope of the definition of ATSEPs and ATM tool

response	<p>designers...</p> <p><i>Noted</i></p> <p>The Agency takes note of the comment. It is subject of further rulemaking planning.</p>
comment	<p>391 comment by: <i>European Transport Workers Federation - ETF</i></p> <p>We encourage EASA to build on the 5th pillar of SES by introducing human factor training including just culture presentation and description of related process (initial and continuous) for all safety related jobs in aviation and especially in ATM.</p>
response	<p><i>Noted</i></p> <p>The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirement under subparagraph 5(b)(iv) of Annex Vb.</p> <p>Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, cognitive abilities, are already part of regulatory proposals produced by the Agency.</p> <p>The Agency sees the consideration of human factors/human performance as a transversal activity, to be progressed along with the development of specific provisions implementing the Essential Requirements in the Basic Regulation. For example, safety regulation addressing ATM/ANS system and constituents and where human factors shall be carefully considered and addressed, is yet to be developed.</p> <p>The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting the ATM/ANS safety regulation.</p>
comment	<p>402 comment by: <i>USAC-CGT</i></p> <p>USAC-CGT, as a member of ETF, fully supports all the comments introduced by ETF into the CRT and therefore will not repeat them.</p>
response	<p><i>Noted</i></p>
comment	<p>435 comment by: <i>Luca Valerio Falessi</i></p> <p>The Unit Training of the ATCO regulation should be moved from ATCO licence regulation and transferred to this regulation</p>

The present allocation of requirements between ATCO regulation and ATM/ANS provider regulations derive from ESARR 5, which has been prepared when no Implementing Rule of ATSP certification was available, and therefore it was mandatory to concentrate all possible requirements in the only regulatory charter available.

Present experience shows that ATCO unit training is an essential part of ANSP certification. Each ATSP should have the competence to define the ATCO training needs at its Air Traffic Service Units. Each ATSP should have a Training Postholder, which should be held responsible for in-house training.

In addition, the core element of the ATSU training is the On-The-Job Instructor, who is responsible for the provision of ATS during

Therefore there's no sense to have ATCO training still under the umbrella of ATCO regulation, with a separate certification process.

This leads to different certificates and a tangle of competent Authorities in the operational room.

The very simple action is to move ATCO unit training from the ATCO regulation to the ATSP regulation.

In addition the licence should be limited to the licence ratings, while the unit endorsements should be left to the management of the ANSPs, which should provide each ATCO with a declaration of the sectors where he/she is currently authorised to provide services.

This would rather simplify the licence management at ANSP level, also because the assignment of an ATCO to a unit or a sector is a task of the ANSP.

response *Noted*

The Agency acknowledges that unit training for air traffic controllers could be regarded as service provider specific training and be regulated amongst the rules relevant to the ANSP certification. However, the decision on the rule structure included the decision to consolidate all requirements relevant to the licensing and qualification of air traffic controllers into a single source rule. This approach certainly has the advantage that it approaches this profession in its entirety and provides all relevant requirements to all relevant stakeholders, air traffic controllers and ANSPs.

However, the placement of the unit training requirements is without consequence to the applicable certification processes, thus, it does not result in different or additional certificates.

The proposal to limit the licence to the ratings only is not considered, as the licence is purposed to contain all privileges relevant to the holder of the licence, which includes the unit relevant competencies. One should note as well, that erasing the unit-related privileges from the licence would result in difficulties as regards the validity of the privileges of the ratings.

Moreover, in general, the Agency would also be keen on further developing the rule structure and the best allocation of different regulatory provisions, especially when it is seen to facilitate their implementation by the regulated persons.

However, introducing significant structural changes would call for a broad consensus by the affected stakeholders and a timing which would be carefully considered from the point of view of both Regulations in question.

comment

436

comment by: *Luca Valerio Falessi*

Regulatory management of declaration is still immature and must be revised before implementation. Lack of temporal coordination with SES II+ requirements may lead to serious legal problems.

ITALY supports the basic declaration mechanism, but the management of the start and stop of the ANSP does not take into consideration:

- a) the need for designation of every ATS provider,
- b) the requirement of performing proper safety assessment of commissioning and decommissioning an ATS service;
- c) the AIS requirements for proper advanced publication in AIP of the information to start the AFIS service.

response

Noted

The Agency takes note of the comment. It should be noted that the commented Article implements one of the objectives of Regulation (EC) No 216/2008. As part of the Council compromise when approving the SES II package in 2009, some old SES provisions were left in place and, indeed, these may be contradictory to the new ones contained in Regulation (EC) No 216/2008. After consulting with the Commission, it appears that this problem will be one of the issues rectified in the SES2+ proposal and the work on Implementing Rules should continue to implement the new EASA framework.

comment

437

comment by: *Luca Valerio Falessi*

Lack of an operational definition of changes requiring prior approval may lead to the paralysis of the service provision or expose both ATM/ANS provider and the Authority to serious legal and liability issues.

Although very technical, the operational definition of changes requiring prior approval, is a key benchmark to assess the implementability of this regulation.

The present draft gives a definition of changes requiring prior approval that could lead to a patalysis of the service provision due to the need of adding workforce to the Auhtority or expose the Authority to be challenged in tribunal for not having identified correctly a safety related change.

An operational definition of the change which need prior approval, as the one adopted in 1034/2011 and 1035/2011, should be adopted

response

Noted

After duly considering the stakeholders' feedback from NPA 2013-08 consultation, the Agency is to publish the NPA resulting from the work of RMT.0469 for

consultation in parallel with CRD to NPA 2013-08 (in the 2nd quarter of 2014). That NPA will propose provisions for 'assessment of changes to functional systems' to this draft Rule. Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion.

Furthermore, this issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) is redrafted to clarify the different types of changes and their management and addressing also the ones that require prior approval and those that may not require prior approval.

comment 438

comment by: *Luca Valerio Falessi*

Meteorological part of this regulation proposal, otherwise from ICAO Annex 3, is not self consistent since the meteorological requirements included in it cannot be considered exhaustive.

Carrying only a few general requirements from ICAO Annex 3 disjoint from the corresponding elements of detail retrieved in other parts of mentioned Annex 3 does not allow to obtain an overview on the completeness of the applicable legislation on the meteorological area.

If approved this proposal, MET requirements will be fragmented between:

- SERA regulation;
- ATM/ANS provider regulation;
- National transposition of Annex 3.

response *Noted*

The requirements in this NPA on meteorological services cover the organisation requirements for MET service providers – MET.OR.

NPA 2014-07 has been published on the EASA website and transposes the remaining provisions from ICAO Annex 3, meaning Part II, the technical requirements – MET.TR.

Both parts will be published together for the CRD/Opinion so that the MET package will be complete.

comment 439

comment by: *Danish Transport Authority*

The initiative of having the 1034- and 1035-regulations consolidated into one regulation is welcomed.

It seems, however inappropriate to propose to States a version where text hasn't yet been drafted/determined. Examples are Article 9 of the IR, although recognising EASA's proposal for such transitional provisions set out in no. 73 of the Explanatory Notes, ATS.OR.210 and ATS.OR.215 in Annex III and the Annexes VI, IX and X on DAT, ASM and ASD respectively.

	For that reason it is recommended to postpone the process of adoption, until the IR in full can be evaluated/commented by States.
response	<p><i>Partially accepted</i></p> <p>After duly considering the stakeholders' feedback from the NPA 2013-08 consultation, the Agency is to publish the NPA resulting from the work of RMT.0469 for consultation in parallel with CRD to NPA 2013-08 (in the 2nd quarter of 2014). That NPA will propose provisions for 'assessment of changes to functional systems' to this draft Rule. Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion. Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services, and could also contain other proposals such as DAT, when the deliverables are being consulted.</p> <p>In reference to ASD, the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM in order to ensure the airspace structures and flight procedures are appropriately surveyed, designed and validated. The development of the subject implementing measures would require time. Therefore, taking into account the difficulty in envisaging the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.</p>

comment	<p>441</p> <p>comment by: <i>Finnish Transport Safety Agency</i></p> <p>As a general comment Finland would like to highlight i.a. the entry into force of ICAO Annex 3 Amendment 76 in November 2013. Commission implementing Regulation 1035/2011 refers to Annex 3 on meteorological service for international air navigation, <i>17th edition of July 2010, including all amendments up to No 75</i>. As it will take some time before the proposed rule under consideration here will enter into force, Finland would like to suggest that a "fast-track" update to Regulation 1035/2011 is made to take into account the latest amendments made to ICAO Annexes referred to in Regulation 1035/2011.</p>
response	<p><i>Noted</i></p> <p>The Agency is aware of this situation and currently acknowledges that the European Commission is taking some initiatives to solve this reference issue in order for Regulation (EU) No 1035/2011 to contain the update ICAO reference. The update of the ICAO Annex 3 edition reference is already made in the revised text of this NPA.</p>

comment	<p>154</p> <p>comment by: <i>HungaroControl</i></p> <p>General: More defined scope and consistency is needed in the terminology used: e.g. NM,</p>
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response	<p>AFTM, ATM/ANS providers, providers of ATM/ANS, in the field of ATM/ANS.</p> <p><i>Noted</i></p> <p>The Agency takes the comment in due consideration.</p>
comment	<p>155 comment by: <i>HungaroControl</i></p> <p>General: Consistency is needed regarding to the expression ATM/ANS provider or providers. Is the plural form generally needed or only when it comes from the context?</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration, and the subject provisions are amended accordingly unless specific cases exist and plural is desired.</p>
comment	<p>156 comment by: <i>HungaroControl</i></p> <p>General: More consistency is needed regarding to the use of AMC and GM. Levels should be clarified.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment in due consideration.</p>
comment	<p>157 comment by: <i>HungaroControl</i></p> <p>General: The use of the word 'change' needs clarification throughout the NPA. GM would be appreciated with some examples of Functional Changes, Organisational Changes, Procedural Change,</p>
response	<p><i>Partially accepted</i></p> <p>This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue and based on the outcome of the NPA consultation, the subject provisions are revised to better clarify the issue, especially the scope of the changes.</p> <p>Furthermore, the Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p>

comment	<p>158 comment by: HungaroControl</p> <p>Title of the rule: Common Requirements for ATM/ANS providers and the safety oversight thereof Not all the requirements are related to safety so this word is suggested to be deleted to create consistency between the title and the scope. The word 'common' is required for consistency with Annex II.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes into consideration the comment. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. Based on the outcome of the NPA consultation, the title is amended to 'Requirements for service providers and the oversight thereof'</p>
comment	<p>159 comment by: HungaroControl</p> <p>General: There should be a provision for nominating an accountable manager since there are provisions applicable to them. Clarification of the safety accountable managers is needed.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration and the required provision is introduced (see ATM/ANS.OR.B.020(a)).</p> <p>In reference to the safety manager, taking into account the comment the subject AMC is amended (see AMC1 ATS.OR.200(a)(1)(ii);(iii)), including the associated GMs (see GM1 ATS.OR.200(a)(1)(iii) and GM2 ATS.OR.200 (a)(1)(iii)).</p>
comment	<p>160 comment by: HungaroControl</p> <p>General: Ensure harmonised publication date between IR ATM and outcome of RMT.0469 / RMT.0470 (safety assessment / software assurance). IR ATM will repeal 1034/1035 regulations once in force. If IR ATM does not include safety assessment and software assurance requirements, then there will not be covered by regulation anymore. In addition, there is at the moment no harmonized definition of 'change' in IR ATM OR.A.040, ATS.OR.210 and ATS.OR.215 and what is considered as a change in RMT 0469/0470 to be integrated into IR ATM reserved parts. It is not possible to operate an SMS without this, there being no specific provisions in ICAO.</p>
response	<p><i>Accepted</i></p>

The Agency takes into consideration the comment.

Acknowledging the stakeholders' feedback from the NPA 2013-03 consultation, the NPA resulting from the work of RMT.0469 is planned to be published for consultation in parallel with the CRD to this commented NPA 2013-08. Based on the outcome of the current CRD and the NPA on assessment of changes to functional systems, the Agency will issue a single Opinion in the 4th quarter of 2014.

comment 161 comment by: *HungaroControl*

General:

Harmonised approach of fatigue and rostering with ICAO is needed, since ICAO initiated a task force on this topic. The Fatigue and Rostering system part of this IR should be reserved until the outcome of the work of ICAO TF.

response *Noted*

The Agency has the obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements under subparagraph 5(b)(i) of Annex Vb on fatigue of air traffic controllers.

The proposed measures covering fatigue were developed as required by and in accordance with the Terms of Reference for ATM.001 (a) & (b) (RMT.0148 & RMT.0149). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.

comment 162 comment by: *HungaroControl*

General:

The provisions of this IR should not be too prescriptive in order to achieve the aims of SES, SESAR and the performance scheme, since these aims can be achieved by innovation and improvement. The rules should be written in a way that they do not have to be updated too frequently.

response *Noted*

The Agency takes good notice of your comment, in particular when it comes to your support on SES objectives and further innovation needed for its implementation.

Moreover, the Agency sees a lot of merit in moving towards a more performance-based regulation. The growing complexity in the aviation systems demands an evolution in the management of safety towards a performance-based approach that focusses on the management of risks. But this cannot be done without thorough consideration, since the performance-based approach will, indeed, complement the more traditional forms of a prescriptive regulatory system. It would also necessitate some investment at least in the beginning in order to set up processes which measure performance. In this sense, it would be difficult to share the view that the performance-based approach would just mean 'regulating less'. The proposed approach in the NPA is based on the 'management system'

approach which is purposed to leave it to the organisation itself to set up the system to manage its different (regulated) management objectives. It follows the international level best practises and approaches taken in the other aviation domains too.

comment

163

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

The initiative of having the 1034- and 1035-regulations consolidated into one regulation is welcomed.

It seems, however inappropriate to propose to States a version where text hasn't yet been drafted/determined. Examples are Article 9 of the IR, although recognising EASA's proposal for such transitional provisions set out in no. 73 of the Explanatory Notes, ATS.OR.210 and ATS.OR.215 in Annex III and the Annexes VI, IX and X on DAT, ASM and ASD respectively.

For that reason it is recommended to postpone the process of adoption, until the IR in full can be evaluated/ commented by States.

response

Partially accepted

The Agency takes note of the comments.

As correctly mentioned by the commentator, paragraph 73 of the Explanatory Note to NPA 2013-08 addresses the transitional provision and clarifies that adequate transitional provisions can only be proposed after the consultation on the relevant proposals, their evaluation and finalisation of the proposed rule text. It will be proposed in the Agency Opinion to the European Commission (planned to be issued in the 4th quarter of 2014) and will be discussed together with the rule text during Comitology.

It should be noted that the NPA resulting from the work of RMT.0469 is to be published for consultation in parallel to CRD to NPA 2013-08 during the 2nd quarter of 2014. Based on the outcome of the current NPA and the following one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services, and could also contain other proposals such as DAT, when the deliverables are being consulted.

In reference to ASD, the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM in order to ensure the airspace structures and flight procedures are appropriately surveyed, designed and validated. The development of the subject implementing measures would require time. Therefore, taking into account the difficulty in envisaging the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology.

comment

458

comment by: *Romanian Civil Aviation Authority*

Proposed text:

	<p>To modify the title of the IR to Requirements for ATM/ANS providers and the supervision thereof. The definition of "supervision" is proposed as follows:</p> <p>supervision - means all inspections, audits, surveys, data collections, monitoring, reporting and similar tasks in accordance with EU Regulations on competent authority tasks relating to the certification and continuous oversight of air traffic management and air navigation services.</p> <p>Justification:</p> <p>The process to be established by the competent authority under this regulation requirement goes beyond the oversight activity and covers the whole verification process of the ATM/ANS providers' compliance with applicable requirements. The process starts before the issue or renewal of a certificate and is going on with the continued compliance verification.</p> <p>If the title will be maintained it will be too narrow for some provisions, e.g. Art.3, ATM/ANS.AR.C.010.</p>
response	<p><i>Not accepted</i></p> <p>This issue was tabled and discussed at the focused review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The proposal is not accepted as the term 'oversight' in the title of the draft IR is clearly understood.</p>
comment	<p>459 comment by: <i>Romanian Civil Aviation Authority</i></p> <p>Proposal:</p> <p>The development of this regulation should be in close relation with the provisions of the Regulation SES 2+ (recast)</p> <p>Examples of articles that would require alignment with SES2+ (recast):</p> <p>- art.2; art.2(11);art.3(5); Annex I ATM/ANS.AR.A.010; ATM/ANS.AR.A.025; ATM/ANS.AR.C.025 (e)</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment. The outcome of the ongoing SESII+ initiative will most likely impact certain implementing regulations. This is one of the reasons for which the Agency continues to provide an active and close support to the Commission in this important initiative and would make the necessary adjustments, if any, with the publication of the subject Opinion or support the Commission during the Comitology on the subject, once the SES2+ proposal is adopted.</p>
comment	<p>460 comment by: <i>Romanian Civil Aviation Authority</i></p>

	<p>Proposal:</p> <p>The EASA intention to complement the ATSEP training and competence assessment requirements with specific requirements for other personnel is supported. ATM/ANS provision personnel shall hold a valid license (including AIS, ATSEP, FIS, MET personnel, etc.)</p> <p>Justification:</p> <p>In Anexa Vb/BR (5(a) iv) it is provided that a service provider shall use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the personnel. In that respect the qualification and training requirements the other personnel envisaged need to be explicitly provided.</p>
response	<p><i>Not accepted</i></p> <p>The EASA Basic Regulation does not foresee a licensing scheme for personnel other than ATCO and puts the obligation of personnel training and competence assessment on the service provider.</p>

comment	<p>461 comment by: <i>Romanian Civil Aviation Authority</i></p>
	<p>Proposal:</p> <p>Definition of/clarification on the “services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation” in the context of this Regulation shall be inserted.</p> <p>Justification:</p> <p>By the definition (Article 2 of Reg (EC) 216/2008), ATM/ANS means ATM functions, ANS and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation. For the purpose of this Regulation these services should be clarified.</p>
response	<p><i>Noted</i></p> <p>As correctly mentioned by the commentator, the Basic Regulation defines the scope of ATM/ANS and the related safety objectives to be complied with through the appropriate implementing measures which shall be developed. It also defines the ATM/ANS in the definition in its Article 3, and the related safety objectives are laid down in the Essential Requirements of Annex Vb thereto. This scope definition is similar to the SES service provision Regulation, but with some explicit differences which are to be included in the implementing measures and are proposed in NPA 2013-08. The Basic Regulation’s definition of ATM/ANS consists of the SES service provision Regulation’s definitions for ATM and ANS complemented with the services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation.</p>

Furthermore, the ToR for RMT.0593 dealing with the subject further elaborate the necessity of such implementing measures to be developed. Please refer to <https://easa.europa.eu/rulemaking/docs/tor/RMT/ToR%20RMT.0593%20&%20RMT.0594%20Issue%201.pdf>. Therefore, the Agency takes note of the comment and it will be duly considered during the ongoing activities of RMT.0593. Furthermore, it should be noted that the outcome of the subject rulemaking tasks (RMT.0593), where the issue will be further explained and clarified, is anticipated to be issued for consultation in the 3rd quarter of 2014.

comment	462	comment by: <i>Romanian Civil Aviation Authority</i>
	<p>Proposal:</p> <p>The provisions of this IR should be extended at the level of the entity responsible for the design of system and constituents</p> <p>Justification:</p> <p>There are several provisions regarding the entity responsible for the design of system and constituents, e.g. safety reporting requirements by the ATM/ANS to these entities (ATM/ANS.OR.A.060). The process shall be completed by inserting provisions on the way in which these reports are used in order to contribute to safety.</p>	
response	<i>Not accepted</i>	
	<p>It is important to be pointed out that the issue of systems and constituents, and the involved organisations will be addressed through a separate rulemaking task, in the future.</p>	

A. Explanatory Note – I. Introduction

p. 4-5

comment	304	comment by: <i>IFATCA</i>
	<p>The relation between article 65a) of Basic Regulation and the basis to act as described in this article is not clear, in particular with the proposal of the EC on SES II+ and the subsequent negative test vote at the informal MOT meeting in Vilnius (16.9.2013). Is there a danger to have a legal void created by the current proposed NPA? Primary law not being in place and secondary law being replaced without the justification for the proposed repeal.</p>	
response	<i>Noted</i>	
	<p>The Agency takes the comment into consideration. However, Article 65a) of the Basic Regulation does not directly impact this NPA, which is based on the existing legal basis and the tasks given to the Agency either directly through the Basic Regulation or by the Commission in support of its activities. It should also be noted that any alignment of SES and EASA rules, as foreseen by Article 65a,</p>	

would not detract from the existing scope, but rather delete overlaps in SES and confirm the already implemented division of work, e.g. in interoperability rules. In this sense, the Agency does not see a risk of legal void as suggested in the comment. The SES2+ initiative – which recently received overwhelming support of the European Parliament – will clarify the legal situation, but will not affect the scope of this NPA. This is one of the reasons for which the Agency continues to provide an active and close support to the Commission in this important initiative. The Agency sees that the most viable approach is to continue to perform its tasks to develop measures for the implementation of the objectives already laid down, but to also expand its work as necessary if changes with a direct effect in the related primary law will take place.

A. Explanatory Note – II. Scope

p. 5-8

comment 99 comment by: *skyguide Corporate Regulation Management*

Comment: The IR is incomplete, with several key sections missing.
Reason: There seems to be a fundamental problem with issuing such a major regulation for commenting when it is not complete. Suggest to wait for the outcome of the work groups prior to doing analysis on the comments received from this round of consultation as the updates will need to be reviewed in context.

response *Partially accepted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning safety assessment of changes to functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the safety assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services, and could also contain other proposals such as DAT, when the deliverables are being consulted.

In reference to Annex XI (ASD) (formerly Annex X), the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules and AMC/GM. The development of the subject implementing measures would require time. Therefore, taking into account the challenges in envisaging the time required and the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.

comment

164

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

10. Entire scope of the ATM.001 task

6 When will the entire scope of ATM.001 be delivered?
Will the NPA be adopted in several parts or as a complete Regulation?

response

Noted

The Agency takes note of the comment.

The Agency is to issue a dedicated NPA on the provisions related to the safety assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

In reference to Annex XI (ASD) (formerly Annex X), the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules and AMC/GM. The development of the subject implementing measures would require time. Therefore, taking into account the challenges in envisaging the time required and the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.

comment

246

comment by: *BMVBS*

The time schedule of EASA for the implementation of the NPA and the introduction of a new Regulation is not understandable and, against the background of the in some places insufficiently developed NPA with placeholders, unacceptable. Such placeholders in NPA 2013-08 have been used in most cases for significant safety relevant issues. Therefore the time schedule and the placeholders/blank sheet for safety relevant items cannot be supported.

This also applies against the background of the unclear question as to whether further consultations on the regulations not yet included as well as on the possibilities of influencing the further procedure will take place. One example are the currently on-going discussions about the recast of Single European Sky (SES II+), not only addressing specific changes to EASA's basic regulation but furthermore changing roles and responsibilities within the European ATM legal framework. It therefore seems unclear how NPA 2013-08 in its current draft version is in line with other regulatory or legislative proposals in the ATM context.

response	<p>Duplications have to be avoided.</p> <p><i>Noted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning safety assessment of changes to functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the safety assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p> <p>Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services, and could also contain other proposals such as DAT, when the deliverables are being consulted.</p> <p>In reference to Annex XI (ASD) (formerly Annex X), the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules and AMC/GM. The development of the subject implementing measures would require time. Therefore, taking into account the challenges in envisaging the time required and the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.</p> <p>Furthermore, this NPA proposes Implementing Rule to the Basic Regulation and the 'high level' SES Regulations. The Agency follows the ongoing work on the updates of SES rules and would make the necessary adjustments to the references with the publication of the subject Opinion or support the Commission during the Comitology on the subject once the SES2+ proposal is adopted.</p>
comment	<p>247 comment by: <i>BMVBS</i></p> <p>The requirements and the description of the initial situation of NPA 2013-08 do not correspond to the status of the latest EU initiatives, regulations and competencies. EASA has no competency to develop in parallel regulatory proposals that duplicate or are in conflict with EU performance regulation 390/2013.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>It is important to be pointed out that the subject NPA proposes a draft rule with regard to the certification of the service providers and the oversight thereof, and has no link with the performance scheme other than the fact that this rule requires an SMS and the performance rule has a KPI for the EoSM.</p>
comment	<p>248 comment by: <i>BMVBS</i></p>

response	<p>Due to the continuous amendments to ICAO provisions and the accompanying necessary adjustment of the EASA requirements it seems necessary for EASA to introduce a process which ensures that ICAO amendments are speedily taken into consideration in the framework of the EASA rulemaking process.</p> <p>While the aeronautical meteorological services are already working with ICAO AMDT 76, EASA is still working at the implementation of AMDT 75. Since a backward compatibility of the amendments is not necessarily guaranteed, the contents of the NPA should be congruent with those of Annex 3 and the dates of establishment should also correspond.</p> <p>The static adoption of ICAO regulations without taking into account the possibility of derogations/non-implementation given in the ICAO framework cannot be supported. The procedure of ICAO has proven to be successful over a long time and is accepted worldwide. The obligatory implementation of ICAO amendments without consideration of specific regional circumstances has not proved to be successful in ICAO and does not meet with support. It also leads to different approaches in EUR compared to other regions, since ICAO does not have the intention of introducing a mandatory implementation of amendments. This means that a full synchronisation with ICAO concerning its procedure is required.</p> <p><i>Noted</i></p> <p>The Agency is aware of this situation and acknowledges the need to establish a maintenance mechanism which will allow EASA to respond to the changing ICAO regulatory environment and the possibility of starting the work at EASA at the latest when ICAO publishes the state letter concerning the intended changes.</p> <p>With regard to ICAO Annex 3 and amendment 76, the draft rules of Annex IV (Part-MET) already take into account amendment 76. In addition, reference to this edition is now made in the revised text and will update the current Regulation (EU) No 1035/2011 where references to amendment 75 still exist. The European Commission is currently taking initiatives to solve this issue.</p>
comment	<p>249 comment by: <i>BMVBS</i></p> <p>Any additional bureaucratic burden or costs, i.e. the effort for the re-certification of already certified ANSPs in connection with NPA 2013-08, is unacceptable. It is suggested to avoid this effort – if it is actually necessary – through appropriate transition periods of existing EU regulations.</p>
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on 'Assessment of changes to functional systems' (resulting from the work of RMT.0469) after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological requirements, and could also contain other proposals such as DAT, when the deliverables are being consulted.</p>

comment	<p>305</p> <p style="text-align: right;">comment by: <i>IFATCA</i></p> <p>para 10 With such a major regulation for commenting, it seems to be difficult to be able to completely assess the impact, as part of it will be changed again. Is there not a possibility (see comment 1) to use the legal uncertainty to delay the further consultation process on this NPA.</p>
response	<p><i>Noted</i></p> <p>The Agency duly notes the comment and agrees that commenting the proposed Regulation as a whole at this stage would be challenging. However, the Agency also believes that the method provided gives an adequate enough opportunity for the stakeholders to assess the proposal. Indeed, the proposal on assessment of changes to functional systems (resulting from the work of RMT.0469) as well as the technical requirements for the provision of meteorological services (based on the transposition of the latest ICAO Annex 3 edition) will both be subject to full NPA consultation, including focussed thematic reviews as seen necessary. These elements will be integrated in a single EASA Opinion which again can be subject to the focussed consultation methods, as seen necessary and including the advice by the relevant Agency consultative committees.</p>
comment	<p>306</p> <p style="text-align: right;">comment by: <i>IFATCA</i></p> <p>para 17 and 18</p> <p>It seems that the EC has decided to change the initial approach and move away from a total system approach, but rather to adopt a political process. This prevents good rule-making and should be discontinued. The EASA system had a logic (BR). By changing the approach an make it more a political one, the aim of a total system approach is replaced by a political agenda and policy setting exercise. Timelines are ignored and introduce a hasty process preventing a solid rule making approach. It seems from the outset chaotic and a sub-optimal start for such a huge rulemaking task. In a summary: The legal basis seems not to be clear, the approach has been changed and not all the relevant texts are on time ready to be commented.</p>
response	<p><i>Noted</i></p> <p>The Agency takes good notice of the comment, in particular when it comes to the support on the objectives laid down in the Basic Regulation and the way for their implementation.</p> <p>The Agency considers that this phased approach in consultation would provide the stakeholders with more flexibility and opportunities to provide their valuable feedback. However, the Agency also believes that the method provided gives an adequate enough opportunity for the stakeholders to assess the proposal. Indeed, the proposal on assessment of changes to functional systems (resulting from the work of RMT.0469) as well as the technical requirements for the provision of meteorological services (based on the transposition of the latest ICAO Annex 3 edition) will both be subject to full NPA consultation, including focussed thematic reviews as seen necessary. These elements will be integrated in a single EASA Opinion which again can be subject to the focussed consultation methods, as seen necessary and including the advice by the relevant Agency consultative</p>

committees.

Moreover, the Agency does not fully see the relevance of the comment insofar as it suggests a deviation from the aim of total system approach. This has been, and continues to be, one of the global policies the Agency tries to introduce in its work. On this issue, the Agency wishes to propose a focussed thematic discussion with IFATCA in order to clarify this issue further.

comment

440

comment by: *Danish Transport Authority*

10. Entire scope of the ATM.001 task, page 6:
When will the entire scope of ATM.001 be delivered?
Will the NPA be adopted in several parts or as a complete Regulation?

response

Noted

The Agency takes note of the comment.

The Agency is to issue a dedicated NPA on the provisions related to the safety assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services, and could also contain other proposals such as DAT, when the deliverables are being consulted.

In reference to Annex XI (ASD) (formerly Annex X), the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules and AMC/GM. The development of the subject implementing measures would require time. Therefore, taking into account the challenges in envisaging the time required and the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.

A. Explanatory Note – III. Process

p. 8-11

comment

165

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

24. SATF

9

Is it the SATF task to propose hazard identification and severity assessment as in Annex II Paragraph 3.2.4 in Regulation (EU) No 1035/2011?

To adopt a Regulation without Hazard identification and severity assessment is inappropriate.

It's been noted that ATS.OR.210 and ATS.OR.215 will be developed

	<p>under RMT.0469 and RMT.470. We strongly recommend to await the outcome of the said RMTs before advancing the process of adoption with this IR.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It should be noted that the NPA relevant to this subject (resulting from the work of RMT.0469) is planned to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes.</p> <p>Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>
comment	<p>307 comment by: <i>IFATCA</i></p> <p>para 25 What is the justification that EASA ignores the RMT advice? There seems a clear lack of consultation and sometimes even exclusion of important stakeholder. From a purely democratic appreciation process this is difficult to accept. The explanations given do not really assist in understanding, in particular as the total system approach has been replaced by a policy and agenda setting by the EC (see comment 5)</p>
response	<p><i>Noted</i></p> <p>The Agency duly notes the comment provided, but cannot share the views expressed by IFATCA. It is evident that there are situations where the rulemaking group does not have a consensual view on the issue. Also, the rulemaking group may wish to propose a solution, which in the view of the Agency would compromise a safety objective in an unjustified manner or which may not be legally adequate. In such situations, the Agency will act in full transparency and will clearly explain this using the available instruments in the rulemaking process.</p>
comment	<p>442 comment by: <i>Danish Transport Authority</i></p> <p>24. SATF, page 9: It's been noted that ATS.OR.210 and ATS.OR.215 will be developed under RMT.0469 and RMT.470. We strongly recommend to await the outcome of the</p>

	said RMTs before advancing the process of adoption with this IR.
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It should be noted that the NPA relevant to this subject (resulting from the work of RMT.0469) is planned to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes.</p> <p>Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>

<p>A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 – GENERAL OVERVIEW OF THE CHANGES (Part I)</p>	<p>p. 11-12</p>
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comment	14	comment by: EUROCONTROL
	<p>Changes in the requirements for competent authorities - Para 38: Support that competent authorities need a management system to ensure the effective and timely execution of their oversight duties.</p>	
response	<i>Noted</i>	

comment	15	comment by: EUROCONTROL
	<p>Changes in requirements for derogations from the regulations for ANSPs - Para 40: It seems that proportionate requirements and flexibility provisions included in Article 14 of the Basic Regulation are the better option. It is always better to have one single set of provisions rather than similar but different sets. The latter situation could lead to different interpretations of requirements and affect their subsequent application.</p>	
response	<i>Not accepted</i>	
	<p>After due consideration of the stakeholders' feedback from the NPA 2013-08 consultation, the Agency acknowledges the claim to retain the concept of 'limited certificate'. This subject was tabled and also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p> <p>Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on</p>	

'Declaration by flight information service providers' are significantly redrafted aiming at completeness and consistency and addressing the proportionality through the newly introduced AMCs/GM.

comment 67

comment by: AIRBUS

40. (Changes in requirements for derogations from the regulations for ANSPs)
The existence of article 14 in the Basic Regulation allows Member States to issue exemptions and derogations. The Implementing Rule has to provide more detailed requirements on the exemption / derogation process and the concept of proportionality. Indeed, in order to contain the exemption / derogation cases in reasonable limits, proportionality is necessary in the Implementing Rule. The concept of limited certificate could be a means to introduce this concept of proportionality, but proportionate requirements could be introduced by other means.

response Accepted

This subject was tabled and also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are significantly redrafted to address the aspects raised by the commentator aiming at completeness and consistency and addressing the proportionality through the newly introduced AMCs/GM.

comment 365

comment by: EUROCONTROL Safety Team

Page 11 Changes in the requirements for competent authorities Para 38
Support that competent authorities need a management system to ensure the effective and timely execution of their oversight duties.

response Noted

comment 372

comment by: UK CAA

Page No: 12**Paragraph No:** 40, Question on limited certification Derogation

Comment: The UK CAA accepts the rationale for a 'limited certificate' instead of the 'derogations' provided for within existing SES legislation in this area. However we consider that further thought should be given to including a requirement to have a safety management system, proportionate to the organisation, as a mandatory part of limited certification. This is of fundamental importance to safe operation of a (limited) certificate holder. Although what is proposed mirrors

provisions for derogations under SES, UK CAA does not currently allow the SMS requirement to be derogated and we consider that the IR text should be amended to prevent this occurring. (See our corresponding comment relating to ATM/ANS.OR.A.015 (d) as follows:

“This requirement is the same as in the previous legislation Commission Regulation (EU) 1035/2011 in that Limited (derogated) FIS units are not required to comply with Annex III ATS.OR.205(a)(2), which is the requirement to have a safety management function to develop and maintain the SMS. This exception should be removed and Limited FIS should comply with the requirements of Annex III ATS.OR.205(a)(2)”

Justification: SMS is increasingly being required in the total aviation system approach and developing work in this area on proportionate ways of implementing SMS systems means that it should be included for all relevant organisations. For example, air operators subject to declarations are not excluded from the requirements of Part ORO.GEN.200 “Management system”.

response *Accepted*

This subject was tabled and also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on ‘Application for a limited certificate’ and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on ‘Declaration by flight information service providers’ are significantly redrafted to address the aspects raised by the commentator aiming at completeness and consistency and considering the proportionality.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 – GENERAL OVERVIEW OF THE CHANGES – Invitation to comment (a)

p. 12

comment 2 comment by: ICAA

skoða betur

response *Noted*

comment 6 comment by: CAA Norway

We would prefer to have the possibility to issue a limited certificate to small ANSPs based on level/frequency of traffic (some of our airports has only one or two flights a day) and to have the rules for derogation reflected in this regulation. Article 14 in BR could increase the burocrazy for both the Competent Authority and the ANSP.

response *Accepted*

The Agency takes the opinion into consideration, and the concept is retained.

comment	72	comment by: <i>Icelandic Transport Authority</i>
	We support the idea of limited certificate.	
response	<i>Accepted</i>	
	The Agency takes the opinion into consideration, and the concept is retained.	

comment	98	comment by: <i>skyguide Corporate Regulation Management</i>
	We are in favor of retaining the concept of limited certification.	
response	<i>Accepted</i>	
	The Agency takes the opinion into consideration, and the concept is retained.	

comment	104	comment by: <i>AESA / DSANA</i>						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">PART</th> <th style="text-align: left;">COMMENT</th> <th style="text-align: left;">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">(A) 40 Changes in requirements for derogations from the regulations for ANSPs</td> <td style="vertical-align: top;"> <p><i>Stakeholders are invited to comment on the possibility to replace the concept of limited certification with proportionate requirements for these providers and with the flexibility provisions included in Article 14 of the Basic Regulation.</i></p> <p>AESA favours the concept of limited certificate and would not like to see it replaced.</p> </td> <td style="vertical-align: top;"> <p>The principle of proportionality has to be clearly applied to the concept of limited certificate. This would entail a clear definition (short list) of those requirements that should be mandatory and those that could be optative in relation to the size of the organisation.</p> </td> </tr> </tbody> </table>		PART	COMMENT	JUSTIFICATION	(A) 40 Changes in requirements for derogations from the regulations for ANSPs	<p><i>Stakeholders are invited to comment on the possibility to replace the concept of limited certification with proportionate requirements for these providers and with the flexibility provisions included in Article 14 of the Basic Regulation.</i></p> <p>AESA favours the concept of limited certificate and would not like to see it replaced.</p>	<p>The principle of proportionality has to be clearly applied to the concept of limited certificate. This would entail a clear definition (short list) of those requirements that should be mandatory and those that could be optative in relation to the size of the organisation.</p>
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response	<i>Accepted</i>							

The Agency takes the opinion into consideration, and the concept is retained.

comment

166

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

40. Changes in requirements for derogations from the regulations for ANSPs

12

We prefer the regulation regarding limited certification. It is our opinion that Article 14 in BR can't replace limited certification. We have also noted that there is a proposal in SESII+ to change Article 14 in BR.

response

Accepted

The Agency takes the opinion into consideration, and the concept is retained.

comment

184

comment by: *CAA-NL*

Item 40: Yes we are in favor of the replacement of the concept of limited certification with proportionate requirements. See also our detailed comments to the related points.

response

Partially accepted

Based on the outcome of the NPA 2013-08 consultation, the concept is retained.

However, it should be noted that having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

Moreover, ATM/ANS.OR.A.010 is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent is retained. The existing requirement for the safety management has been replaced by a requirement for management system. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. Furthermore, it is important to be noted that it is not the services that are limited; rather, the certificate is limited to the specific airspace under the responsibility of the Member States.

ATM/ANS.OR.A.010 does not specifically preclude record keeping, operations

manual requirements and facilities requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as it is today for ANS providers through derogations).

comment

200

comment by: *CANSO Civil Air Navigation Services Organization*

40. Changes in requirements for derogations from the regulations for ANSPs

Stakeholders are invited to comment on the possibility to replace the concept of limited certification with proportionate requirements for these providers and with the flexibility provisions included in Article 14 of the Basic Regulation

On the understanding that in either case the requirements of the limited certificate will be retained, CANSO has no preference as to whether the limited certificate is retained or the notion of proportionality is introduced.

response

Noted

The Agency takes note of the comment.

Based on the outcome of the NPA 2013-08 consultation, the concept is retained.

comment

211

comment by: *military safety expert/ safety management systeme inspector*

In order to be compliant with basic legal framework, we do agree to replace derogations by the limited certificate concept.
The concept of the limited certificate should be held to distinguish local/small/specifics providers from big providers.

response

Accepted

The Agency takes the opinion into consideration, and the concept is retained.

comment

229

comment by: *DSNA*

On the understanding that in either case the requirements of the limited certificate will be retained, DSNA has no preference as to whether the limited certificate is retained or the notion of proportionality is introduced.

response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Based on the outcome of the NPA 2013-08 consultation, the concept is retained.</p>
comment	<p>308 comment by: <i>IFATCA</i></p> <p>Derogation should not be allowed, otherwise the EASA approach does not make sense</p> <p>In favour of a harmonised approach. It seems to be that provision included in Article 14 of BR could do the trick. An example would have however been welcome in order to understand the subtleties</p>
response	<p><i>Not accepted</i></p> <p>Based on the outcome of the NPA 2013-08 consultation, the concept is retained. However, it should be noted that having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.</p> <p>ATM/ANS.OR.A.010 is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent is retained. The existing requirement for the safety management has been replaced by a requirement for management system. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. Furthermore, it is important to be noted that it is not the services that are limited; rather, the certificate is limited to the specific airspace under the responsibility of the Member States.</p> <p>ATM/ANS.OR.A.010 does not specifically preclude record keeping, operations manual requirements and facilities requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as it is today for ANS providers through derogations).</p>
comment	<p>349 comment by: <i>German NSA</i></p> <p>So far only two ANSPs have made use of a limited certification and have stopped using them by now. The main reason as stated is that a limited certificate may not be used in another EU country.</p>
response	<p><i>Noted</i></p>
comment	<p>392 comment by: <i>European Transport Workers Federation - ETF</i></p> <p>ETF is not happy with the concept of limited certification given its range of</p>

response	<p>application.</p> <p><i>Not accepted</i></p> <p>Based on the outcome of the NPA 2013-08 consultation, the concept is retained. However, it should be noted that having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.</p> <p>ATM/ANS.OR.A.010 is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent is retained. The existing requirement for the safety management has been replaced by a requirement for management system. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. Furthermore, it is important to be noted that it is not the services that are limited; rather, the certificate is limited to the specific airspace under the responsibility of the Member States.</p> <p>ATM/ANS.OR.A.010 does not specifically preclude record keeping, operations manual requirements and facilities requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as it is today for ANS providers through derogations).</p>
comment	<p>406 comment by: ENAV</p> <p>On the understanding that in either case the requirements of the limited certificate will be retained, we have no preference as to whether the limited certificate is retained or the notion of proportionality is introduced.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Based on the outcome of the NPA 2013-08 consultation, the concept is retained.</p>
comment	<p>443 comment by: Danish Transport Authority</p> <p>40. Changes in requirements for derogations from the regulations for ANSPs , page 12: In general we prefer the regulation regarding limited certification. It is our opinion that Article 14 in BR can't replace limited certification. We have also noted that there is a proposal in SESII+ to change Article 14 in BR. Ref. the proposed IR, Annex II, ATM/ANS.OR.A.015: It is not clear if AFIS-providers are subject <u>only</u> to para (b) (2), or if they should also be subject to eligibility criteria in para (a). It's been noted that AFIS-providers are not subject to the requirements in ATS.OR.205(a)(2), ATS.OR.205(c)(1)(ii) and ATS.OR.210. As for the latter, see also comments made for no. 24, SATF.</p>

response	<p><i>Accepted</i></p> <p>The Agency takes the opinion into consideration, and the concept is retained. Furthermore, based on the NPA 2013-08 consultation, the commented provisions are redrafted.</p>
comment	<p>470 comment by: <i>NATS National Air Traffic Services Limited</i></p> <p>On the understanding that in either case the requirements of the limited certificate will be retained, NATS has no preference as to whether the limited certificate is retained or the notion of proportionality is introduced.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. Based on the outcome of the NPA 2013-08 consultation, the concept is retained.</p>
comment	<p>483 comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i></p> <p>FIT CISL is not happy with the concept of limited certification given its range of application.</p>
response	<p><i>Not accepted</i></p> <p>Based on the outcome of the NPA 2013-08 consultation, the concept is retained. However, it should be noted that having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.</p> <p>ATM/ANS.OR.A.010 is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent is retained. The existing requirement for the safety management has been replaced by a requirement for management system. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. Furthermore, it is important to be noted that it is not the services that are limited; rather, the certificate is limited to the specific airspace under the responsibility of the Member States.</p> <p>ATM/ANS.OR.A.010 does not specifically preclude record keeping, operations manual requirements and facilities requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as it is today for ANS providers through derogations).</p>

**A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 –
GENERAL OVERVIEW OF THE CHANGES (Part II)**

p. 12

comment 201 comment by: *CANSO Civil Air Navigation Services Organization*

**41. Addition of a
declaration
scheme for flight
information
services (FIS)
providers**

Stakeholders are invited to comment on the proposed eligibility criteria for the declaration of FIS providers and, where found not sufficient, propose additional eligibility criteria for FIS providers that could be subject to this declarations scheme including the justifications for the proposals.

Criteria are sufficient with the addition of the word "Aerodrome".

response *Partially accepted*

The Agency takes the comment into consideration.

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment 250

comment by: *PANSA*

Criteria are sufficient with the addition of the word "Aerodrome", i.e. applicability of FIS declaration is restricted to AFIS only.

response *Partially accepted*

The Agency takes the comment into consideration.

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment 373

comment by: UK CAA

Page No: 12**Paragraph No: 41, Question on declaration of FIS**

Comment: All UK FIS providers have already been certified in accordance with existing European legislation.

UK CAA notes in the context of safety, that experience of overseeing the provision of ATS for 'special events' (i.e. short-duration provision such as foreseen under Article 6 (c)) is often the subject of unique hazards and generally requires more oversight attention by the NSA rather than less.

response *Noted*

The Agency takes note of the comment.

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment 444

comment by: Danish Transport Authority

41. Addition of a declaration scheme for flight information services (FIS) providers, page 12:

	<p>Article 6: Change the last part of the sentence to "... ATM/ANS.OR.A.015(a) and (b)(1); and/or"</p> <p>The intension cannot be that all three bullets shall be fulfilled</p> <p>Guidance is required on Article 6 (1)(c).</p> <p>ATM/ANS.OR.A.025: It is difficult to interpret the text if AFIS can declare their activities according to the paragraph. This specifically applies to the form in Appendix I in Annex II. The form is not adapted to AFIS at all. It has to be clearly stated on the form that the declaration of provision of FIS also applies to AFIS. The types of FIS in the form are only systems. We are missing the FIS service performed by ATCOs and AFIS personnel. (As we understand from the text in ICAO Annex 11 and Doc 7030 there is no OFIS in EUR region.)</p>
response	<p><i>Accepted</i></p> <p>The Agency takes into consideration the comments.</p> <p>Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) whereby the criteria are reduced and only one is required to be met.</p> <p>With regard to the declaration template, it is redrafted towards the provision of services instead of the means used to provide them. Furthermore, based on the NPA consultation and further evaluation by the Agency, it is rearranged as GM.</p>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 – GENERAL OVERVIEW OF THE CHANGES – Invitation to comment (b)

p. 12

comment	<p><i>1</i></p> <p>skođa</p>	comment by: <i>ICAA</i>
response	<p><i>Noted</i></p>	
comment	<p><i>7</i></p> <p>To our understanding the declaration scheme may be used only for temporary operations, for example to handle larger sports arrangements or when taking over operations from a previous operator. To be eligible for declaration the FIS provider must fulfil (<u>at least</u>) Article 6 a+b+c. In addition the provider must fulfil (<u>all</u>) ATM/ANS.OR.A.015(a) meaning (1)+(2)+(3)+(4). If this is not the meaning of the article may we suggest that the word "all" be deleted.</p>	comment by: <i>CAA Norway</i>
response	<p><i>Accepted</i></p> <p>The Agency takes into consideration the comment.</p> <p>Based on the NPA consultation outcome, Article 7 (former Article 6) is amended</p>	

and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) whereby the criteria are reduced and only one is required to be met.

comment

74

comment by: *Icelandic Transport Authority*

The eligibility criteria is acceptable but for purposes of harmonized reaction from the competent authorities, we suggests more detailed guidance to be given on what level of oversight should be done prior sending the FIS provider acknowledgement of receipt. More detailed information should give more harmonized approach.

ATM/ANS.OR.A.025 Declaration by flight information services providers

(d) Flight information service providers shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority.

response

Noted

It should be noted that Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

Furthermore, it needs to be pointed out that considering the proportionality for less safety sensitive services, such as flight information (FIS), only declaration of their compliance with the applicable safety requirements and the related implementing rules are required. The acknowledgement of receipt of the declaration from the competent authority does not require oversight activities in the same way as when certifying service providers. Once the declaration is received, (on-desk) reviewed and acknowledged, the oversight of the declared organisation would be part of the 'normal oversight cycle of the competent authority.

comment

105

comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
(A) 41 Addition of a	<i>Stakeholders are invited to comment on the proposed eligibility criteria for</i>	AESA sees implications for the NSAs and the State in terms of

<p>declaration scheme for flight information services (FIS) providers</p>	<p><i>the declaration of FIS providers and, where found not sufficient, propose additional eligibility criteria for FIS providers that could be subject to this declarations scheme including the justifications for the proposals.</i></p> <p>AESA is not in favour of this scheme. AESA deems that this could be included in the concept of limited certificate introduced in (A) 40, tailored to the particular case of FIS provision.</p>	<p>assumption of responsibility and liabilities associated to the concept of declaration that have to be taken care of with care. Further to this, AESA sees that this concept is not coherent with the designation of ATSPs.</p>
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response *Noted*

The Agency takes note of the comment.

It is important to be noted that Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

Furthermore, the Agency acknowledges the inconsistencies with the designation act mentioned by the commentator. This issue will be addressed to the Commission for further consideration. This situation is expected to continue until the SES2+ proposal has aligned the requirements of EASA and SES regulations.

comment

167

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

<p>41. Addition of a declaration scheme for flight information services (FIS) providers</p>	<p>12 Article 6: Change the last sentence to "... can be subject to declaration shall be at least <u>one</u> of the following:" The intension cannot be that all three bullets shall be fulfilled. Article 6: Change the last part of the sentence to "... ATM/ANS.OR.A.015(a) and (b)(1); and/or" The intension cannot be that all three bullets shall be fulfilled. ATM/ANS.OR.A.025: It is difficult to interpret the text if AFIS can declare their activities according to the paragraph. This specifically applies to the form in Appendix I in Annex II. The form is not adapted to AFIS at all. It has to be clearly stated on the form that the declaration of provision of FIS also applies to AFIS. The types of FIS in the form are only systems. We are missing the FIS service performed by ATCOs and AFIS personnel. (As we understand from the text in ICAO Annex 11 and Doc 7030 there is no OFIS in EUR region.)</p>
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response *Accepted*

The Agency takes the comments into consideration.

Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) whereby the criteria are reduced and only one is required to be met.

With regard to the declaration template, it is redrafted towards the provision of services instead of the means used to provide them. Furthermore, based on the NPA consultation and further evaluation by the Agency, it is moved as GM.

comment *185*

comment by: *CAA-NL*

Item 41: As the Netherlands currently doesn't use something like this and does not foresee the use of this possibility in the near future, we do not have a specific position.

response *Noted*

comment *214*

comment by: *military safety expert/ safety management systeme inspector*

nothing significant to say

response *Noted*

comment 230

comment by: *DSNA*

Criteria are sufficient with the addition of the word "Aerodrome".

response *Partially accepted*

The Agency takes the comment into consideration.

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment 294

comment by: *AvinorANSP*

Stakeholders are invited to comment on the proposed eligibility criteria for the declaration of FIS providers and, where found not sufficient, propose additional eligibility criteria for FIS providers that could be subject to this declarations scheme including the justifications for the proposals.

Criteria are sufficient with the addition of the word "Aerodrome".

response *Partially accepted*

The Agency takes the comment into consideration.

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals

	<p>developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.</p>	
comment	309	comment by: <i>IFATCA</i>
	No comments	
response	<i>Noted</i>	
comment	393	comment by: <i>European Transport Workers Federation - ETF</i>
	ETF is not opposed to setting a declaration process for aerodrome FIS providers under the condition that the competence of FISOs is regulated in Annex 12.	
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) whereby the criteria are reduced and only one is required to be met.</p>	
comment	407	comment by: <i>ENAV</i>
	Criteria are sufficient with the addition of the word "Aerodrome".	
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08 (paragraph 41 of the Explanatory Note), they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some</p>	

requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment	484	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
		FIT CISL is not opposed to setting a declaration process for FIS providers under the condition that the competence of FISOs is regulated in Annex 12.
response		<i>Accepted</i>
		The Agency takes the comment into consideration. Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) whereby the criteria are reduced and only one is required to be met.

<p>A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 – GENERAL OVERVIEW OF THE CHANGES (Part III)</p>	<p>p. 12-15</p>
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comment	16	comment by: <i>EUROCONTROL</i>
		Additional common requirements for ATM/ANS providers - Page 13: Support the proposal that changes not to the functional system need also to be assessed.
response		<i>Noted</i>
comment	49	comment by: <i>AENA-NPA2013-08</i>
		Page 14/15, Paragraph 46: Enhancement of the Safety Management Systems (SMS) requirements for ATS providers in line with ICAO Annex 11 SMS framework and current developments. We see no problem with the reorganization of the SMS requirements
response		<i>Noted</i>

comment	<p>148 comment by: <i>HungaroControl</i></p> <p>46. Since Annex 19 will be in force by the time this rule is implemented, it would be appreciated to align with it.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200.</p>
comment	<p>251 comment by: <i>PANSA</i></p> <p><i>Alignment with ICAO as far as possible is favourable as it reduces differences between EUR Region and the rest of the world.</i></p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200.</p>
comment	<p>310 comment by: <i>IFATCA</i></p> <p>para 44 The newly proposed common requirements might increase the administrative impact on safety. E.g. due to these new requirements some internal important occurrence reporting mechanism could be questioned, this would not be favoured by IFATCA. Meaning that some ANSP and states have very advanced arrangements which would be questioned by some of the proposed changes in Rule making. This should by any means be avoided. Quality insurance should not mix with Safety management elements.</p>
response	<p><i>Noted</i></p> <p>It should be noted that the proposed provisions on occurrence reporting do not add any additional requirements that a properly established SMS is required to have. In any case, the proposed provisions do not suggest any specific way of structuring such reporting systems which remains responsibility of the service provider.</p>

comment	341	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	FOCA fully supports the effort of harmonising the regulations comprising the EASA remits and especially with the ICAO Annex 19 (SMS Framework).	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200.	

comment	374	comment by: <i>UK CAA</i>
	<p>Page No: 15 Paragraph No: 46, Question on ICAO SMS framework Comment: UK CAA was an active participant in the development of ICAO Annex 19 and therefore supports the Agency's efforts to harmonise the IR with ICAO requirements which will also support us in meeting our State obligations under the Chicago Convention.</p>	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200.	

**A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 –
GENERAL OVERVIEW OF THE CHANGES – Invitation to comment (c)**

p. 15

comment	3	comment by: <i>ICAA</i>
	kommenta	
response	<i>Noted</i>	

comment	76	comment by: <i>Icelandic Transport Authority</i>
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response We support the change.
Accepted

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 87 comment by: *skyguide Corporate Regulation Management*

Whenever possible a clear alignment with ICAO provisions is desirable.

response *Accepted*

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 106 comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
(A) 46 Enhancement of the SMS requirements for ATS providers in line with ICAO Annex 11 SMS framework and current developments	<p><i>Stakeholders are invited to comment on the proposed approach for implementing ICAO SMS framework.</i></p> <p>In principle, AESA favours the proposed approach. However, in the light of the scarceness of resources both of ANSPs and NSAs and the fact that they are already subject to the requirements of regulation (EU) No 1034/2011 and regulation (EU) No 1035/2011, AESA wonders whether this is really required at this moment in time.</p>	<p>This NPA should apply the proportionality principle in its full extension. If the SMS requirements are already in place ensuring a high level of safety and the proposed enhancement entails a increased need of resources, this should be left for an ulterior phase.</p>

response *Accepted*

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

It should be noted that according to Article 38 of the Chicago Convention, ICAO contracting States are obliged to notify ICAO of any differences between their regulations or practices and those prescribed in ICAO Standards – the ‘filing of differences’. Having acknowledged the applicability date of ICAO Annex 19 since 14 November 2013, the Agency considers that it is the right momentum for the alignment of the SMS framework with the one required by ICAO.

Furthermore, prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment

168

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

46. Enhancement of the Safety Management Systems (SMS) requirements for ATS providers in line with ICAO Annex 11 SMS framework and current developments

15 We support a full implementation of ICAO Annex 19. This will facilitate for all states. It must be stressed, that no deviation from ICAO SARPS shall be proposed.

response *Accepted*

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the

preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 186

comment by: CAA-NL

Item 46: In general we support the approach in this NPA, however we have some detailed comments at the relevant points.

response *Not accepted*

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 202

comment by: CANSO Civil Air Navigation Services Organization

46. Enhancement of the Safety Management Systems (SMS) requirements for ATS providers in line with ICAO Annex 11 SMS framework and current developments

Stakeholders are invited to comment on the proposed approach for implementing ICAO SMS framework.

In view of the CANSO position and the Standard of Excellence, CANSO would appreciate being aligned with Annex 19 as far as possible. Furthermore, given the timeframes, Annex 19 will be in force and probably ready for ed.2 by the time this rule is to be implemented.

response *Accepted*

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment	<p>215 comment by: <i>military safety expert/ safety management systeme inspector</i></p> <p>It should be a good improvement but it should be global approach regarding terms and definitions</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.</p>
comment	<p>231 comment by: <i>DSNA</i></p> <p>DSNA does not have a preferred option but would rather be in favour of compliance with ICAO SMS framework.</p> <p>Facilitate compliance between ICAO Annex 19 and EASA regulation for service providers SMS.</p> <p>From an industry point of view, this would also facilitate ANSP involvement and European representation in international organisations such as CANSO where non-European ANSPs are subjected to regulations aligned with ICAO. E.g. CANSO Standard of Excellence.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.</p>
comment	<p>295 comment by: <i>AvinorANSP</i></p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Stakeholders are invited to comment on the proposed approach for implementing ICAO SMS framework.</p> </div> <p>In view of the CANSO position and the Standard of Excellence, CANSO would appreciate being aligned with Annex 19 as far as possible. Furthermore, given the timeframes, Annex 19 will be in force and probably ready for ed.2 by the time this rule is to be implemented.</p>

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment *311*

comment by: *IFATCA*

A clear alignment with ICAO provision is required in order to prevent different sets of provisions

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment *352*

comment by: *German NSA*

The presented approach to keep the regulatory framework of Regulation (EU) No 1035/2011 for the SMS framework to the greatest possible extent and to add the still missing parts of the future ICAO Annex 19 is supported.

response *Not accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

The Agency considers that the most appropriate implementation of the SMS framework is a combination of IR and AMC and, as such, whilst the four components are retained in the IR, all the elements are cascaded between IR and AMC.

To facilitate the development of the alignment with the ICAO SMS framework, a

mapping between the proposed with NPA 2013-08 framework and the new introduced with CRD to NPA 2013-08 one was developed. The remaining provisions are rearranged either as AMC or GM, when reasonable. This subject and the approach were also tabled and thoroughly discussed at the focussed review meetings organised, where the Agency gathered support on the proposed approach.

It should be noted that according to Article 38 of the Chicago Convention, ICAO contracting States are obliged to notify ICAO of any differences between their regulations or practices and those prescribed in ICAO Standards – the ‘filing of differences’. Having acknowledged the applicability date of ICAO Annex 19 since 14 November 2013, the Agency considers that it is the right momentum for the alignment of the SMS framework with the one required by ICAO.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment 394 comment by: *European Transport Workers Federation - ETF*

ETF is neither in favour nor opposed.

response *Noted*

comment 404 comment by: *DFS Deutsche Flugsicherung GmbH*

The proposal is to keep at far the existing requirements for a safety management system and complement missing subjects of (new) ICAO Annex 19. **This is truly supported.**

The exclusive application of the ICAO SMS and thus a renewal of all evidences would not be supported.

response *Not accepted*

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

The Agency considers that the most appropriate implementation of the SMS framework is a combination of IR and AMC and, as such, whilst the four components are retained in the IR, all the elements are cascaded between IR and AMC.

To facilitate the development of the alignment with the ICAO SMS framework, a mapping between the proposed with NPA 2013-08 framework and the new one, introduced with CRD to NPA 2013-08, was developed. The remaining provisions

are rearranged either as AMC or GM, when reasonable. This subject and the approach were also tabled and thoroughly discussed at the focussed review meetings organised, where the Agency gathered support on the proposed approach.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment 414 comment by: ENAV

Ensure consistency with Annex 19, taking into account that Annex 19 will be in force and probably ready for ed.2 by the time this rule is to be implemented..

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 445 comment by: Danish Transport Authority

46. Enhancement of the Safety Management Systems (SMS) requirements for ATS providers in line with ICAO Annex 11 SMS framework and current developments
We support a full implementation of ICAO Annex 19 and [agree on the way proposed for implementing ICAO SMS framework into the Regulation](#).
[It must be stressed, that no deviation from ICAO SARPS shall be proposed.](#)

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 471 comment by: NATS National Air Traffic Services Limited

It is noted that in the cross reference table of ICAO SMS elements to the draft rule it is necessary to refer to IR, AMC and GM to complete the mapping. Given

the status of AMC (can be replaced by AltMC) and GM (not legally binding) it is not considered appropriate to use them as a means of demonstrating compliance with the ICAO SMS elements.

Given that Annex 19 will have been published by the time this rule comes into force then States will require ATS providers (amongst others) to implement a SMS. The SMS needs to be established in accordance with the framework elements contained in Appendix 2. Whilst it does not require that the framework is adopted as written the most logical means of demonstrating compliance is to follow the framework as written.

Given the above NATS strongly supports that EASA adopt the SMS framework as written and ensures that compliance is demonstrated through a mapping to IR. Additionally EASA should ensure that the ICAO requirement that "...the SMS of a service provider shall be commensurate with the size of the service provider and the complexity of its aviation products or services." is adequately addressed by the rule through the "complex" / "non-complex" concept.

It is recognised that the adoption of the ICAO SMS framework may impact upon the EoSM KPI AMC associated with 390/2013. That being the case EASA may wish to delay the rule until RP3 so as to minimise the impact of these changes during RP2.

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

The Agency considers that the most appropriate implementation of the SMS framework is a combination of IR and AMC and, as such, whilst the four components are retained in the IR, all the elements are cascaded between IR and AMC.

comment 485 comment by: *comments provided on behalf of FIT/CISL Italian trade union*

FIT CISL is neither in favour nor opposed

response *Noted*

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 1 – p. 15-16
GENERAL OVERVIEW OF THE CHANGES (Part IV)

comment 17 comment by: *EUROCONTROL*

Specific requirements on ATCO human factors - Page 15 - Para 47:

response *Noted*

It makes sense that a rostering management system for ATCOs is in place.

The Agency takes note of the comment.

comment *107* comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
(A) 49 Extension of the regulation to cover the Network Manager	AESA fully supports this extension of the regulation.	The Network Manager is a very particular service provider which needs to be fully subject to this regulation, as are the other service providers within the European Union.

response *Noted*

The Agency takes note of the comment.

comment *312* comment by: *IFATCA*

para 47
The above mentioned paragraph (b) addresses conditions which may affect the provision of air traffic control service. **It concerns specifically human factors' requirements in the field of fatigue and stress management, and requirements for the Air Traffic Control (ATC) service providers to establish procedures to deal with impaired cognitive judgement due to problematic use of psychoactive substances and reduced medical fitness of personnel providing ATC service.**
IFATCA welcomes the fact that specific requirements for ATCO human factor are elaborated. IFATCA believes that the NPA is not going far enough as Human Factor can include much more than the proposed 3 categories.
See remark under 56 (page 47 para 150)

response *Noted*

The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirement under subparagraph 5(b)(iv) of Annex Vb.

Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, cognitive abilities, are already part of regulatory proposals produced by the Agency.

The Agency sees the consideration of human factors/human performance as a transversal activity, to be progressed along with the development of specific provisions implementing the Essential Requirements in the Basic Regulation. The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting the ATM/ANS safety regulation.

comment 419 comment by: CAA Norway

We support the inclusion of details of rostering system for ATC providers at AMC level.

response *Noted*

Based on the comments received and the discussion held during the thematic review group meeting, the Agency decided to elevate the elements of the air traffic controllers rostering system previously included in AMC1 ATS.OR.330(c) to Implementing Rules. The requirements only establish the framework (the elements of the rostering system) which has to be quantitatively defined by the air traffic control service provider, in consultation with air traffic controllers or their representatives.

comment 480 comment by: Vantage Air Traffic Services

Why does this only include ATC? This should include all members of Air Traffic Services.

response *Not accepted*

The Agency is of the opinion that the term 'personnel providing an ATC service' in Chapter 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.010. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 2 – CHANGES ON THE RULE STRUCTURE FROM COMMON REQUIREMENTS AND SAFETY OVERSIGHT REGULATIONS TO ONE SINGLE REGULATION p. 16-21

comment 108

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 52 Rule structure	AESA would like to highlight the sensitivity and technical difficulty of the maintenance activities in relation to ICAO Annexes. This has already been apparent with the maintenance of SERA (RMT.0476).	The maintenance activities are quite demanding in terms of resources. Moreover, they bring in a further layer of complexity that can hinder the currency of the regulation.

response Noted

The European Commission and ICAO signed in May 2011 a Memorandum of Cooperation (MoC) providing a framework for enhanced cooperation. This MoC requires the Parties to ensure timely mutual consultation with a view to achieving improved coordination and coherence between regulations, policies, approaches and ICAO Standards and Recommended Practices (SARPs) (Article 5.1.5). The practical objectives of such mechanisms and processes will be to optimise the use of EU – including Member States – resources in the framework of European interactions with ICAO. This will include better organising European coordination and participation in ICAO Working Groups, panels, task forces and other groups. In turn, such improved coordination will allow European experts to:

- (1) influence – inasmuch as possible – the outcome of ICAO groups; and
- (2) to better anticipate on ICAO's proposed amendments to SARPs.

Furthermore, this would provide the Agency with enough time in advance to react and provide the necessary support to the Commission with regard to references update. These principles have been, and will be, thoroughly addressed along with Member States at the Single European Sky Committee meetings.

comment 109

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 52 Rule structure Annex V (Part-AIS)	<p>AESA would like to remind of the comments already made in relation to the ToRs of RMT.0477 & RMT.0478. These comments are reproduced hereby: "The Spanish ATM/ANS TAG has a single comment to the draft ToR RMT.0477 & RMT.0478 on 'Technical requirements and operational procedures for AIS and AIM' Issue 1.</p> <p>It relates to the intimate relationship of this task with regulation (UE) No 73/2010 (ADQ), which is applicable since the first of July. As you are surely aware, this regulation is quite difficult to implement due to a number of issues. This has already been pointed out in different for a (SSC, ARWG,...) and has been acknowledged by the Commission. This task would be a good opportunity to tackle this issue and amend the ADQ regulation to make it fully workable."</p>	For completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.

response *Noted*

The Agency takes note of the comment.

comment *110*

comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
(A) 52 Rule structure Annex VI (Part-DAT)	<p>AESA would like to remind of the comments already made in relation to the ToRs of RMT.0593 & RMT.0594. These comments are reproduced hereby: "The Spanish ATM/ANS TAG has a single comment to the draft ToR RMT.0593 & RMT.0594 on 'Technical requirements and operational procedures for the provision of data for airspace users for the purpose of air navigation' Issue 1.</p> <p>The comment delves on the necessity to certify the data providers (e.g. Jeppesen, Lido) as ATM/ANS</p>	For completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.

	<p>service providers. Although this is sensible from the point of view of safety, the nature of a data provider is different from the nature of an ATM/ANS provider. It would probably make more sense to fully implement the solution already devised by EASA in its Opinion No 01/2005 and have the data providers themselves check the quality of the navigation data they provide with the basic assumption that the source (AIP) is sound as a result of part-AIS requirements (RMT.0477 & RMT.0478)."</p>	
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response *Noted*

The Agency takes note of the comment.

comment *111*

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>(A) 52 Rule structure Annex X (Part-ASD)</p>	<p>AESA would like to remind of the comments made by the Spanish ATM/ANS TAG at the TAG meetings held in 2013 in relation to this part and the related RMT.0445 & RMT.0446.</p>	<p>For completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.</p>

response *Noted*

The Agency takes note of the comment.

comment *112*

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 52 Rule structure Annex XI (Part-NM)	The coherence/consistency of Annex XI (Part-NM) with Annex VIII (Part-ATFM) must be fully ensured.	In order to avoid discrepancies between two annexes that are intimately connected by the particular nature of the organization that provides both these services (NM).

response *Accepted*

The Agency takes the comment in due consideration.

comment *113*

comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
(A) 54 Future evolution of the rule (A) 66 Article 2 (A) 101 ATM/ANS.AR.C.030 ATM/ANS.AR.C.035 (A) 116 ATM/ANS.OR.A.040 (A) 140 ATS.OR.210 ATS.OR.215	AESA fully supports the notion that the outcome of this NPA has to be merged with the outcome of the NPA related to RMT.0469 & RMT.0470 . This position has already been expressed by the Spanish ATM/ANS TAG at the TAG meetings held in 2013.	It is fundamental for the efficient introduction of the new regulation, in view of the importance of the activities covered by RMT.0469 & RMT.0470 , the complexity of the transition and the scarceness of resources available for it.

response *Noted*

The Agency takes note of the comment.

comment 313

comment by: IFATCA

PAGE 20 para 54 4th para

The process outlined by EASA seems not to be transparent in particular with regard to the SES II+ not ready to be discussed by the decision making body. What impact is foreseen with relation to the future of the NPA in front of us? Will there be a need in the near future to re-do the consultation exercise again to include all the elements missing (as well as the legal basis, which to our understanding should have been created by SES II+) art 65 a) BR.

response *Noted*

The Agency takes note of the comment.

Article 65a) of the Basic Regulation does not directly impact this NPA, which is based on the existing legal basis and the tasks given to the Agency either directly in the Basic Regulation or by the Commission in support of its activities. It should also be noted that any alignment of SES and EASA rules, as foreseen by Article 65a, would not detract from the existing scope, but rather delete overlaps in SES and confirm the already implemented division of work, e.g. in interoperability rules. In this sense, the Agency does not see a risk of legal void as suggested in the comment. The SES2+ initiative which recently received overwhelming support of the European Parliament will clarify the legal situation, but will not affect the scope of this NPA. This is one of the reasons for which the Agency continues to provide an active and close support to the Commission in this important initiative. The Agency sees that the most viable approach is to continue to perform its tasks to develop measures for the implementation of the objectives already laid down, but to expand its work as necessary if changes with a direct effect in the related primary law will take place.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 3 – COVER REGULATION – Main changes and explanation (Part I)

p. 21-23

comment 18

comment by: EUROCONTROL

Para 65

It is right to propose to exclude caffeine from the list of psychostimulants. The reference to coffee only as an unregulated psychoactive drug makes no sense when the real psychostimulant is caffeine, which can be consumed through other drinks besides coffee. The current ICAO definition leads to the anomalous

situation where ATCOs who consume caffeine through other drinks are working 'illegally'.

response *Accepted*

comment 114

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 59 Cover Regulation - Main changes and explanations	<p>Part-DAT is not within the ICAO definitions neither of ATM nor of ANS but has been introduced in the EASA Basic Regulation the light of the “total system approach”.</p> <p>Further to this, it is the understanding of AESA that EASA will be the competent authority for the certification of the data providers, as these providers are normally of an international (pan-European) nature. This would entail that an agreement would have to be reached between the local ANSPs/AISPs and the EASA certified data providers, as required by the EU regulations.</p> <p>Finally, irrespective of the final decision and having in mind the global nature of the navigation data and the providers involved in this activity, the technical requirements and operational procedures resulting from this task should be fully compatible with the ones developed by the FAA.</p>	<p>This comment is part of the comments already made in relation to the ToRs of RMT.0593 & RMT.0594.</p> <p>It is brought into this NPA for completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.</p>

response *Noted*

The Agency takes the comment into consideration.

It should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3rd quarter of 2014.

comment

115

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 59 Cover Regulation - Main changes and explanations	The description of 'airspace design' (ASD) should be taken out of GM1 ATM/ANS.OR.A.005 and brought to a more visible (and binding) place within the regulation (article 2).	This would bring consistency in the definition of the services included in the regulation and ensure that the definition is legally binding and, thus, applicable.

response

Noted

The Agency takes note of the comment.

On the one hand, the Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in Regulation (EC) No 216/2008 nor in Regulation (EC) 549/2004, thus, it may appear excessive to regulate it as an ATM/ANS service according to Article 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements under paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation for the Agency to ensure safe airspace structure and flight procedures designs, and, hence, the legal basis for its regulation.

On the other hand, it is obvious that Airspace Design has a direct effect on the trajectory followed by aircraft; poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should, therefore, contribute to ensuring safe operations within the European airspace. Furthermore, ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as the Performance-Based Navigation (PBN).

Since the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM on airspace design including procedure design, aiming at ensuring that the airspace structures and flight procedures are appropriately surveyed, designed, and validated, it seems appropriate that this RMT analyses and decides the most appropriate way to regulate the organisations that design these elements. ASD will, therefore, be removed from the definition of ATM/ANS provider and certificate consequently until the output of RMT.0445. The comment will be duly considered during the work of the above-mentioned rulemaking task.

comment

170

comment by: Swedish Transport Agency, Civil Aviation Department

(Transportstyrelsen, Luftfartsavdelningen)

59. Definition ATM/ANS	22 The definition that is proposed in this NPA is not the same as the definition of ATM/ANS in the SESII+ proposal regarding DAT and ASD. We support the SESII+ definition of ATM/ANS i.e. ATM=ATS+ASM+ATFM and ANS=ATS+AIS+CNS+MET as we have lived with these definitions within SES since 2004 (and ICAO). We support that DAT and ASD will be regulated but keep them out of the global definition for ATM/ANS.
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response *Noted*

The Agency takes note of the comments.

However, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule, which has a dual legal basis, the above provisions should be reflected accordingly.

Furthermore, the Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in Regulation (EC) No 216/2008 nor in Regulation (EC) No 549/2004. Consequently, it may appear excessive to regulate it as an ATM/ANS service according to Article 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements under paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation of the Agency to ensure safe airspace structure and flight procedures designs, and, hence, the legal basis for its regulation. The commentator is right in the sense that including ASD in the definition of ATM/ANS would mean that the ASD service should be certified. The concern that a certification process for ASD providers may be too cumbersome in certain situations (e.g. airspace structures) is acknowledged. Moreover, any Implementing Rule, in accordance with Article 8b(7)(b) of the Basic Regulation, should be 'proportionate to the type and complexity of the services provided.' Therefore, it could be reasonable in the case of ASD to envisage a leaner certification process, if any.

comment 252

comment by: PANSA

Caffeine shall be excluded and SERA definition should be amended accordingly.

response *Accepted*

comment *314*

comment by: *IFATCA*

para 57

Fragmentation of definition should be limited to the outmost. It creates confusion and chaos in an already difficult rule and policy making process.

IFATCA doesn't understand the logic of the definition a few examples are given below where there seems an illogical definition repetition, omission logic by the authors.

Following the SES process since the late 90s it has occurred to IFATCA that there is a lack of consistent approach to definitions in the field of rulemaking and regulation. Per se all the definition in the various Implementation and Council regulation are most of the time correct and helpful. For a global organisation it is however difficult to follow the process introduced by all the legislation and the sometimes repetitive, double and/or changing definition. As definition are always part of the legislation it is important that the fragmentation at this level is stopped or that a harmonisation is created. Without further in depth research some of the definition are repetition from other legislation, namely EC 923/2012, EC 691/2010 etc. What is strange and bares a risk of confusion is that some of the definitions are slightly changed.

IFATCA suggests to EASA to establish a compendium of definition related to the ATM/ANS provision taking into account ICAO definition and all existing EC definition and makes transparent what changes have been introduced in the definitions in the current NPA. Justification for the changes should be given as well. If EASA has the possibility to request the EC to launch a clean up of all the definition pertaining to the SES I and SES II that would reduce the perceived fragmentation and sometimes chaotic approach to this important subject, that would be welcomed by IFATCA.

response *Noted*

The Agency fully agrees with the commentator that definitions indeed are an elementary part of any Regulation and that they are in that sense crucial for the correct implementation of the law. It is also agreed that any fragmentation of definitions should be limited to the utmost. However, the Agency does not see that the current proposal would contain 'illogical definition repetition'. The examples given do not seem to justify such indications either. At this point, it is important to realise that one of the main objectives of the proposed rule is to implement the EASA Basic Regulation and its Essential Requirements; it also has a dual legal basis including the implementation of the relevant SES Regulations. Because of these reasons, specific attention has been paid to the correctness of definitions proposed and their harmonisation, whenever feasible. It should also be noted that within the SES2+ initiative proposed by the European Commission, the overlaps between EASA and SES regulatory frameworks are to be aligned as far as possible, including their scope and definitions. The Agency will closely follow the ongoing SES2+ process and will again bring this important regulatory aspect to the attention of the Commission.

comment	<p data-bbox="363 208 416 246">315</p> <p data-bbox="1193 208 1498 246" style="text-align: right;">comment by: <i>IFATCA</i></p> <p data-bbox="363 297 568 331">Attachment #8</p> <p data-bbox="363 383 464 416">figure 1</p> <p data-bbox="363 416 1498 479">IFATCA fears that there might be a fragmentation with the ICAO approach to the defining the Air Navigation Services.</p> <p data-bbox="363 479 1498 542">Examples of Navigation Data Services would be helpful to understand why EASA includes it into the proposed scope.</p> <p data-bbox="363 542 1302 575">Below the graphical description of ANS by ICAO (see Van Antwerpen)</p> 
response	<p data-bbox="363 763 443 797"><i>Noted</i></p> <p data-bbox="363 851 1498 1137">The Agency fully agrees with the commentator that definitions are an elementary part of any Regulation and that they are in that sense crucial to the correct implementation of law. Here it is important to realise that one of the main objectives of the proposed rule is to implement the EASA Basic Regulation and its Essential Requirements; considering that, it should be noted that data service provision is part of the definition laid down in Article 3(q) of the Basic Regulation that further encompasses the services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation.</p>
comment	<p data-bbox="363 1218 416 1256">316</p> <p data-bbox="1193 1218 1498 1256" style="text-align: right;">comment by: <i>IFATCA</i></p>  <p data-bbox="363 1449 1203 1482">IFATCA 's referenced figure attached in the complete file (pdf)</p>
response	<p data-bbox="363 1505 443 1538"><i>Noted</i></p>
comment	<p data-bbox="363 1648 416 1686">375</p> <p data-bbox="1193 1648 1498 1686" style="text-align: right;">comment by: <i>UK CAA</i></p> <p data-bbox="363 1749 539 1783">Page No: 21</p> <p data-bbox="363 1783 624 1816">Paragraph No: 59</p> <p data-bbox="363 1816 1498 2009">Comment: UK CAA do not believe it is appropriate to use the undefined term 'Airspace Design' within the broader definitions used within the IR, specifically as the scope of this term is only offered as Guidance Material. This is not a sound basis upon which to base Certification activity – an NSA is provided with insufficient information upon which to base a decision about whether an organisation's activities are such that it should be certified as a provider of</p>

response

whatever is meant by Airspace Design services. The supporting diagram incorrectly suggests Airspace Design is part of ATM/ANS. Although Airspace Design is mentioned in Annex Vb of the EASA Basic Regulation, this term is not part of the ATM/ANS definition used in this high level regulation or elsewhere.

Noted

On the one hand, the Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in the Regulation (EC) No 216/2008 nor in Regulation (EC) 549/2004. Consequently, it may appear excessive to regulate it as an ATM/ANS service according to Art 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements under paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation for the Agency to ensure safe airspace structure and flight procedures designs, and hence the legal basis for its regulation. The commentator is right in the sense that including ASD is in the definition of ATM/ANS would mean that the ASD service should be certified. The concern that a certification process for ASD providers may be too cumbersome in certain situations (e.g. airspace structures) is acknowledged; moreover any implementing rule, in accordance with the Basic Regulation, Article 8b.(7)(b), should be 'proportionate to the type and complexity of the services provided.' Therefore, it could be reasonable in the case of ASD to envisage a leaner certification process, if any.

On the other hand, it is obvious that Airspace Design has a direct effect on the trajectory followed by aircraft; poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should, therefore, contribute to ensure safe operations within European airspace. Furthermore, ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as Performance-Based Navigation (PBN).

Since the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM on airspace design including procedure design, with aiming at ensuring that the airspace structures and flight procedures are appropriately surveyed, designed, and validated, it seems appropriate that this RMT analyses and decides the most appropriate way to regulate the organisations that design these elements. It is, therefore, proposed that the decision about the need of certification will be addressed by that rulemaking task without prejudging the approach in this NPA. ASD will, therefore, be removed from the definition of ATM/ANS provider and certificate consequently until the output of RMT.0445. The comment will be duly considered during the work of the mentioned rulemaking task.

comment

376

comment by: UK CAA

Page No: 23**Paragraph No:** 65

Comment: The UK CAA would support a move for the ICAO text to be updated and congratulate the Agency on proposing this way forward. Suggest when this is done:

'Psychoactive substances shall mean alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, psychostimulants, hallucinogens, and volatile solvents,

response	<p>whereas caffeine and tobacco and caffeinated drinks are excluded.’</p> <p>The ICAO definition should be retained for the time being, but AMC/GM material should be provided to show the differences between coffee and/or other caffeine containing products and the potential adverse effects of excess use of caffeine</p> <p><i>Partially accepted</i></p> <p>Based on the comments and responses received to the question posed in NPA 2012-18 on the same subject, the Agency proposed to exclude caffeine from the list of psychoactive substances with Opinion No 11-2013. For consistency purposes, the same definition is used. The Agency is ready to undertake the necessary action towards ICAO to propose an update of the subject definition.</p>
comment	<p>446 comment by: <i>Danish Transport Authority</i></p> <p>59. Definition ATM/ANS As ASD and DAT is not included into the definition list in the IR, Article 2 and thereby not specifically defined, these two ‘services’ should be kept out of the definition of “ATM/ANS” in Article 2 of the IR. Agree to your comments that ASD and DAT shall be subject to regulation, but it is premature to include them into the definition of ATM/ANS.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. One of the main objectives of this NPA is to implement the Essential Requirements of the Basic Regulation.</p> <p>In reference to ASD, taking into account the comment, ASD is excluded from the commented definition. However, it should be noted that as the organisation of the airspace has a direct effect on the trajectory followed by aircraft, poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should contribute to ensure safe operations within the European airspace. Furthermore, ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as Performance-Based Navigation (PBN). In this respect, the Agency is to launch a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM on airspace design including procedure design in order to ensure the airspace structures and flight procedures are appropriately surveyed, designed and validated. The outcome of the subject rulemaking task will be reflected in Annex XI and, if necessary, further amendments to the draft Rule will be considered with regard to the ASD certification.</p> <p>In reference to the DAT providers, a subject RMT is in progress. It should be noted that the result of this RMT (RMT.0593 & RMT.0594) will amend Annex VII (was Annex VI) to the rule, and a RIA will be developed aiming at evaluating the impact of the regulatory solutions envisaged within the development of the Implementing Rules.</p>
comment	<p>463 comment by: <i>Romanian Civil Aviation Authority</i></p>

	<p>Comment on Paragraph 64, 65:</p> <p>Agree on the Agency’s proposal to amend the definition of psychoactive substances to exclude caffeine from psychostimulants.</p>
response	<i>Accepted</i>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 3 – COVER REGULATION – Main changes and explanation – Invitation to comment (a) p. 23

comment	<p>8 comment by: CAA Norway</p> <p>We agree to the proposed amendment.</p>
response	<i>Accepted</i>

comment	<p>61 comment by: AENA-NPA2013-08</p> <p>Page 23, Paragraph 65. We agree with the exclusion of caffeine from the list of psychostimulants. As mentioned by other providers, "The current ICAO definition leads to the anomalous situation where ATCOs who consume caffeine through other drinks are working 'illegally'."</p>
response	<i>Accepted</i>

comment	<p>77 comment by: Icelandic Transport Authority</p> <p>We support the change.</p>
response	<i>Accepted</i>

comment	<p>116 comment by: AESA / DSANA</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;">PART</th> <th style="width: 33%;">COMMENT</th> <th style="width: 33%;">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td style="height: 20px;"> </td> <td> </td> <td> </td> </tr> </tbody> </table>	PART	COMMENT	JUSTIFICATION			
PART	COMMENT	JUSTIFICATION					

<p>(A) 65 Stakeholders are invited to comment on the Agency’s proposal to amend the definition of psychoactive substances to exclude caffeine from psychostimulants</p>	<p><i>Stakeholders are invited to comment on the Agency’s proposal to amend the definition of psychoactive substances to exclude caffeine from psychostimulants.</i></p> <p>AESA agrees to this definition.</p>	<p>n/a</p>
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response *Accepted*

comment *143* comment by: *skyguide Corporate Regulation Management*

To be in line with the ATCO IR NPA, we are in favour of amending the definition to exclude caffeine.

response *Accepted*

comment *144* comment by: *Prospect ATCOs' Branch UK*

We agree with the proposals to amend the definition to exclude caffeine.

response *Accepted*

comment *171* comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

<p>65. Definition of psychoactive substances</p>	<p>23 If caffeine as a substance is excluded, the use of caffeine tablets as psychoactive medication will become accepted. Caffeine in tablet form may create tolerance and dependency with a high risk of safety related side effects over dosage and a risk of anxiety at withdrawal.</p>
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response *Not accepted*

Based on the comments and responses received to the question posed within NPA 2012-18 on the same subject, the Agency proposed to exclude caffeine from the list of psychoactive substances. For consistency purposes, the same definition is used. The Agency does not agree with the justification that when it comes to the possible tolerance, dependency or side effects, a distinction could be made whether the person has consumed coffee or other beverages containing caffeine or caffeine pills. The Agency is ready to undertake the necessary action towards ICAO to propose an update of the subject definition.

comment 187 comment by: CAA-NL

Item 65: We agree with the proposal.

response Accepted

comment 203 comment by: CANSO Civil Air Navigation Services Organization

65..	Stakeholders are invited to comment on the Agency’s proposal to amend the definition of psychoactive substances to exclude caffeine from psychostimulants	Accept amended definition to exclude caffeine. The SERA definition should be amended accordingly.
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response Accepted

comment 216 comment by: military safety expert/ safety management systeme inspector

We do agree with the proposal. Same proposal in ATCO license NPA

response Accepted

comment 232 comment by: DSNA

DSNA supports EASA proposal
Definition of psychoactive substances must be amended to exclude caffeine from psychostimulants

response	The SERA definition should be amended accordingly.
	<i>Accepted</i>
comment	278 comment by: ROMATSA
	<p>Comment: Agree on the Agency’s proposal to amend the definition of psychoactive substances to exclude caffeine from psychostimulants.</p>
response	<i>Accepted</i>
comment	296 comment by: AvinorANSP
	<div style="border: 1px solid black; padding: 5px;"> Stakeholders are invited to comment on the Agency’s proposal to amend the definition of psychoactive substances to exclude caffeine from psychostimulants We accept the amended definition to exclude caffeine. </div> <p>The SERA definition should be amended accordingly.</p>
response	<i>Accepted</i>
comment	317 comment by: IFATCA
	<p>Ok for IFATCA Though we answer this one for the second time. This is confusing and not understandable as it has been asked in the NPA 2012 – 18.</p>
response	<i>Accepted</i>
comment	344 comment by: Federal Office of Civil Aviation FOCA
	<p>FOCA supports the proposal to exclude "coffein" & "tobacco" from psychoactive substances.</p>
response	<i>Accepted</i>

comment	353	comment by: <i>German NSA</i>
	The German NSA approves the proposed amendment.	
response	<i>Accepted</i>	

comment	395	comment by: <i>European Transport Workers Federation - ETF</i>
	Same as on ATCO licensing NPA. ETF is in favour of this provision.	
response	<i>Accepted</i>	

comment	405	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	DFS agrees to exclude caffeine instead of coffee. The amended definition (see NPA 2012-18 Licensing and medical certification for air traffic controllers) is supported.	
response	<i>Accepted</i>	

comment	415	comment by: <i>ENAV</i>
	Accept amended definition to exclude caffeine. The SERA definition should be amended accordingly.	
response	<i>Accepted</i>	

comment	433	comment by: <i>CAA Norway</i>
	The exclusion of caffeine from psychostimulants is supported .	
response	<i>Accepted</i>	

comment	447	comment by: <i>Danish Transport Authority</i>
	<p>65. Definition of psychoactive substances</p> <p>If caffeine as a substance is excluded, the use of caffeine tablets as psychoactive medication will become accepted. Caffeine in tablet form may create tolerance and dependency with a high risk of safety related side effects over dosage and a</p>	

	risk of anxiety at withdrawal.
response	<i>Not accepted</i>
	Based on the comments and responses received to the question posed within NPA 2012-18 on the same subject, the Agency proposed to exclude caffeine from the list of psychoactive substances. For consistency purposes, the same definition is used. The Agency does not agree with the justification that when it comes to the possible tolerance, dependency or side effects, a distinction could be made whether the person has consumed coffee or other beverages containing caffeine or caffeine pills. The Agency is ready to undertake the necessary action towards ICAO to propose an update of the subject definition.

comment	472	comment by: <i>NATS National Air Traffic Services Limited</i>
	NATS supports the EASA proposal to amend the definition to exclude caffeine. The SERA definition should be amended accordingly and State should file differences.	
response	<i>Accepted</i>	

comment	482	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
	FIT CISL is in favour of this provision excluding caffeine from psychostimulants	
response	<i>Accepted</i>	

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 3 – COVER REGULATION – Main changes and explanation (Part II)	p. 23-28
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comment	19	comment by: <i>EUROCONTROL</i>
	Pages 25 and 26 Table breaks across page. Our recommendation is: - not to permit rows to break across pages; - or to include a header row on the second page.	
response	<i>Accepted</i>	
	See the subject table in GM1 ATM/ANS.OR.A.001 (former GM1 ATM/ANS.OR.A.005).	

comment	<p data-bbox="363 215 400 246">20</p> <p data-bbox="1082 215 1484 246" style="text-align: right;">comment by: EUROCONTROL</p> <p data-bbox="363 300 604 331">Page 27 - Para 71</p> <p data-bbox="363 333 1484 396">Can other providers apply the alternative accepted means of compliance adopted by one provider without applying for approval from their competent authority?</p> <p data-bbox="363 398 1484 495">If not, would not then the situation be contrary to the spirit of certification where the certificate issued by a competent authority is valid in all member states (except for limited certificates)?</p>
response	<p data-bbox="363 517 443 548"><i>Noted</i></p> <p data-bbox="363 602 1484 792">It is important to note that this approval of AltMOC will be granted on an individual basis. Other applicants wishing to make use of the same AltMOC must obtain individual approval from their competent authority. The Agency is the only body that is entitled to issue AMCs that may be used by all regulated organisations and all competent authorities and that provide for a presumption of compliance with the rules.</p> <p data-bbox="363 813 1484 1003">To support Member States in the uniform application of the provision in question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php.</p>
comment	<p data-bbox="363 1117 400 1149">21</p> <p data-bbox="1082 1117 1484 1149" style="text-align: right;">comment by: EUROCONTROL</p> <p data-bbox="363 1202 1023 1234">Page 28 (Refers to Para 73 Article 9 on page 27)</p> <p data-bbox="363 1236 1484 1332">We propose that the option of a maximum opt out by Member States for one additional year (resulting in a total in 3 years transition) is made available also for the implementation of:</p> <ul data-bbox="363 1335 847 1397" style="list-style-type: none"> <li data-bbox="363 1335 778 1366">o - ATCO rostering system and <li data-bbox="363 1368 847 1397">o - fatigue and stress management.
response	<p data-bbox="363 1420 443 1451"><i>Noted</i></p> <p data-bbox="363 1505 1484 1825">Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on the following NPA resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.</p>
comment	<p data-bbox="363 1924 400 1955">51</p> <p data-bbox="1034 1924 1484 1955" style="text-align: right;">comment by: AENA-NPA2013-08</p> <p data-bbox="363 2009 703 2040">Page 27, Paragraph 71</p>

Can other providers apply the alternative accepted means of compliance adopted by one provider without applying for approval from their competent authority? If not, would not then the situation be contrary to the spirit of certification where the certificate issued by a competent authority is valid in all member states (except for limited certificates)?

response

Noted

It is important to note that this approval of AltMOC will be granted on an individual basis. Other applicants wishing to make use of the same AltMOC must obtain individual approval from their competent authority. The Agency is the only body that is entitled to issue AMCs that may be used by all regulated organisations and all competent authorities and that provide for a presumption of compliance with the rules.

To support Member States in the uniform application of the provision in question the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment

113 ❖

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 54 Future evolution of the rule (A) 66 Article 2 (A) 101 ATM/ANS.AR.C.030 ATM/ANS.AR.C.035 (A) 116 ATM/ANS.OR.A.040 (A) 140 ATS.OR.210 ATS.OR.215	AESA fully supports the notion that the outcome of this NPA has to be merged with the outcome of the NPA related to RMT.0469 & RMT.0470 . This position has already been expressed by the Spanish ATM/ANS TAG at the TAG meetings held in 2013.	It is fundamental for the efficient introduction of the new regulation, in view of the importance of the activities covered by RMT.0469 & RMT.0470 , the complexity of the transition and the scarceness of resources available for it.

response

Accepted

The Agency takes the comment into consideration.

It should be noted that the NPA resulting from the work of RMT.0469 is to be published for consultation in parallel with CRD to NPA 2013-08.

Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion in the 4th quarter of 2014.

comment 149 comment by: HungaroControl

73.

Line up with RP3 (2020) to avoid additional implementation costs.

response *Noted*

The Agency will duly consider the proposed various transitional provisions and will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning safety assessment of changes to functional systems and the MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is going to issue a dedicated NPA on the provisions related to the assessment of changes to functional systems and has already published a NPA on MET services. The final outcome of the consultation of NPA 2013-08 and that of the consultations of the mentioned NPAs will be issued in a single EASA Opinion. Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment 151 comment by: HungaroControl

73.

Holders of an existing certificate should hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholders' advice

received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on the following NPA resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

253

comment by: PANSA

Preferably line up with RP3 (2020) to avoid additional implementation costs and to avoid "conflicts" in RP2 as ANSPs are subject to both the performance regulation and this regulation.

However, if this is not feasible, there should be the implementation period with a deadline and the possibility for earlier implementation where and when the ANSP is ready, which would facilitate transition.

response

Noted

The Agency will duly consider the proposed various transitional provisions and will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning safety assessment of changes to functional systems and the MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency will issue a dedicated NPA on the provisions related to the assessment of changes to functional systems and has published a NPA on MET services. The final outcome of the consultation of NPA 2013-08 and that of the consultations of the mentioned NPAs will be issued in a single EASA Opinion. Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment

318

comment by: IFATCA

para 66

From a process point of view it is difficult to understand that some of the proposed elements of the common requirements are still in elaboration and that they will have to be taken into consideration at a later stage.

response

Noted

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion in the 4th quarter of 2014.

comment

319

comment by: IFATCA

para 73 When and how will this important article be submitted via an NPA? It is too important just to be included in the Opinion of EASA without consultation of all stakeholders.

response

Noted

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion in the 4th quarter of 2014.

comment

377

comment by: UK CAA

Page No: 28**Paragraph No:** 73, Question on Transitional Provisions.**Comment:** No details have been provided for ATSEPs transitional arrangements, in particular for taking into account the training and competence of existing ATSEPs Personnel.**Justification:** Existing ATSEPs and Providers need to know as soon as possible whether requirements will acknowledge the training/competence of existing ATSEPs.**Proposed Text:** Provide ATSEP transitional details.

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on the following ones resulting from the work of RMT.0469 and on meteorological services after being consulted. Therefore, the Agency takes note of

the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.

comment 417 comment by: ENAV

73 Art. 9

Holders of an existing certificate under 1035/2011 for service provision shall be deemed to hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on the following NPA resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment 465 comment by: Romanian Civil Aviation Authority

Comment on Paragraph 73:

Agree on the Agency's proposal for transitional provisions, except for the new ATM/ANS providers (ATFM, ASM, DAT and ASD) where we propose to set a transition period after the requirements, GM and/or AMC are developed.

Justification:

No requirements, GM and/or ACM are developed for ASM, DAT or ASD and Annex VIII, ATFM has a temporary structure limited to scope.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on the following NPA resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain

other proposals such as DAT, when the deliverables are being consulted.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 3 – COVER REGULATION – Main changes and explanation – Invitation to comment (b) p. 28

comment	9	comment by: CAA Norway
	18 months adaption time for the competent authority is probably ok, but the ANSPs may need 1 opt out year in addition to the 2 years.	
response	<i>Noted</i>	
	Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4 th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.	
comment	52	comment by: AENA-NPA2013-08
	Page 28, Refers to Para 73 Article 9 on page 27. We consider convenient to include one additional year (resulting in a total in 3 years transition) for the implementation of:	
	<ul style="list-style-type: none"> • ATCO rostering system and • fatigue and stress management. • Safety reporting in 72 hours. 	
response	<i>Noted</i>	
	Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4 th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.	

comment	78	comment by: <i>Icelandic Transport Authority</i>
	We consider the proposed transitional provisions to be appropriate and acceptable.	
response	<i>Noted</i>	

comment	86	comment by: <i>skyguide Corporate Regulation Management</i>
	<p><u>Article 9</u> Align on the finalisation of the on-going rulemaking tasks, the ICAO TF on fatigue and the safety risk assessment RMT, as well as other annexes, such as MET, which are currently reserved; Or delay the new parts and implement the parts that are already in the 1035/2011; Or have an implementation period with a deadline and the possibility for earlier implementation where and when the ANSP is ready.</p>	
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.</p>	

comment	88	comment by: <i>skyguide Corporate Regulation Management</i>
	<p>In favour of two years transition with a maximum opt out by the Member States for one additional year (total: three years transition). Need for alignment with RP3: ANSPs and the NSAs will be dealing with new elements that will have a negative impact on the targets as set out in the Performance Scheme. For this reason, we would strongly recommend that the NPA becomes active in 2020, in line with RP3. This will allow correct planning and reporting of the impact in the various domains/indicators that are measured.</p>	
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the</p>	

commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment 89 comment by: skyguide Corporate Regulation Management

Grandfathering rights:

Holders of an existing certificate under 1035/2011 for service provision shall be deemed to hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.

response Noted

Based on the outcome of the NPA consultation and the stakeholders’ advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment 117 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 73 Article 9 ‘Transitional provisions’	Stakeholders are invited to comment on the Agency’s proposal for transitional provisions. Firstly, AESA would like to highlight the fundamental importance of this	Based on experience from other regulations, two years should be enough provided that all the material (AMC/GM) necessary for the application of the new rule are in place.

	<p>article in the implementation of the regulation resulting from this NPA. Secondly, AESA deems that the proposal for transitional provisions presented by the Agency is quite reasonable. Thirdly, AESA stresses the fact that grandfathering rules have to be clearly set to ensure that incumbent and current ANSPs make a smooth and transparent transition.</p>	<p>The opt-out of one additional year for ASM, ATFM, ASD and Part-DAT is also deemed quite sensible.</p>
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response *Noted*

Based on the outcome of the NPA consultation and the stakeholders’ advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment *137*

comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency supports the proposed schedule.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholders’ advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

172

comment by: *Swedish Transport Agency, Civil Aviation Department
(Transportstyrelsen, Luftfartsavdelningen)***73.
article
9**

28

We support the proposed 18 months adaption time to allow the competent authority to ensure compliance. However for ANSPs that have already been certified in accordance with Regulation (EU) No 1035/2011 and for ATM/ANS providers which were not in the scope of Regulation (EU) No 1035/2011 we think a transition period of three years is needed for all instead of your proposed two years and two years with an opt out for an additional year.

Three years are needed for the competent authority to fulfil their requirements regarding ensuring compliance and certification as ATM/ANS providers have to be compliant with the new regulation before a certificate can be issued.

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

188

comment by: *CAA-NL*

Item 73: For the moment they seem reasonable, however there are still a number of white spots who could influence the possibility to comply with these transitional provisions.

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals

such as DAT, when the deliverables are being consulted.

comment

204

comment by: *CANSO Civil Air Navigation Services Organization*

<p>73. art. 9 transitional periods</p>	<p>Stakeholders are invited to comment on the Agency's proposal for transitional provisions.</p>	<p>The CANSO proposals are as follows: Line up with RP3 (2020) to avoid additional implementation costs. Or to review the performance indicators in RP2 as we are subject to both the performance regulation and this regulation. However, if this is not feasible, then we would appreciate the following being taken into consideration as options: Align on the finalisation of the on-going rulemaking tasks, the ICAO TF on fatigue and the safety risk assessment RMT, as well as other annexes, such as MET, which are currently reserved. Or, Delay the new parts and implement the parts that are already in the 1034/2011 and 1035/2011. Or, Have an implementation period with a deadline and the possibility for earlier implementation where and when the ANSP is ready.</p>
<p>73. art. 9 transitional periods</p>	<p>Grandfathering rights</p>	<p>Holders of an existing certificate under 1035/2011 for service provision shall be deemed to hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.</p>

response

Noted

The Agency will duly consider the proposed various transitional provisions. It will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems, MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome

of the consultation of NPA 2013-08 and that of the other mentioned NPAs will be issued in a single EASA Opinion. The time schedule of the ATC fatigue risk management task does not seem to be relevant in this sense, while it is dependent on the ICAO FRMS TF progress which still contains quite significant uncertainties.

Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment

217 comment by: *military safety expert/ safety management systeme inspector*

On the time being, it seems to be difficult to plan the future in particularly facing personal reorganization. It doesn't mean that we will not be able to maintain organization but we need to have the possibility to get more time as needed to implement this new regulation.

Almost half of this regulation proposal is reserved. Is it relevant to publish a document without technical requirements when we know that another should be repealed in the same time? It could be confusing.

Proposals :

- To allow competent authority to extend the transitional period in accordance with agency when it is duly justified (one year additional).
- To allow competent authority to extend the provider transitional period for implementing rules when it is duly justified (one year additional).

Concern: what should be the time frame of this regulation publication?

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals

such as DAT, when the deliverables are being consulted.

comment

233

comment by: *DSNA*

Grandfathering rights should be granted and due account should be taken for reserved parts and on-going international requirements developments.

Rationale

IR ATM will repeal 1034/1035 regulations once in force. If IR ATM does not include safety assessment and software assurance requirements, then there will not be covered by regulation anymore. Related paragraphs: ATM/ANS.OR.A.040, ATS.OR.210 and ATS.OR.215.

ICAO recently initiated a Task Force on Fatigue and Rostering issues for ATM. The publication of IR ATM before the outcome of ICAO Task Force is known induces the risk of a non-harmonised approach and differences in scope and acceptable means of compliance.

Additionally the scope of the prescriptive requirements that ICAO may mandate is not known at the moment, nor is the extent of the FRMS usage in relation to the prescriptive requirements (in lieu of / combined with / in replacement of). This could hamper European ANSP in influencing industry best practices in this important safety area.

DSNA proposal

EASA should ensure ANSPs that the transitional provisions period covers the availability of RMT.0469 / RMT.0470 (safety assessment / software assurance) requirements and the ICAO Task Force on Fatigue and Rostering issues for ATM proposal.

An option could be to design an opt-in possibility for ANSPs for these two aspects independently (ATM/ANS.OR.A.040, ATS.OR.210 and ATS.OR.215 and ATS.OR.325 Fatigue, ATS.OR.330 ATCOs' rostering system(s)) pending the outcome of the aforementioned working groups.

Another option is to line up implementation dates of IR ATM with RP3 (2017 ? 2019 ?) to avoid additional implementation costs and/or to review the performance indicators in RP2 as we are subject to both the performance regulation and this regulation.

response

Partially accepted

The Agency will duly consider the proposed various transitional provisions. It will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems, MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome of the consultation of NPA 2013-08 and that of the other mentioned NPAs will result in a single EASA Opinion. The time schedule of the ATC fatigue risk management task does not seem to be relevant in this sense, while it is dependent on the ICAO FRMS TF progress which still contains quite significant uncertainties.

comment	262	comment by: <i>Copenhagen Airports A/S</i>
	This is OK as describe.	
response	<i>Noted</i>	

comment	297	comment by: <i>AvinorANSP</i>
	<p>Stakeholders are invited to comment on the Agency's proposal for transitional provisions.</p> <p>The CANSO proposals are as follows:</p> <p>Line up with RP3 (2020) to avoid additional implementation costs.</p> <p>Or to review the performance indicators in RP2 as we are subject to both the performance regulation and this regulation.</p> <p>However, if this is not feasible, then we would appreciate the following being taken into consideration as options:</p> <p>Align on the finalisation of the on-going rulemaking tasks, the ICAO TF on fatigue and the safety risk assessment RMT, as well as other annexes, such as MET, which are currently reserved. Or,</p> <p>Delay the new parts and implement the parts that are already in the 1034/2011 and 1035/2011. Or,</p> <p>Have an implementation period with a deadline and the possibility for earlier implementation where and when the ANSP is ready.</p>	
response	<p><i>Noted</i></p> <p>The Agency will duly consider the proposed various transitional provisions. It will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems, MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome of the consultation of NPA 2013-08 and that of the other mentioned NPAs will be issued in a single EASA Opinion. The time schedule of the ATC fatigue risk management task does not seem to be relevant in this sense, while it is dependent on the ICAO FRMS TF progress which still contains quite significant uncertainties.</p> <p>Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty</p>	

in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment 320

comment by: IFATCA

IFATCA is opposed to the proposal by EASA. The moving target approach is not adequate in these elements. All these elements shall be submitted via a proper NPA. Opinion, Comitology on transition issues including roster and fatigue for ATCOs will end up in political instead an expert discussion.

IFATCA does not want to experience the same rulemaking process as the Pilots have experienced.

When and how will this important article be submitted via an NPA. It is too important just to be included in the Opinion of EASA without consultation of all stakeholders.

It is proposed to delay the current NPA process until all the elements are included. Otherwise there is a risk that the community suffers unduly from a political discussions on transition issues instead of being able to participate to good rule-making.

response *Noted*

The Agency takes note of the comment.

It will duly consider the proposed various transitional provisions and will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems, MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome of the consultation of NPA 2013-08 and that of the other mentioned NPAs will be issued in a single EASA Opinion.

comment 343

comment by: German NSA

It is important that transitional provisions are implemented in a way that no regulatory gaps will exist and legal uncertainty is avoided.

response *Accepted*

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will include also the technical requirements for the

provision of meteorological services and could contain also other proposals such as DAT, when the deliverables are being consulted.

comment

354

comment by: *Federal Office of Civil Aviation FOCA*

FOCA suggests to synchronize the entry into force of the regulation related to this NPA with the FABEC RP3 tasks to avoid conflicting/non-necessary developments in the meantime.

- Are there any procedures already established on the future communication and cooperation of EASA with the Member States until the entry into force of this regulation?
- Consistency needs to be ensured between this NPA and the upcoming rulemaking tasks (RMT.0161, .0162, .0469, .0470).
- When and how will the placeholders in this NPA be integrated? ATM/ANS.AR.C.030, ATM/ANS.AR.C.035, ATS.OR.210, ATS.OR.215.

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment

396

comment by: *European Transport Workers Federation - ETF*

EASA's proposal seems OK.
Our concern is not to create delay on the implementation.

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore,

the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

408

comment by: *DFS Deutsche Flugsicherung GmbH*

Transitional provisions are necessary. The SES-framework will further evolve in the coming years, especially w.r.t. SESII+, therefore an explanation alone is not sufficient.

Transitional provisions shall respect the finalisation of ongoing RMT (e.g. 0469/0470) and the repeal of existing regulations in a co-ordinated way to prevent regulatory gaps.

The requirements for new services (ASM, DAT and ASD) must be available before decision on transitional provisions for those can be made.

Transitional provisions need to postulate that the enforcement of this regulation must not add effort to those ANSPs, who already hold a certificate for their existing services. A hidden re-certification is strictly refused.

Due to the huge amount of ATSEPs concerned, for which the new proposed requirements for training and competence assessment need to be implemented, long transition times are required.

Proposed elements for Article 9:

1. Air navigation service providers holding a certificate for services and type of services issued in accordance with Regulation (EC) No 1035/2011 or former Regulation (EC) No 2096/2005 on the date of entry into force of this Regulation shall be deemed to hold a certificate issued for the same set of services and type of services in accordance with this regulation.
2. The competent authority will issue to this ANSP an updated certificate according to the template (Appendix I to Annex I) within 3 months from the date of entry into force of this Regulation.
3. "Updated" ATM/ANS providers shall implement new and/or modified requirements (if applicable, according Appendix II to Annex I) in a transition time of two years from the date of entry into force of this regulation. Verification about the implementing status of the new and/or modified requirements may be done by the competent authorities during oversight (ATM/ANS.AR.C.015).
4. Annex XII Subpart A Section 1 "ATSEP" shall enter into force 30 months after publication of this Regulation.
5. ATSEP already active on the date of entry into force of this regulation shall be deemed compliant to ATSEP.OR.125 (a).
6. ATSEP already active as ATSEP training instructors on the date of entry into force of this regulation shall be deemed compliant to ATSEP.OR.135.
7. ATSEP already active as technical skill assessors on the date of entry into force of this regulation shall be deemed compliant to ATSEP.OR.140.
8. For an ATSEP deemed compliant according to this transitional provision and changing a stream later, the ATM/ANS provider shall identify by means of an individual gap analysis the qualification streams necessary according to appendix 4 to annex XII of this regulation. "

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice

received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

In reference to ASD, the Agency is launching a Rulemaking task (RMT.0445) with an aim to propose Implementing Rules, AMC/GM, aiming at ensuring that the airspace structures and flight procedures are appropriately surveyed, designed, and validated. The development of the subject implementing measures would require time. Therefore, taking into account the difficulty in envisaging the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology process as proposed by the commentator.

comment 416

comment by: ENAV

Line up with RP3 (2020) to avoid additional implementation costs.
Or to review the performance indicators in RP2 as we are subject to both the performance regulation and this regulation.
However, if this is not feasible, then we would appreciate the following being taken into consideration as options:
Align on the finalisation of the on-going rulemaking tasks, the ICAO TF on fatigue and the safety risk assessment RMT, as well as other annexes, such as MET, which are currently reserved. Or,
Delay the new parts and implement the parts that are already in the 1034/2011 and 1035/2011. Or,
Have an implementation period with a deadline and the possibility for earlier implementation where and when the ANSP is ready.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. This Opinion will include also the technical requirements for the provision of meteorological requirements and could contain also other proposals such as DAT, when the deliverables are being consulted.

Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption

process as proposed by the commentator.

comment

448

comment by: *Danish Transport Authority***73. article 9**

Bearing in mind the experience from the 073/2010 Regulation (ADQ), 18 months seem to be too short a period. Suggest at least 24 to 30 months after adoption or, if possible, a stepwise implementation.

However for ANSPs that have already been certified in accordance with Regulation (EU) No 1035/2011 and for ATM/ANS providers which were not in the scope of Regulation (EU) No 1035/2011 a transition period of three years is needed for all instead of your proposed two years and two years with an opt out for an additional year.

Three years are needed for the competent authority to fulfil their requirements regarding ensuring compliance and certification as ATM/ANS providers have to be compliant with the new regulation before a certificate can be issued.

Finally it must be considered to extend the time period for certificates intended to cover DAT, ASD and ATSEPs.

response

Noted

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

464

comment by: *BAE Systems*

How will ANSP's be assured that current competent engineers who have not completed basic and qualification training courses can continue to provide a valuable service when the AMC does not include any means of acknowledging their experience despite the Competent Authority having recognised their CNS/ATM engineering capability by issuing a Personal Technical Certificate?

It is our suggestion that current PTC holders be afforded "grandfather" rights and that the PTC is regarded as the equivalent to the Basic (ATSEP.OR.105) and Qualification Training (ATSEP.OR.110).

If it is insisted that engineers who are already qualified must perform new basic and qualification training does this mean that they are deemed as no longer competent to perform their duties until they have completed this?

The implications are that ANSP's will not have the capability to maintain their own CNS/ATM equipment whilst qualified engineers complete the new training requirements.

The cost of performing the basic and qualification training is £17,500 for the cost of the course and a further £10,000 for accommodation and travel. At Warton we have 5 engineers who have not attended these courses. This has the potential to

response	<p>cost £137,500 and to manage with depleted engineering capability for almost a year whilst all engineers attend training on subjects that they are well versed on.</p> <p><i>Noted</i></p> <p>The Agency will ensure that those persons that are currently assessed competent to perform their duties can continue without having to go through the basic and qualification training unless they decide to change their system and equipment rating. In the case they want to change orientation, they will have to complete the relevant parts of the basic and qualification training course.</p>
comment	<p>473 comment by: <i>NATS National Air Traffic Services Limited</i></p> <p>NATS supports the proposed transitional timescales. Additionally, NATS foresees the need for some kind of grandfather rights for ATSEP. It would not be practical, cost effective or necessary to require every candidate ATSEP (existing engineers doing the work of an ATSEP but not called ATSEP) to undertake basic and qualification training. No benefit is seen in training existing competent engineers at the basic and qualification level. However it is accepted that such engineers will be competency assessed on a rolling time basis when these rules are implemented. NATS has written and delivered several training programmes that meet the ATSEP training requirements. The basic training takes 1 week and the qualification stream averages 3 weeks so a combined B&Q course is 4 weeks. The number of engineers that fall within scope is, at present, not fully understood because it's dependent on the interpretation of rule ATSEP.OR.005 but it is estimated it to be between 100 and 300. So if retrospective training is required for all, in scope, engineers the impact would range between 400 and 1200 weeks of training which is a considerable amount of time and cost. What does not appear to be covered is any new ATM/ANS provider that wishes to enter the market during the transition period. Presumably they would need to demonstrate compliance with the rule in order to obtain a certificate and not be allowed any transition period or would they have to comply with 1035 and then have a two year transition period? Whilst the EASA intent is unknown NATS recommends that EASA completes the other rulemaking tasks associated with this rule (fill in the placeholders) ahead of any opinion and decision.</p>
response	<p><i>Noted</i></p> <p>The Agency will ensure that those persons that are currently assessed competent to perform their duties can continue without having to go through the basic and qualification training unless they decide to change their system and equipment rating. In the case they want to change orientation, they will have to complete the relevant parts of the basic and qualification training course.</p> <p>With regard to new service providers during the transition period, they will have to comply with the rules under the new Regulation if they want to get their certificate, because the new Regulation would have already repealed the old one (Regulation (EU) No 1035/2011).</p>

comment	486	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
		EASA's proposal seems OK. Our concern is not to create delay on the implementation.
response	<i>Noted</i>	
		Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4 th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

A. Explanatory Note – IV. Overview of the proposed changes - CHAPTER 3 – COVER REGULATION – Main changes and explanation (Part III)

p. 28

comment	279	comment by: <i>ROMATSA</i>
		Paragraph 73, Art. 9 Transitional periods
		Comment: Agree on the Agency's proposal for transitional provisions, except for the new ATM/ANS providers (ATFM, ASM, DAT and ASD) where we propose to set a transition period after the requirements, GM and/or ACM are developed.
		Justification: No requirements, GM and/or ACM are developed for ASM, DAT or ASD and Annex VIII, ATFM has a temporary structure limited to scope.
response	<i>Noted</i>	
		Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4 th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.
		In reference to ASD, the Agency is launching a Rulemaking task (RMT.0445) with

the aim to propose Implementing Rules, AMC/GM, aiming at ensuring that the airspace structures and flight procedures are appropriately surveyed, designed, and validated. The development of the subject implementing measures would require time. Therefore, taking into account the difficulty in envisaging the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology process as proposed by the commenter.

With regard to the AMC/GM on ATFM, the Agency takes note of the comment and will take it in due consideration. As a first reflection, the Agency considers that developing AMC/GM by the Agency to implement Regulation (EU) No 255/2010 would necessitate more detailed understanding of the difficulties encountered by the States and a thorough consideration also by the European Commission. Furthermore, as an element of consideration, the ATM roadmap prepared by the Commission has included plans to revise the Regulation on ASM, particularly as regards the flexible use of airspace concept. The commentator is also kindly invited to consider whether a more detailed rulemaking proposal on the issue would be possible.

comment 280

comment by: ROMATSA

Paragraph 73, Art. 9**Comment:**

Grandfathering rights.

Justification:

Holders of an existing certificate under 1035/2011 for service provision shall be deemed to hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 4 – p. 28-29
Annex I – Requirements for competent authorities (Part I)

comment	22	comment by: EUROCONTROL
	<p>Page 29 - Para 79 We do not support this proposal as it is double regulation (EC 2003/42/EC). Additionally ANSPs have to report a substantial part of safety occurrence information also to meet the KPIs in EU 390/2013.</p>	
response	<i>Noted</i>	
	<p>The Agency notes that Directive 2003/42/EC has been repealed by Regulation (EU) No 376/2014. An analysis of the requirements has shown that there is no overlap.</p>	
comment	53	comment by: AENA-NPA2013-08
	<p>Page 29, Paragraph 79. There's no need to double regulation, it would be convenient to have only one regulation regarding safety reporting, with more detailed AMCs and GMs (in this NPA) and repeal Directive 2003/42/EC.</p>	
response	<i>Noted</i>	
	<p>The Agency notes that Directive 2003/42/EC has been repealed by Regulation (EU) No 376/2014. An analysis of the requirements has shown that there is no overlap. Considering the comment, new GMs are introduced to illustrate the intent of the requirements.</p>	
comment	254	comment by: PANSA
	<p><i>There is no need for further AMC or GM.</i></p>	
response	<i>Not accepted</i>	
	<p>It should be noted that a GM is only providing guidance for the implementation of the relevant requirements and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p>	
comment	321	comment by: IFATCA
	<p>para 79 This explanation is difficult to understand. Currently EC) COD 2012/776 Repeals 43/2003 and 996 /2010 is in Co-decision process and the outcome is not clear. Therefore it is difficult to follow the explanations in this paragraph in particular to the elements which could/should not be reported by the current legislation by the</p>	

Agency. Most of the reporting elements which shall be reported to the agency are explicit and the annexes to the currently proposed text are extremely detailed. From an ANSP point of view (or an ATCO point of view) nearly any event shall be reported. The requirements are so stringent that normal ops cannot be continued as the ATCO is required to report so many elements that they can't do their work. If further reports should be made, then EASA should specify which part it looks for. In order to better motivate our comment, below is the list of Annex BI of the COD.

IFATCA thinks we have to move away from looking only at the negative impact of the ATM/ANS activity and start to introduce a system whereby the positive outcome (99.99 time) can be captured. It is called move from Safety I to Safety II (see white paper of Eurocontrol). Maybe EASA meant to capture safety II elements in this. We would welcome a clarification.

Part B: List of air navigation services related incidents to be reported

Note 1: Although this Part lists the majority of reportable incidents, it cannot be completely comprehensive. Any other incidents, which are considered by those involved to meet the criteria, shall also be reported.

Note 2: This Part does not include accidents and serious incidents as defined by Regulation (EU) No 996/2010. In addition to other requirements covering the notification of accidents and serious incidents as defined by Regulation (EU) No 996/2010, accidents and serious incidents shall also be reported through mandatory occurrence reporting systems.

Note 3: This Part includes ANS incidents which pose an actual or potential threat to flight safety, or can compromise the provision of safe ANS services.

Note 4: The contents of this Part shall not preclude the reporting of any incident, situation or condition which, if repeated in different but likely circumstances or allowed to continue uncorrected, could create a hazard to aircraft safety.

(1) Near collision incidents (encompassing specific situations where one aircraft and another aircraft/the ground/a vehicle/person or object are perceived to be too close to each other):

- (a) separation minima infringement;
- (b) inadequate separation;
- (c) near-controlled flight into terrain (near CFIT);
- (d) runway incursion where avoiding action was necessary.

(2) Potential for collision or near collision (encompassing specific situations having the

potential to be an accident or a near collision, if another aircraft is in the vicinity):

- (a) runway incursion where no avoiding action is necessary;
- (b) runway excursion;
- (c) aircraft deviation from ATC clearance;
- (d) aircraft deviation from applicable air traffic management (ATM) regulation:
 - (1) aircraft deviation from applicable published ATM procedures;
 - (2) unauthorised penetration of airspace;
 - (3) deviation from aircraft ATM-related equipment carriage and operations, as mandated by applicable regulation(s).

(3) ATM-specific incidents (encompassing those situations where the ability to provide safe ATM services is affected, including situations where, by chance, the safe operation of aircraft has not been jeopardised).

- (a) inability to provide ATM services:
 - (1) inability to provide air traffic services;
 - (2) inability to provide airspace management services;
 - (3) inability to provide air traffic flow management services;
- (b) failure of Communication function;
- (c) failure of Surveillance function;
- (d) failure of Data Processing and Distribution function;
- (e) failure of Navigation function;

response	<p>(f) ATM system security.</p> <p><i>Noted</i></p> <p>The Agency notes that Directive 2003/42/EC has been repealed by Regulation (EU) No 376/2014. An analysis of the requirements has shown that there is no overlap. Considering the comment, new GMs are introduced to illustrate the intent of the requirements. Furthermore, the Commission is developing a list of reportable occurrences which will be considered by the Agency to identify if there is any need for further regulatory action(s).</p>
comment	<p>378 comment by: UK CAA</p> <p>Page No: 29 Paragraph No: 79, Question on safety significant information Comment: Text in both AR.A.010 and AR.A.015 are ambiguous and do not provide sufficiently clear guidance to NSAs on reporting obligations for safety significant information. For example: Sub-paragraph (b) of AR.A.010 seems to be related more to the content of AR.A.015 rather than to problems with implementing the BR.</p> <p>Paragraph AR.A.015, the title is inconsistent with the text which, deals with the processing of (undefined) safety information rather than immediate response to safety problems. Moreover, sub- paragraph (b) could be taken to imply that recommendations for corrective actions now become an EASA rather than a Competent Authority responsibility. Whilst recognising that this text is already used in other domains, UK CAA welcomes the opportunity to comment and considers that clarity needs to be improved in this area. Justification: Clarity.</p>
response	<p><i>Noted</i></p> <p>The Agency take the comment into consideration.</p> <p>Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, the associated GM to ATM/ANS.AR.A.020 (former ATM/ANS.AR.010) is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 4 – Annex I – Requirements for competent authorities – Invitation to comment (a)

p. 29

comment	<p>10 comment by: CAA Norway</p> <p>We believe that the reporting obligations laid down in directive 2003/42/EC is</p>
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sufficient and that the Agency should make use of information derived from the existing databases. If ATM/ANS.AR.A.010 (b) is kept a definition on "safety-significant information" is needed.

response *Partially accepted*

Considering the comment, a revised GM is provided which addresses the comment.

comment 79 comment by: *Icelandic Transport Authority*

The reporting obligations are sufficient.

response *Noted*

comment 90 comment by: *skyguide Corporate Regulation Management*

We do not see the need for any changes to the current NPA. We suggest putting this content in GM preferably as AMC has a tendency to be less flexible and may be too restrictive. There is also a need for expert input to be taken on board for the development of the GM. However, some guidance is needed as this is new and will be open to interpretation by the various actors.

response *Accepted*

The GMs are revised based on the various comments provided, and further GMs are proposed.

comment 122 comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
(A) 79 ATM/ANS.AR.A.010 'Information to the Agency'	<p><i>Stakeholders are invited to comment whether more details on the reporting obligation of safety significant information would need to be developed and further specified in AMC and GM.</i></p> <p>AESA is not in favour of developing further AMC/GM on</p>	<p>There are already various schemes and mechanisms set for this purpose. In the light of the scarceness of resources of NSAs, it would be advisable not to overload the NSAs with new and additional requirements.</p>

		this obligation.	
response		<i>Not accepted</i>	
		<p>It should be noted that a GM is only providing guidance for the implementation of the relevant requirements and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p>	
comment	138		comment by: <i>Finnish Transport Safety Agency</i>
		<p>Finnish Transport Safety Agency supports the development of further specifications and details regarding the reporting obligation of safety significant information in AMC and GM.</p>	
response		<i>Partially accepted</i>	
		<p>Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced.</p>	
comment	145		comment by: <i>Prospect ATCOs' Branch UK</i>
		<p>To avoid duplication a GM referencing the Occurrence Reporting proposals (and subsequent legislation) currently undergoing the European Parliamentary process could be included.</p>	
response		<i>Noted</i>	
		<p>The Agency has followed the relevant process which led to the adoption of Regulation (EU) No 376/2014. However, it should be pointed out that this Regulation shall apply from 15 November 2015 and not before the entry into force of the associated implementing measures.</p>	
comment	173		comment by: <i>Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)</i>

<p>79. ATM/ANS.AR.A:010</p>	<p>29 Safety significant information can be interpreted very differently. If reports/certain information shall be submitted to the Agency the requirement of such information (and AMC/GM regarding such information) has to be very specific for the Agency to be able to use this information. Only information that is needed should be submitted.</p>
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response *Accepted*

The Agency takes the comment into consideration.

Acknowledging the stakeholders’ feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced to illustrate further the requirements on the necessary information to be provided to the Agency.

comment *189*

comment by: *CAA-NL*

Item 79: We should wait for the final result of the discussions on the new Occurrence reporting regulation and the day to day practice this will install. If needed additional AMC/GM could always be produced at a later stage.

response *Partially accepted*

The Agency takes note of the comment.

The Agency has followed the relevant process which led to the adoption of Regulation (EU) No 376/2014. However, it should be pointed out that this Regulation shall apply from 15 November 2015 and not before the entry into force of the associated implementing measures.

Furthermore, acknowledging the stakeholders’ feedback from the NPA 2013-03 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced to illustrate further the requirements on the necessary information to be provided to the Agency.

comment *205*

comment by: *CANSO Civil Air Navigation Services Organization*

<p>79. ATM/ANS.AR.A.010 on 'Information to the Agency</p>	<p>Stakeholders are invited to comment whether more details on the reporting obligation of safety significant information would need to be developed and further specified in AMC</p>	<p>No further AMC / GM should be required.</p>
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		and GM.	
response	<p><i>Not accepted</i></p> <p>It should be noted that a GM is only providing guidance for the implementation of the relevant requirements and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p> <p>Furthermore, it should be noted that no AMCs are included.</p>		
comment	218	comment by: <i>military safety expert/ safety management systeme inspector</i>	
		nothing significant to say	
response	<i>Noted</i>		
comment	234	comment by: <i>DSNA</i>	
		<p>No further AMC / GM should be required Avoid duplication and/or discrepancies with existing or future regulation 2003/42/EC.</p>	
response	<p><i>Partially accepted</i></p> <p>It should be noted that a GM is only providing guidance for the implementation of the relevant requirements and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p> <p>Furthermore, it should be noted that no AMCs are included.</p>		
comment	281	comment by: <i>ROMATSA</i>	
		<p>Comment: No further AMC / GM should be required.</p>	

response	<p><i>Partially accepted</i></p> <p>It should be noted that a GM is only providing guidance for the implementation of the relevant requirements and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p> <p>Furthermore, it should be noted that no AMCs are included.</p>
comment	<p>322 comment by: <i>IFATCA</i></p> <p>IFATCA believes the question is not answerable as it does not understand what EASA is aiming at. If it is to get more success stories (meaning 99% of the activities of an ANSP) reported, then we would welcome the idea.</p> <p>It is however the impression that EASA believes that the currently debated new incident reporting system is not covering enough from the remaining 1% unwanted outcomes and therefore wishes to establish AMC/GM on the 1% of the activity.</p> <p>Further it would be helpful if EASA could indicate what it will be doing with the immense data it will receive through this new legislation. Will it be able to cope with the shear amount of data, and will it be able to guarantee a proper, adequate and timely dissemination of the information it gathers?</p>
response	<p><i>Noted</i></p> <p>Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to further facilitate compliance with the actual requirements which are included in the IR.</p>
comment	<p>345 comment by: <i>German NSA</i></p> <p>The existing reporting obligations are sufficiently defined from the German NSA perspective. A further fine tuning in form of AMC or GM is not deemed necessary.</p>
response	<p><i>Noted</i></p> <p>It is important to be noted that the commented GM relates to a requirement for reporting to the Agency. Therefore, this Community law prevails over other relevant national requirements. In addition, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.</p> <p>Furthermore, it should be noted that no AMCs are included.</p>

comment	<p data-bbox="359 208 414 246">355</p> <p data-bbox="798 208 1498 246">comment by: <i>Federal Office of Civil Aviation FOCA</i></p> <p data-bbox="359 291 1498 369">The requirement should reflect a total system approach as it is an horizontal issue (also compare with ADR.AR.A.025).</p> <p data-bbox="359 392 1498 504">According to EASA, the idea is to have the same material in the remits Air OPS/FCL, ATM/ ANS and eventually the earlier EASA domains such as Production/Maintenance.</p>
response	<p data-bbox="359 504 486 548"><i>Accepted</i></p> <p data-bbox="359 593 1498 705">The Agency acknowledges the need for harmonised requirements, however, different AMC/GM may be also linked to a common IR as a result of the different roles that the Agency may play (e.g. being a competent authority or not).</p>
comment	<p data-bbox="359 772 414 817">397</p> <p data-bbox="670 772 1498 817">comment by: <i>European Transport Workers Federation - ETF</i></p> <p data-bbox="359 862 1498 952">Limitations (type of reports, frequency of report,...) shall be determined to this reporting process and use of those data shall also be limited.</p>
response	<p data-bbox="359 952 486 996"><i>Accepted</i></p> <p data-bbox="359 1041 1498 1187">Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to fine-tune the cases to which the relevant IR requirements will apply.</p>
comment	<p data-bbox="359 1254 414 1299">409</p> <p data-bbox="798 1254 1498 1299">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></p> <p data-bbox="359 1344 1498 1433">The existing reporting requirements between competent authorities and the Agency are sufficient.</p>
response	<p data-bbox="359 1433 446 1478"><i>Noted</i></p> <p data-bbox="359 1523 1498 1803">It should be noted that the commented provision is a GM to an IR requirement. As such it provides only guidance for the proper implementation of the relevant requirement and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement. Furthermore, the existing reporting requirements to which the commentator refers to, do not address the cases elaborated through this GM .</p>
comment	<p data-bbox="359 1870 414 1915">418</p> <p data-bbox="1212 1870 1498 1915">comment by: <i>ENAV</i></p> <p data-bbox="359 1960 917 1998">No further AMC / GM should be required.</p>

response *Partially accepted*

It should be noted that a GM is only providing guidance for the implementation of the relevant requirements and it does not create any obligation to its addressee. On the other hand, acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.

Furthermore, it should be noted that no AMCs are included.

comment 449

comment by: *Danish Transport Authority*

79. ATM/ANS.AR:A:010

Safety significant information can be interpreted very differently. If reports/certain information shall be submitted to the Agency the requirement of such information (and AMC/GM regarding such information) has to be very specific for the Agency to be able to use this information. Only information that is needed should be submitted.

response *Accepted*

Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to clarify the intent of the relevant requirement.

comment 487

comment by: *comments provided on behalf of FIT/CISL Italian trade union*

Limitations (type of reports, frequency of report,...) shall be determined to this reporting process and use of those data shall also be limited.

response *Accepted*

Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, especially on the subject question, the commented GM is redrafted and additional GMs are introduced in order to fine-tune the cases to which the relevant IR requirements will apply.

**A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 4 –
Annex I – Requirements for competent authorities (Part II)**

p. 29-35

comment 23

comment by: *EUROCONTROL*

response	<p>Page 33 - Para 91 - 93 Option 2 (Page 34) seems to be the ideal option as it is:</p> <ul style="list-style-type: none"> - a true risk-based approach, - more flexible and - makes better use of scant resources (CA/NSA). <p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the preferred option II, and it is adopted in the proposed Regulation.</p>
comment	<p>54 comment by: AENA-NPA2013-08</p> <p>Page 33, Paragraphs 91-93. Option 2 (4 years oversight planning under certain conditions). Option 2 is preferred as it allows to commensurate the level of supervision to the level of risk posed and to the level of the providers' safety performance. The resources of providers' safety activities are dedicated both to pursue safety improvements and to demonstrate safety (firstly to themselves but in a great extent also to the NSA). Resources dedicated to demonstration when an over-proportionate supervision exists are taken away from the safety improvement activities. The result is an imbalanced allocation of efforts, bearing in mind the goal of increasing safety performance.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the preferred option II, and it is adopted in the proposed Regulation.</p>
comment	<p>68 comment by: AIRBUS</p> <p># 92. The Agency should explain what the Total System Approach means. Where is the definition of the Total System Approach? How does it fit with the risk-based approach and the performance based approach?</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. Total system approach is a high-level policy the Agency has chosen to achieve its objectives, in particular high and uniform level of aviation safety. It would be very difficult to define such a policy in an implicit manner. In EASA Opinion No 01/2008 'Extension of EASA system to ATM/ANS' ,the total system approach to safety has been illustrated as means where all elements of the aviation safety chain are to be analysed in a centralised manner, in particular interfaces, so as to specify to each player in the safety chain what mitigating measures they need to implement to reduce not only their own contribution to the risks, but also the overall level of exposure. Taking into account the level of technical integration of the aviation system now and in the</p>

future, the Agency continues to see this as an essential aviation safety policy in Europe.

Furthermore, the Agency sees a lot of merit in moving towards a more performance-based regulation. The growing complexity in the aviation systems demands an evolution in the management of safety towards a performance-based approach that focusses on the management of risks. But this cannot be done without thorough consideration, since the performance-based approach will, indeed, complement the more traditional forms of a prescriptive regulatory system. It would also necessitate some investment, at least in the beginning, in order to set up processes which measure performance.

comment 123

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 91 ATM/ANS.AR.C.015(c)(5) 'Risk-based oversight'	AESAs supports the concept of risk-based oversight (RBO) that allows to programme oversights based on risk assessment instead of auditing all requirements over a period of two years. In the case of the RBO, EASA should establish a set of minimum requirements for the risk assessment to which the Member States could add further requirements depending on their situation and/or criteria.	This would set a level playing field and would harmonise/standardise the way to proceed with the RBO.

response *Accepted*

After due consideration of the stakeholders' feedback, the Agency acknowledges the preferred option towards more performance-based oversight and adopted it in the draft Regulation considering the criteria of the service provider's management implementation indicated in ATM/ANS.AR.C.015(a)(5) (i) to (iv) in a controlled process.

comment 124

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>(A) 93 ATM/ANS.AR.C.015(c) 'Oversight'</p>	<p><i>Stakeholders are invited to indicate their preferred option and to provide justification elements on the possible safety, social, and economic impact of the option proposed, or alternatively to propose another justified solution to the above issue.</i></p> <p>AESA would favour Option 2, provided that the means of compliance (AMC/GM) and tools for the monitoring of the conditions set under paragraph (5) are in place.</p>	<p>This option involves ANSPs deeper in the oversight scheme whilst, at the same time, alleviating the NSAs, provided that the latter have at their disposal the means of compliance (AMC/GM), tools for the monitoring of the conditions set under paragraph (5) and the staff to use them.</p>

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the preferred option II, and it is adopted in the proposed Regulation.

comment 323

comment by: *IFATCA*

This explanation is rather confusing as it tries to be in competition and not in complement of the EC 996/2010 art 17. (see on the right).
 EC 996/2010
 Article 17
 Safety recommendations
 1. At any stage of the safety investigation, the safety investigation authority shall recommend in a dated transmittal letter, after appropriate consultation with relevant parties, to the authorities concerned, including those in other Member States or third countries, any preventive action that it considers necessary to be taken promptly to enhance aviation safety

response *Noted*

The Agency is not in a position to give a response to this comment, because its content may not be related to any specific requirement of this Annex (Part-ATM/ANS.AR).

comment 368

comment by: *ESSP*

In regard to § 91 and 93 of NPA 2013-08 Part A; on ESSP side, we consider that Option 2 with a possible oversight cycle of 48 Months is the most suitable to oversight ESSP activity, as ESSP has already implemented Performance Indicators to overview the safety performance of the system.

Will the initial 24 months oversight cycle be based on an exhaustive verification of the fulfilment of all the requirements of the regulation or will it be based on a risk-based approach sampling the organisation **in a manner commensurate with the level of risk posed?**

response *Accepted*

After due consideration of the stakeholders' feedback on the subject, the Agency acknowledges the preferred option II, and it is adopted in the proposed Regulation. As explained in the Explanatory Note to NPA 2013-08, it should be emphasised that before taking any decision on extension of the oversight cycle, a full 24-month oversight cycle of the service providers shall apply.

comment 379

comment by: *UK CAA*

Page No: 34-35

Paragraph No: 93, Question on oversight.

Comment: The UK CAA supports option 2.

Justification: The UK CAA fully supports Option 2 as it is a flexible risk-based approach with extended flexibility of performance-based oversight, a strategy that will bring safety, cost and resource benefits to both ANSPs and the relevant Competent Authorities.

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the preferred option II, and it is adopted in the proposed Regulation.

comment 466

comment by: *Romanian Civil Aviation Authority*

Comment on Paragraph 93:

From the ATM/ANS provider perspective, the proposed Option no. 1 is the preferred approach, being a more performance-based oversight function.

Justification:

	Option 1 offers more choices for conducting the safety oversight.
response	<p><i>Not accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the preference to adopt option II in the proposed Regulation.</p>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 4 – Annex I – Requirements for competent authorities – Invitation to comment (b)	p. 35
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comment	11	comment by: CAA Norway
	We are in favor of Option 1. The oversight process is useful both for the ANSP and the Competent Authority. New regulations requires follow up and dialogue, change in management and internal changes in an organisation may cause erosion of a fully competent ANSP in a very short time, and oversight is the way to spot it.	
response	<p><i>Not accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Opinion II in the draft Regulation. This issue was also discussed at the focussed review meetings organised after the NPA consultation closure, which provided the Agency with further valuable advice on how to proceed with the issue.</p>	

comment	80	comment by: Icelandic Transport Authority
	We suggest optin 0,the industry is not ready for performance-based oversight.	
response	<p><i>Not accepted</i></p> <p>Assuming that the commentator refers to Option I (as the preferred one, not Option II), after due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation. This issue was also discussed at the focussed review meetings organised after the NPA consultation closure, which provided the Agency with further valuable advice on how to proceed with the issue.</p>	

comment	91	comment by: skyguide Corporate Regulation Management
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We are in favour of Option 2 as it gives more flexibility to both the ANSP and regulator to use scarce resources where they are best utilised. Option 2 also has the advantage of incentivising ANSPs to achieve better results with regard to compliance and corrective action resolution. We believe that incentivisation will always render better results than sanctions would.

response *Accepted*

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment 139 comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency prefers option 2: The increased flexibility and risk-based approach gives the NSA a wider range of opportunities to conduct safety oversight.

response *Accepted*

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment 181 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

93. Performance bases oversight	35	<p>Option 1 This is the preferable option as it is most flexible. It opens for the possibility to make use of collated safety information (described in previous paragraphs). To enable true risk-and performance based oversight. However, the sampling would be more efficient and appropriate (resource wise) if the period can be extended to three years (36 months) This to enable more than one audit during the stated period in organisations where risks has been identified.</p> <p>Option 2 The option is too detailed and complicated and requires several conditions to extend the period. This makes it more an administrative formality than true risk based oversight. It must be up the CA to decide on risks that should be considered (except formal requirements in the legislation) in the oversight programme.</p>
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response *Not accepted*

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation. This issue was also discussed at the focussed review meetings organised after the NPA consultation closure, which provided the Agency with further valuable advice on how to proceed with the issue.

comment 190

comment by: CAA-NL

Item 93: We prefer Option 2. Here the oversight has a direct relation with the performance of the Service Provider and the maturity of its (Safety) Management System.

response Accepted

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment 206

comment by: CANSO Civil Air Navigation Services Organization

<p>93. ATM/ANS.AR.C.015</p>	<p>Stakeholders are invited to indicate their preferred option and to provide justification elements on the possible safety, social, and economic impact of the option proposed, or alternatively to propose another justified solution to the above issue.</p>	<p>Option 2: safety can be maintained and option 2 is less costly taking into account the level of maturity of the organisation. It allows mature regulators and mature organisations to make the best use of their resources.</p>
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response Accepted

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment	<p>219 comment by: <i>military safety expert/ safety management systeme inspector</i></p> <p>Option 2 is our preferred option. This option offers incentives to manage the planning of oversight and to encourage providers to adopt best and continued practices.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.</p>
comment	<p>235 comment by: <i>DSNA</i></p> <p>Option 2 is preferred by DSNA Option 2 is less costly for the management of various types of audits for the different units of DSNA. The timeframe is coherent with ISO9001 audit periodicity. Option 2 is less costly taking into account the level of maturity of the organisation. It allows mature regulators and mature organisations to make the best use of their resources.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.</p>
comment	<p>255 comment by: <i>PANSA</i></p> <p><i>Option 2 is preferable as less costly and it allowing mature organisations (both ANSP and CAs) to make the best use of their resources and to utilize past performance when assessing safety.</i></p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.</p>
comment	<p>263 comment by: <i>Copenhagen Airports A/S</i></p> <p>Preferred option: Option 2.</p>
response	<p><i>Accepted</i></p>

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment

282

comment by: ROMATSA

Comment:

From the ATM/ANS provider perspective, the proposed Option no. 2 is the preferred approach, being a more performance-based oversight function.

Justification:

The internal auditing activities undertaken by the ATM/ANS continuously demonstrated the ANSPs compliance with the common requirements and revealed that the providers established an effective continuous reporting system to the competent authority on the safety performance and regulatory compliance of the organization. If this is the case in a full 24 month cycle, Option 2 provides flexibility and allow for a decision making in order to extend the oversight cycle to 48 month.

This is the reason for EU strives to evolve towards an integrated performance-based oversight function that requires first of all that the States to have in place basic safety oversight capabilities in order to certify the ANSPs. State safety oversight functions will need to evolve further to support the ATM systems of the future, and this should be achieved by considering changing the actual safety oversight system.

response

Accepted

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment

293

comment by: AvinorANSP

Stakeholders are invited to indicate their preferred option and to provide justification elements on the possible safety, social, and economic impact of the option proposed, or alternatively to propose another justified solution to the above issue.

Option 2: safety can be maintained and option 2 is less costly taking into account the level of maturity of the organization. It allows mature regulators and mature organizations to make the best use of their resources.

response

Accepted

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.

comment	324	comment by: IFATCA
	IFATCA has no opinion between option 1 or 2	
response	<i>Noted</i>	

comment	346	comment by: German NSA
	Preference should be given to Option 2, which is considered as existing standard practice of the German NSA.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.	

comment	356	comment by: Federal Office of Civil Aviation FOCA
	FOCA supports Option 2 as it allows for a maximum flexibility for the authority. However, there are still many issues to be further developed with regard to the subject of CBO (compliance based), RBO (risk based) and PBO (performance based) and a common understanding yet to be established. As FOCA understands these concepts and applies them to some extent already, oversight is planned based on either risks at the stakeholders services or on the basis of their performance. Therefore, focus also needs to be put on the safety analyst bodies of the oversight authorities. When RIA Section 6 requires some initial training to NSA's personnel, this implies that not only the auditors but the analysis personnel of the authority would need to be trained accordingly. The Authorities need to establish a solid risk and performance monitoring body (in FOCA there is a specialized analyst section responsible for the SRM), or to set up these competences on the level of audit management.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.	

comment	398	comment by: <i>European Transport Workers Federation - ETF</i>
	ETF does not have a preference between the two options proposed.	
response	<i>Noted</i>	

comment	410	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	Preference for Option 2. This option allows for a goal-oriented oversight activity which is more efficient (economically) while keeping the safety level.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.	

comment	422	comment by: <i>ENAV</i>
	Option 2: safety can be maintained and option 2 is less costly taking into account the level of maturity of the organisation. It allows mature regulators and mature organisations to make the best use of their resources.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.	

comment	474	comment by: <i>NATS National Air Traffic Services Limited</i>
	Option 2 is preferred. Safety can be maintained and Option 2 is less costly as it takes into account the level of maturity of the organisation. It allows mature regulators and mature organisations to make the best use of their resources. It incentivises the ATM/ANS provider to do well and is proportionate.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation.	

comment	488	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
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	FIT CISL does not have a preference between the two options proposed.
response	<i>Noted</i>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 4 – Annex I – Requirements for competent authorities (Part III)	p. 35-36
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comment	24		comment by: <i>EUROCONTROL</i>
		Page 35 - Para 95 and Page 36 - Para 96 We support the notion that an assessment is necessary prior to implementing an organisational change, particularly to ensure that all safety accountabilities and responsibilities are transferred.	

response	<i>Noted</i>
	The Agency takes note of the comment.

comment	380		comment by: <i>UK CAA</i>
		<p>Page No: 36 Paragraph No: 96, Question on changes. Comment: The UK CAA welcomes the opportunity to comment on the text dealing with organisational changes and the convention surrounding such changes which must be notified in advance to the NSA. The safety assessment of change is an area where the ATM/ANS domain is generally relatively advanced and the text used here, drawn from that used in other domains, lacks clarity (see our comments related specifically to the wording of AR.A.020). It is particularly important that the text in the IR itself should reflect the stated intention in the explanatory notes that this article is not related to a safety-related change to a functional system. We have suggested, for example, that the title should be amended to read 'Organisational Changes'. We believe that if the clarity of the Article itself was improved it would not be necessary to introduce GM explaining what was meant.</p>	

response	<i>Not accepted</i>
	<p>Based on the outcome of the NPA consultation, the provision is revised to better clarify the issue, especially the scope of the changes. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Furthermore, the Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to functional systems. The final outcome of the consultation of NPA 2013-08 and that of the following one will result in a single EASA Opinion in the 4th quarter of 2014.</p>

comment	450	comment by: <i>Danish Transport Authority</i>
	<p>93. Performance bases oversight Option 2 seems to be the most suitable one, as the areas mentioned have to be checked anyway. Furthermore it seems that the audit planning cycle can be reduced to 48 months, which seems to be full consistency with DTA oversight strategy.</p>	
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to adopt Option II in the draft Regulation. This issue was also discussed at the focussed review meetings organised after the NPA consultation closure, which provided the Agency with further valuable advice on how to proceed with the issue.</p>	

comment	467	comment by: <i>Romanian Civil Aviation Authority</i>
	<p>Comment on Paragraph 96:</p> <p>The proposal to elevate the GM1 ATM/ANS.AR.C.020 as AMC is supported.</p> <p>Justification:</p> <p>This AMC will allow a relaxation to the changes approval process and will make use of the ATM/ANS provider' internal formal procedure for identifying changes within organisation and its functional system which may affect the provision of ATM/ANS.</p>	
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted and elevated as AMC.</p>	

**A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 4 –
Annex I – Requirements for competent authorities - Invitation to comment (c)**

p. 36

comment	12	comment by: <i>CAA Norway</i>
	<p>It is our opinion that GM1 ATM/ANS. AR.C.020 should be elevated to AMC to facilitate the Competent Authorities to keep track of the ANSP's organisational</p>	

response	<p>structure and to determine whether or not a change may have safety implications</p> <p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p> <p>Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>
comment	<p>62 comment by: AENA-NPA2013-08</p> <p>Page 35/36, Paragraphs 95 and 96 (These paragraphs should be read in conjunction with Para 115.) Elevate the GM1 ATM/ANS.AR.C.020 to AMC level?? Ok. ANSPs to notify significant organisational changes to the NSA.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p> <p>Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>
comment	<p>92 comment by: skyguide Corporate Regulation Management</p> <p>We are in favour of leaving GM1 ATM/ANS.AR.C.020 as guidance material. The provisions of the GM are too detailed and would create too strongly constraining obligations if they were to be transferred to AMC.</p>
response	<p><i>Not accepted</i></p> <p>After due consideration of the stakeholders' responses to the subject question, the Agency acknowledges the feedback to elevate the commented GM to an AMC. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>

comment 125

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>(A) 96 ATM/ANS.AR.C.020 'Changes to ATM/ANS providers'</p>	<p><i>Stakeholders are invited to comment on GM1 ATM/ANS.AR.C.020 to consider whether this GM could be elevated as AMC and to provide justification elements on the possible safety, social, and economic impact associated to their proposal.</i></p> <p>AESA is not in favour of promoting the GM to AMC.</p>	<p>The scheme established under the GM is not feasible for big ANSPs. This would entail a massive and constant flow of information between the ANSP and NSA. This, in turn, would mean more staff and dedicated systems for the management of this particular information and facilities for record keeping.</p>

response Accepted

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment 146

comment by: Prospect ATCOs' Branch UK

We are in favour of elevating this to AMC. Any change to ATM/ANS provision should be mandated to be notified to the competent authority rather than just GM which would not have the same level of requirement. Given that there is a certain element of 'freedom to act' it is essential that notification procedures are robust so that the competent authority has the right level of information and oversight.

response Accepted

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment

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

96. Changes GM1 ATM/ANS.AR.C.020	36 We support that the GM is elevated to AMC.
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response

Accepted

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment

191 comment by: *CAA-NL*

Item 96: We could accept this texts as GM, however we would like to refer further to our comments made under AMC to ATM/ANS.AR.C.010(a)(1) and AMC to ATM/ANS.OR.B.010(b)(1). A detailed remark related to this GM item (a), this is more a GM< for the service provider.

response

Not accepted

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the feedback to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further

valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(c) and AMC1 ATM/ANS.AR.C.025(b)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied and addressing the concern raised by the commentator.

comment 207

comment by: *CANSO Civil Air Navigation Services Organization*

<p>96. GM1 ATM/ANS.AR.C.020 Changes to ATM/ANS providers</p>	<p>Stakeholders are invited to comment on GM1 ATM/ANS.AR.C.020 to consider whether this GM could be elevated as AMC and to provide justification elements on the possible safety, social, and economic impact associated to their proposal.</p>	<p>As this is written in the style of AMC and will provide harmonisation across Europe in as far as it gets CA's to respond in a timely fashion, CANSO believes this should be AMC. From an ANSP point of view, a timely response is economically more efficient . We would appreciate the title to be changed to organisation Structure Changes to ATM/ANS providers as it better reflects the content and avoids confusion with functional changes to the system.</p>
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response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment 220

comment by: *military safety expert/ safety management systeme inspector*

ATM/ANS.AR.C.020. After reading, all changes have to be notified with or without approval. It is too much time consuming and the risk is to spend time in staff working. We do not have to forget the safety related change.

proposals :

- **Any changes shouldn't be systematically notified. The competent authority has to assess in close coordination with providers what has to be notified as safety related change.**
- **The GM couldn't be elevated as AMC if there is no change on the writing to clarify the definition of a change.**

response *Not accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the feedback to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied and addressing the concern raised by the commentator.

comment 236

comment by: *DSNA*

There is no level playing field at the moment in Europe concerning what is requested from ANSP in that domain. Raising this paragraph to AMC should be considered only in a second phase when a reasonable harmonisation is achieved in Europe.

A more detailed analysis of what is required by different NSA throughout Europe, possibly done via EASA standardisation visits, is necessary before raising this paragraph to AMC material.

response *Not accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the feedback to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment	237	comment by: <i>DSNA</i>
	<p>We would appreciate the title to be changed to organisation Structure Changes to ATM/ANS providers as it better reflects the content and avoids confusion with functional changes to the system (RMT.0469 / RMT.0470).</p>	
response	<p><i>Partially accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p> <p>Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>	

comment	283	comment by: <i>ROMATSA</i>
	<p>Comment: The proposal to elevate the GM1 ATM/ANS.AR.C.020 as AMC is supported.</p> <p>Justification: This AMC will allow a relaxation to the changes approval process and will make use of the ATM/ANS provider' internal formal procedure for identifying changes within organisation and its functional system which may affect the provision of ATM/ANS.</p>	
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p> <p>Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>	

comment	298	comment by: <i>AvinorANSP</i>
	<p>Stakeholders are invited to comment on GM1 ATM/ANS.AR.C.020 to consider whether this GM could be elevated as AMC and to provide justification elements on the possible safety, social, and economic impact associated to their proposal. As this is written in the style of AMC and will provide harmonization across Europe in as far as it gets CA's to respond in a timely fashion, CANSO believes</p>	

response	<p>this should be AMC. From an ANSP point of view, a timely response is economically more efficient . We would appreciate the title to be changed to: Organization Structure Changes to ATM/ANS providers as it better reflects the content and avoids confusion with functional changes to the system.</p> <p><i>Partially accepted</i></p> <p>After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p> <p>Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>
comment	<p>325 comment by: <i>IFATCA</i></p> <p>IFATCA has no views on this</p>
response	<p><i>Noted</i></p>
comment	<p>347 comment by: <i>German NSA</i></p> <p>From the perspective of the German NSA no action is required. The existing system (Richtlinie für sicherheitsrelevante Änderungen an funktionalen Systemen der Flugsicherung - Anmeldung, Sicherheitsdokumentation und Genehmigung) seems to work in it’s daily application and therefore shall be continued. Since the approach taken by the different ANSP with regard to the safety relevant changes varies widely in its application, it is worthy of consideration that the existing system should be further developed as AMC. This way a level playing field could be set for all ANSP in Europe. Since exemptions from AMC are possible, ANSPs should be left with sufficient room for manoeuvre.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment.</p> <p>After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, the Agency acknowledges the feedback to elevate the</p>

subject GM to AMC.

Furthermore, it should be noted that AMCs are non-essential and non-binding. AMCs serve as a means by which the requirements contained in the IRs can be met, offering, thus, the benefit of presumption of compliance. However, the regulated organisations may decide to show compliance with the requirements using other means and may propose an alternative means of compliance, based, or not, on those issued by the Agency. These alternative means of compliance (AltMoC) must only be used when it is demonstrated that the safety objective set out in the Implementing Rules is met.

AltMOC are defined as 'those that propose an alternative to an existing AMC or those that propose new means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules for which no associated AMC have been adopted by the Agency;'

Under ATM/ANS.AR.A.015, the competent authority must establish a system to assess the AltMOC used by itself or by the service provider under its oversight. In addition, when the competent authority develops AltMoC itself, it shall make them available to all organisations and persons under its oversight. The intention of the rule is not to prevent AltMOC from being developed by the competent authority for use by the organisation under its oversight. However, it should be noted that these, like the ones proposed by the organisation, remain alternatives, which must be assessed in accordance with ATM/ANS.AR.A.015 and which the organisation may decide to use or not. These AltMOC issued by the competent authority are not to be seen as 'mandatory' in any way and should be clearly identified as being alternatives ways to comply with the rules.

For further details on AMCs and AltMOCs, please refer to <http://easa.europa.eu/document-library/acceptable-means-compliance-amcs-and-alternative-means-compliance-altmocs>.

comment	<p>357 comment by: <i>Federal Office of Civil Aviation FOCA</i></p> <p>The GM is too prescriptive on how changes should be dealt with by the ANSP and NSA. The sections ATM/ANS.AR.C.020 and ATM/ANS.OR.A.035 as well as AMC need to be harmonized.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comments into consideration. The issue raised by the commentator was discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The commented provision (now becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) is redrafted aiming at harmonisation and consistency with the corresponding AMC related to the organisations on the same subject.</p>
comment	<p>399 comment by: <i>European Transport Workers Federation - ETF</i></p> <p>ETF is in favour of the elevation to AMC.</p>

response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p> <p>Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.</p>
comment	<p><i>411</i> comment by: <i>DFS Deutsche Flugsicherung GmbH</i></p> <p>DFS does not share EASA's view that requirements on other aviation domains need to be applied on ATM/ANS providers as well. Especially in the area of changes to the provision of their services, while airports and air operators do not have the special treatment for changes to the functional system. In order to harmonise application of such provisions (action guidelines), these should be made at the level of AMC. See also comment on EN 115 page 40. This shall be the case for the authority requirements (AR) similarly.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes due consideration of the comment.</p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the feedback to elevate the subject GM to AMC. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied and addressing the concern raised by the commentator.</p>
comment	<p><i>423</i> comment by: <i>ENAV</i></p> <p>As this is written in the style of AMC and will provide harmonisation across Europe in as far as it gets CA's to respond in a timely fashion, this should be AMC. A timely response is economically more efficient . We would appreciate the title to be changed to organisation Structure Changes to ATM/ANS providers as it better reflects the content and avoids confusion with functional changes to the system.</p>
response	<p><i>Partially accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the feedback to elevate the</p>

subject GM to an AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment 451 comment by: *Danish Transport Authority*

96. Changes GM1 ATM/ANS.AR.C.020
We support that the GM is elevated to AMC.

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.

Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision is redrafted (becomes AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) reflecting the IR requirements which clarify the different types of changes and the procedures required to be applied.

comment 475 comment by: *NATS National Air Traffic Services Limited*

GM1 ATM/ANS.AR.C.020 (a) appears to be a requirement on the ATM/ANS provider rather than the Competent Authority and would be better suited in OR. The method of being informed is not prescribed.

GM1 ATM/ANS.AR.C.020 (b) appears to be a requirement on the ATM/ANS provider rather than the Competent Authority and would be better suited in OR. There does not appear to be an existing explicit obligation on the ATM/ANS provider to send each management system documentation amendment to the Competent Authority. AMC1 ATM/ANS.OR.A.035 (b) means that changes to the ATM/ANS provider's management system require prior approval but does not explicitly require that the amendment is sent to the Competent Authority.

GM1 ATM/ANS.AR.C.020 (b)(1) and (2) should be elevated to AMC in order to give the process a degree of certainty and to have clear unambiguous requirements on the Competent Authority to respond in a timely manner to the ATM/ANS provider. There needs to be supporting text added to (1) and (2) such as:

“(b) Upon receipt of a management system documentation amendment from an ATM/ANS provider, which may include amendments that do not require prior approval, the competent authority should:

(1) where the amendment requires the competent authority's approval, the competent authority, when satisfied, should approve it in writing within 30 calendar days.

(2) where the amendment does not require prior approval, the competent authority should acknowledge receipt of the notification in writing within 10

	<p>working days.”</p> <p>Note that, as stated above, this proposal requires that the related OR is developed.</p> <p>Note that in (b) (1) NATS has proposed a 30 day response time rather than an undetermined period that could have safety implications depending upon the nature of the proposed amendment.</p> <p>GM1 ATM/ANS.AR.C.020 (c) should remain as GM in order to give the Competent Authority maximum flexibility for the most efficient use of resource and supports the notion of risk based oversight.</p> <p>GM1 ATM/ANS.AR.C.020 (d) should be elevated to AMC as it deals with non-compliances and actions to be taken. This is not appropriate as GM as it needs the legal certainty of AMC.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comments into consideration. The issue was discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject:</p> <ul style="list-style-type: none"> – with regard to GM1 ATM/ANS.AR.C.020(a) the commented provision (now AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)); – with regard to GM1 ATM/ANS.AR.C.020(b): a new AMC (please refer to AMC1 ATM/ANS.OR.A.040(b) 'Changes') is introduced to address the issue; – with regard to GM1 ATM/ANS.AR.C.020(b)(1);(2): the commented provision (now AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)) is redrafted to clarify the different types of changes and the procedures required to be applied; – with regard to GM1 ATM/ANS.AR.C.020(c): the commented provision is redrafted and the issue is addressed through separate AMC2 ATM/ANS.AR.C.024(b) on changes requiring prior approval; and – with regard to GM1 ATM/ANS.AR.C.020(d) (now AMC1 ATM/ANS.AR.C.025 (b) and AMC1 ATM/ANS.AR.C.025(c))(e)) is removed as it is already addressed in the IR, namely ATM/ANS.AR.C.025(c).
comment	<p>489 comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i></p> <p>FIT CISL is in favour of the elevation to AMC.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, the Agency acknowledges the overwhelming preference to elevate the subject GM to AMC.</p>

comment 113 ❖

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 54 Future evolution of the rule (A) 66 Article 2 (A) 101 ATM/ANS.AR.C.030 ATM/ANS.AR.C.035 (A) 116 ATM/ANS.OR.A.040 (A) 140 ATS.OR.210 ATS.OR.215	AESA fully supports the notion that the outcome of this NPA has to be merged with the outcome of the NPA related to RMT.0469 & RMT.0470 . This position has already been expressed by the Spanish ATM/ANS TAG at the TAG meetings held in 2013.	It is fundamental for the efficient introduction of the new regulation, in view of the importance of the activities covered by RMT.0469 & RMT.0470 , the complexity of the transition and the scarceness of resources available for it.

response *Accepted*

Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, the NPA resulting from the work of RMT.0469 is planned to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule, and risk analysis of changes.

Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion as described into the Explanatory Note to the CRD.

comment 126

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 97 ATM/ANS.AR.C.025 'Rules for possible suspension and	AESA would like to highlight the importance of this new requirement. Further to this, AESA would like to stress the	The rules for suspension and revocation should be applied in the same way for all Member States in order to avoid that

<p>revocation of certificates'</p>	<p>importance of developing a concrete set of rules applicable to all Member States.</p>	<p>providers be suspended in some States whilst giving services in others with the same conditions.</p>
<p>response <i>Noted</i></p>		

<p>comment</p>	<p>127</p>	<p>comment by: AESA / DSANA</p>						
<table border="1"> <thead> <tr> <th data-bbox="351 779 675 869">PART</th> <th data-bbox="675 779 1123 869">COMMENT</th> <th data-bbox="1123 779 1495 869">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td data-bbox="351 869 675 1323"> <p>(A) 97, 98 & 99 ATM/ANS.AR.C.025 'Rules for possible suspension and revocation of certificates'</p> </td> <td data-bbox="675 869 1123 1323"> <p>AESA wonders whether this requirement is really applicable in the ATM/ANS domain: either there is continuity of service or the certificate is suspended or revoked. Thus, requirement ATM/ANS.AR.C.025 is essentially not right.</p> </td> <td data-bbox="1123 869 1495 1323"> <p>It makes no sense to introduce a requirement of such a sensitive nature which is not practically workable in the ATM/ANS domain. Other possibilities should be explored in relation to the handling of findings and corrective actions.</p> </td> </tr> </tbody> </table>			PART	COMMENT	JUSTIFICATION	<p>(A) 97, 98 & 99 ATM/ANS.AR.C.025 'Rules for possible suspension and revocation of certificates'</p>	<p>AESA wonders whether this requirement is really applicable in the ATM/ANS domain: either there is continuity of service or the certificate is suspended or revoked. Thus, requirement ATM/ANS.AR.C.025 is essentially not right.</p>	<p>It makes no sense to introduce a requirement of such a sensitive nature which is not practically workable in the ATM/ANS domain. Other possibilities should be explored in relation to the handling of findings and corrective actions.</p>
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<p>(A) 97, 98 & 99 ATM/ANS.AR.C.025 'Rules for possible suspension and revocation of certificates'</p>	<p>AESA wonders whether this requirement is really applicable in the ATM/ANS domain: either there is continuity of service or the certificate is suspended or revoked. Thus, requirement ATM/ANS.AR.C.025 is essentially not right.</p>	<p>It makes no sense to introduce a requirement of such a sensitive nature which is not practically workable in the ATM/ANS domain. Other possibilities should be explored in relation to the handling of findings and corrective actions.</p>						
<p>response</p>	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>It is important to point out that the introduction of a finding classification scheme is a novelty in the subject NPA 2013-08. So far, the current legislation refers only to non-compliances without considering their significance. The new approach would provide for a convenient and straightforward system between findings and corrective actions, and is tailored to the oversight of service providers while ensuring the continuity of service.</p>							

<p>comment</p>	<p>128</p>	<p>comment by: AESA / DSANA</p>
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PART	COMMENT	JUSTIFICATION
<p>(A) 100 ATM/ANS.AR.C.025(e)(3) 'Rules for possible suspension and revocation of certificates'</p>	<p>AESA is not in favour of this disposition.</p>	<p>A finding is either level 1 or level 2. Raising the level of a level 2 finding to level 1 because of administrative matters goes against the nature of a level 1 finding. It brings noise into the system without enhancing the safety.</p> <p>Other possibilities should be explored in relation to the handling this issue for level 2 findings.</p>
<p>response</p>	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.</p>	
<p>comment</p>	<p>326 comment by: IFATCA</p> <p>para 101 Again we should not have to comment to unfinished NPA, where no further consultation is foreseen. This is not ideal for such an important piece of legislation.</p>	
<p>response</p>	<p><i>Noted</i></p> <p>Acknowledging the stakeholders' feedback from the NPA 2013-08 consultation, the NPA resulting from the work of RMT.0469 is planned to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule, and risk analysis of changes.</p> <p>Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion as described into the Explanatory Note to the CRD.</p>	

**A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 –
Annex II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS
(Part-ATM/ANS.OR) (Part I)**

p. 37-40

comment 13 comment by: CAA Norway

Please see our comment no. 7. We find the requirements for Declaration stricter than the ones for Limited Certificate.

response *Noted*

The Agency takes the comment into consideration.

The intent of the comment is addressed in the amendment of Article 7 (former Article 6) of the draft Regulation.

Article 7 implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging the comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness, consistency and clarification on the difference between a limited certificate and a declaration.

comment 25 comment by: EUROCONTROL

Page 40 - Para 115: ATM/ANS.OR.A.035

Opening statement in Para 115 *as already explained in Para 115* does not make sense as it is a circular reference (refers to itself).

response *Noted*

It should be read "As already explained in paragraph 114".

comment 26 comment by: EUROCONTROL

Page 40 - Para 115: ATM/ANS.OR.A.035

We do not support the proposal to elevate AMC1 ATM/ANS.OR.A.035 to IR level. As stated in the title of the AMC it is a procedure on how to address planned changes and consequently should not form part of 'hard law'. There could be

alternative procedures how the planned changes are addressed.

response *Accepted*

The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.

comment 129 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 111 ATM/ANS.OR.A.020 'Continued validity'	AESA agrees to the proposal of an unlimited validity to the ATM/ANS provider certificate.	This is the same situation as aircraft certificates. This is a suitable proposal in order to reduce the workload of the NSAs. However, a throughout risk assessment has to be carried out of the implications of this concept to the ATM system.

response *Noted*

comment 130 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 112 ATM/ANS.OR.A.025 Declaration by flight information services (FIS) providers	Notwithstanding the response to (A) 41 and further to what is stated in this paragraph, AESA would like to know if this scheme would include AFIS (aerodrome flight information service) provision. In the case of the AFIS provision in Spain, the certificate is a mandatory requirement according to Royal Decree 1133/2010.	It is important in order to ensure that the particular case of the Spain liberalisation is clearly and addressed to avoid any misunderstanding and potential conflicts in the future, in case that the declaration scheme is finally introduced in the regulation.

response *Noted*

The Agency takes note of the comment.

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services (note: including providers of aerodrome flight information services) shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. Acknowledging the comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness, consistency and clarification on the difference between a limited certificate and a declaration. Further GMs on the subject are introduced.

comment 327

comment by: *IFATCA*

115. ATM/ANS.OR.A.035 'Changes'. As already explained in paragraph 115, the first point of this provision originates from the former paragraph 2 of Article 6 of Commission Implementing Regulation (EU) No 1035/2011.
Typo?

response *Noted*

It should be read "As already explained in paragraph 114".

comment 381

comment by: *UK CAA*

Page No: 40

Paragraph No: 115, Question on changes.

Comment: This is related to the UK CAA comment above on AR.A.020. The clarity of the IR text (ATM/ANS OR.A.035) dealing with changes and prior approval needs to be improved. In the case of ATM/ANS it will be particularly important that the IR text used does not conflict with text being developed on safety assessment of changes being developed (by the SATF) for later inclusion under another rulemaking task. For this reason, the insertion of common text which has been used in other domains is unsuitable without further clarification of intent.

response *Noted*

The Agency takes note of the comment.

The subject was tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. Based on the outcome of the NPA consultation, the provision is significantly reworked to better clarify the issue, especially the scope of the changes.

Moreover, the Agency will issue a dedicated NPA on the provisions related to the assessment of changes to functional systems. The final outcome of the consultation of NPA 2013-08 and that of the following one will result in a single EASA Opinion.

comment 468

comment by: *Romanian Civil Aviation Authority*

Comment on Paragraph 115:

AMC1 ATM/ANS.OR.A.035 (b) to be retain as proposed.

Justification:

The proposed text contains implementation details of the requirements contained in ATM/ANS.OR.A.035(b).

response *Accepted*

The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.

**A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 –
Annex II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS
(Part-ATM/ANS.OR) - Invitation to comment (a)**

p. 40

comment 56

comment by: *AENA-NPA2013-08*

Page 40, Paragraph 115, ATM/ANS.OR.A.035.

We do not support the proposal to elevate AMC1 ATM/ANS.OR.A.035 to IR level. AMC 1 ATM/ANS.OR.A.035 b)should be kept as GM because including all elements of ATM/ANS.OR.B.015 a) as changes requiring prior approval implies an increase of administrative work that is not always justified by the importance of the changes.

response *Accepted*

The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.

Furthermore, the subject Implementing Rule provisions are amended as a result of the comments received. As such, the types of changes and the way in which

they are handled are clearly stated. The associated AMCs on the procedures now address:

- the changes requiring prior approval; and
- the changes that do not require prior approval.

It should be noted that the commented AMC is redrafted and resulted in AMC1 ATM/ANS.OR.A.040(b) and AMC2 ATM/ANS.OR.A.040(b) to reflect the improvements and enhance clarity.

comment

81

comment by: *Icelandic Transport Authority*

New proposal:

ATM/ANS.OR.A.035 Changes

(a) A certified ATM/ANS provider shall establish a procedure for the notification and management of changes. The procedure shall be approved by the appropriate competent authority and shall define the changes that require prior approval by the competent authority before the change is implemented.

(b) Any changes to the provision of services and functions which may affect the ATM/ANS provider's compliance with the applicable requirements or with the conditions attached to the certificate shall require prior approval by the competent authority. For such changes and for changes requiring prior approval in accordance with Regulation (EC) No 216/2008 and its Implementing Rules, the procedure shall define how the organisation shall apply for and obtain an approval issued by the competent authority:

(1) Applications shall be submitted before any such change is made in order to enable the competent authority to determine continued compliance with Regulation (EC) No 216/2008 and its Implementing Rules and also to amend, if necessary, the certificate and related conditions attached to it.

(2) Changes shall only be implemented upon receipt of approval by the competent authority in accordance with the procedure established by that authority.

(3) The ATM/ANS provider shall operate under the conditions prescribed by the competent authority during such changes, as applicable.

(c) Changes that do not require prior approval by the competent authority may be implemented after notification, or prior to notification as agreed upon in the ATM/ANS providers' procedure for changes.

response

Partially accepted

The subject Implementing Rule provisions are amended as a result of the NPA consultation. As such, the types of changes and the way in which they are handled are clearly stated. ATM/ANS.OR.A.045 (formerly ATM/ANS.OR.A.035) is redrafted to simplify and clarify the prior approval requirements. The associated AMCs on the procedures now address:

- the changes requiring prior approval; and
- the changes that do not require prior approval.

comment

93

comment by: *skyguide Corporate Regulation Management*

We are in favour of leaving AMC1 ATM/ANS.OR.A.035(b) at the level of AMC. The

response

provisions of the AMC are too detailed and would create too strongly constraining obligations should they be raised to the level of the IR.

Accepted

The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.

comment

131

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 115 ATM/ANS.OR.A.035 'Changes'	<p><i>Stakeholders are invited to comment whether the proposed 'AMC1 ATM/ANS.OR.A.035(b) Changes' should be elevated to IR level and align it with the requirements being proposed for other fields of aviation such as aerodromes or air traffic controller training organisations and being today applicable in the field of aircraft operations and flight crew license training organisations.</i></p> <p>AESA is not in favour of promoting the AMC to IR level.</p> <p>Further to this, AESA considers that the planned changes referred to under this requirement have to be fully defined in the AMC/GM (further to the changes not included detailed in paragraph (a)) in order to avoid misunderstanding in the application of the material.</p>	<p>The AMC ("soft law") is already strong enough for the enforcement of this requirement but leaves certain room for adjustment to local practices.</p> <p>This would set a level playing field and would harmonise/standardise the management of planned changes.</p>

response

Accepted

The Agency takes the comment into consideration, and the commented AMC is

not elevated to Implementing Rule provision.

Furthermore, the subject Implementing Rule provisions are amended as a result of the comments received. As such, the types of changes and the way in which they are handled are clearly stated. The associated AMCs on the procedures now address:

- the changes requiring prior approval; and
- the changes that do not require prior approval.

It should be noted that the commented AMC is redrafted and resulted in AMC1 ATM/ANS.OR.A.040(b) and AMC2 ATM/ANS.OR.A.040(b) to reflect the improvements and enhance clarity.

Further GMs are introduced.

comment 150 comment by: Prospect ATCOs' Branch UK

We are in favour of elevating the AMC to IR to ensure consistency with the requirements in other areas of aviation.

response *Not accepted*

After due consideration of the stakeholders' responses to the subject question, the commented AMC is not elevated to Implementing Rule provision.

comment 176 comment by: Swedish Transport Agency, Civil Aviation Department
(Transportstyrelsen, Luftfartsavdelningen)

115. Changes AMC1 ATM/ANS.OR.A.035(b) 40 Keep it as an AMC.

response *Accepted*

The Agency takes the comment into consideration, and the commented AMC is retained at AMC level.

comment 182 comment by: CAA Norway

This AMC should not be elevated to IR level even though that would align it with

response	<p>the requirements proposed for other fields of aviation. The content in the AMC is too detailed to be a part of the IR and the AMC would still be close to "law" for most european states.</p> <p><i>Accepted</i></p> <p>The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.</p>
comment	<p>192 comment by: CAA-NL</p> <p>Item 115: No, see our detailed comments and proposal on this point.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.</p>
comment	<p>221 comment by: <i>military safety expert/ safety management systeme inspector</i></p> <p>The explanatory note 115 and the IR text proposal are not matching. This is the same issue as already mentioned in the previous point regarding what it has to be notified. The procedure should define what has to be notified, approved.</p> <p><u>proposals :</u></p> <ul style="list-style-type: none"> • To define what is a change whether it is not a safety related. • To propose a procedure in order to describe the notification process, the approval process regarding changes. The procedure referred should define which changes should be notified, and which ones should be approved <p><u>Suggestions</u> _____: ATM/ANS.OR.A.035 - Put the IR in line with the explanatory note n°115: "(b) Any other change shall be notified—and managed following a procedure previously agreed between the ATM/ANS provider and its competent authority. This procedure shall define the changes that do not require notification to the competent authority and those that do not require prior approval by the competent authority before the change is implemented."</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes into consideration the comment.</p> <p>The subject Implementing Rule provisions are amended as a result of the NPA consultation. As such, the types of changes and the way in which they are</p>

handled are clearly stated. ATM/ANS.OR.A.045 (formerly ATM/ANS.OR.A.035) is redrafted to simplify and clarify the prior approval requirements. The associated AMCs on the procedures now address:

- the changes requiring prior approval; and
- the changes that do not require prior approval.

comment 238 comment by: *DSNA*

Move the AMC (a) to IR and merge with the (a) in IR. but define certain terms such as "key elements".
AMC (b) can remain as AMC.
This better aligns with aerodromes and air operations.

response *Partially accepted*

After due consideration of the stakeholders' responses to the subject question, the commented AMC is not elevated to Implementing Rule provision.
Furthermore, based on the NPA consultation and requests received a GM on "key elements" is introduced.

comment 284 comment by: *ROMATSA*

Comment:
AMC1 ATM/ANS.OR.A.035 (b) to be retain as proposed.

Justification:
The proposed text contains implementation details of the requirements contained in ATM/ANS.OR.A.035(b).

response *Accepted*

The Agency takes the comment into consideration, and the commented AMC is retained as proposed.

comment 328 comment by: *IFATCA*

IFATCA is in favor to elevate it to an IR

response *Not accepted*

After due consideration of the stakeholders' responses to the subject question, the commented AMC is not elevated to Implementing Rule provision.

comment	<p data-bbox="360 215 416 241">348</p> <p data-bbox="1118 215 1492 241">comment by: <i>German NSA</i></p> <p data-bbox="360 300 1492 488">The requirements are supported and are already contained in the administrative directive of the German NSA concerning NoC (Richtlinie für sicherheitsrelevante Änderungen an funktionalen Systemen der Flugsicherung - Anmeldung, Sicherheitsdokumentation und Genehmigung). From the perspective of the German NSA this document is comprehensible and sufficiently developed so that it could serve as an AMC.</p> <p data-bbox="360 526 1492 683">The principles contained in the document have been and are continuously presented in the manual WG concerning the FABEC Changes Procedure. Consequently an implementing rule (IR) is not supported. The implementation should be left up to the states and FABs, possibly by using AMC with regard to changes.</p>
response	<p data-bbox="360 712 443 739"><i>Noted</i></p> <p data-bbox="360 795 903 822">The Agency takes note of the comment.</p> <p data-bbox="360 846 1492 1099">It should be noted that AMCs are non-essential and non-binding. AMCs serve as a means by which the requirements contained in the IRs can be met, offering, thus, the benefit of presumption of compliance. However, the regulated organisations may decide to show compliance with the requirements using other means and may propose an alternative means of compliance, based, or not, on those issued by the Agency. These alternative means of compliance (AltMoC) must only be used when it is demonstrated that the safety objective set out in the Implementing Rules is met.</p> <p data-bbox="360 1122 1492 1245">AltMOC are defined as 'those that propose an alternative to an existing AMC or those that propose new means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules for which no associated AMC have been adopted by the Agency;'</p> <p data-bbox="360 1267 1492 1615">Under ATM/ANS.AR.A.015, the competent authority must establish a system to assess the AltMOC used by itself or by the service provider under its oversight. In addition, when the competent authority develops AltMoC itself, it shall make them available to all organisations and persons under its oversight. The intention of the rule is not to prevent AltMOC from being developed by the competent authority for use by the organisation under its oversight. However, it should be noted that these, like the ones proposed by the organisation, remain alternatives, which must be assessed in accordance with ATM/ANS.AR.A.015 and which the organisation may decide to use or not. These AltMOC issued by the competent authority are not to be seen as 'mandatory' in any way and should be clearly identified as being alternatives ways to comply with the rules.</p> <p data-bbox="360 1626 1492 1720">For further details on AMCs and AltMOCs, please refer to http://easa.europa.eu/document-library/acceptable-means-compliance-amcs-and-alternative-means-compliance-altmocs.</p>
comment	<p data-bbox="360 1809 416 1836">400</p> <p data-bbox="671 1809 1492 1836">comment by: <i>European Transport Workers Federation - ETF</i></p> <p data-bbox="360 1895 995 1921">ETF is not opposed to the elevation at IR level.</p>
response	<p data-bbox="360 1951 539 1977"><i>Not accepted</i></p>

After due consideration of the stakeholders' responses to the subject question, the commented AMC is not elevated to Implementing Rule provision.

comment 412 comment by: *DFS Deutsche Flugsicherung GmbH*

DFS does not share EASA's view that requirements on other aviation domains need to be applied on ATM/ANS providers as well. Especially in the area of changes to the provision of their services, while airports and air operators do not have the special treatment for changes to the functional system. Such action guidelines shall remain at the level of AMC, see also our comment to EN 96 page 36. However, we recommend deletion of ATM/ANS.OR.A.035 (b) due to the given argument (extra treatment for changes to functional systems exist) - see also our comment on Part B.

response *Accepted*

The subject Implementing Rule provisions are amended as a result of the comments received. As such, the types of changes and the way in which they are handled are clearly stated. The associated AMCs on the procedures now address:

- the changes requiring prior approval; and
- the changes that do not require prior approval.

It should be noted that the commented AMC is redrafted and resulted in AMC1 ATM/ANS.OR.A.040(b) and AMC2 ATM/ANS.OR.A.040(b) to reflect the improvements and enhance clarity.

comment 452 comment by: *Danish Transport Authority*

115. Changes AMC1 ATM/ANS.OR.A.035(b)
Keep it as an AMC.

response *Accepted*

The Agency takes the comment into consideration, and the commented AMC is not elevated to Implementing Rule provision.

comment 476 comment by: *NATS National Air Traffic Services Limited*

AMC1 ATM/ANS.OR.A.035 (b) (a) should be elevated to IR and rewritten. The text is not appropriate as AMC to ATM/ANS.OR.A.035 (b) as it states those changes which require prior approval whereas ATM/ANS.OR.A.035 (b) addresses all other changes (that do not require prior approval). Propose the following amendment to ATM/ANS.OR.A.035 (a):
"ATM/ANS.OR.A.035 Changes
(a) A certified ATM/ANS provider shall notify the competent authority of:
(1) planned changes to its provision of services and functions which may affect its

compliance with the applicable requirements or with the conditions attached to the certificate;
 (2) any changes to the key elements of the ATM/ANS provider's management system as required in ATM/ANS.OR.B.015(a); and
 (3) any additional changes to elements as found necessary by the ATM/ANS provider in agreement with the competent authority and approved by that competent authority.
 These changes shall require prior approval by the competent authority."
 AMC1 ATM/ANS.OR.A.035 (b) (b) is not appropriate text as AMC to ATM/ANS.OR.A.035 (b) as it relates to those changes which require prior approval whereas ATM/ANS.OR.A.035 (b) addresses all other changes (that do not require prior approval). The "procedure" referred to in this AMC appears to be at odds with the "procedure" in the related IR. It is proposed that (b) is rewritten and appended to the revised ATM/ANS.OR.A.035 (a) proposed above.

response *Partially accepted*

The subject Implementing Rule provisions are amended as a result of the comments received. As such, the types of changes and the way in which they are handled are clearly stated. The associated AMCs on the procedures now address:

- the changes requiring prior approval; and
- the changes that do not require prior approval.

It should be noted that the commented AMC is redrafted and resulted in AMC1 ATM/ANS.OR.A.040(b) and AMC2 ATM/ANS.OR.A.040(b) to reflect the improvements and enhance clarity.

Furthermore, considering the comment, a GM on key elements is proposed.

comment 491 comment by: *comments provided on behalf of FIT/CISL Italian trade union*

FIT CISL is not opposed to the elevation at IR level.

response *Not accepted*

After due consideration of the stakeholders' responses to the subject question, the commented AMC is not elevated to Implementing Rule provision.

**A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 –
 Annex II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS
 (Part-ATM/ANS.OR) (Part II)**

p. 40-42

comment 27

comment by: *EUROCONTROL*

Page 41 - Para 124

ISO 9001 certification should be retained as an AMC.
 The argument given in the explanation is not valid to justify its removal. In fact such an argument could indicate that the ISO certification was not performed properly, e.g. not done by a suitably accredited organisation. Another factor might be that the QMS established does not actually meet the IR requirements.

response *Accepted*

Considering the NPA consultation outcome, the commented AMC is retained, it is renumbered, however, to AMC1 ATM/ANS.OR.B.005(a).

comment 57 comment by: AENA-NPA2013-08

Page 41, Paragraph 124.
 We believe that the proposed AMC1 ATM/ANS.OR.B.015 'Management system' (ISO 9001 certification as AMC should be kept).
 The argument given in the explanation is not valid to justify its removal. In fact such an argument could indicate that the ISO certification was not performed properly, e.g. not done by a suitably accredited organisation. Another factor might be that the QMS established does not actually meet the IR requirements.
 Contrary to the justifications given in GM1 ATM/ANS.OR.B.015 (a), the regulations mentioned below require risk assessment and mitigation with regards to changes for AIS and ATFM providers.
Commision Regulation (EU) 255/2010 (ATFM safety requirements) in its article 13 establishes that Member States shall ensure that a safety assessment, including hazard identification, risk assessment and mitigation, is conducted, before any significant changes to ATFM systems and procedures are introduced, including an assessment of a safety management process addressing the complete lifecycle of the air traffic management system.
Commision Regulation (EU) No 73/2010 in its article 10 .3 establishes that the parties referred to in Article 2(2) shall ensure that any changes to the existing systems referred to in the first subparagraph of Article 2(1) or the introduction of new systems are preceded by a safety assessment, including hazard identification, risk assessment and mitigation, conducted by the parties concerned.

response *Accepted*

Considering the NPA consultation outcome, the commented AMC is retained, it is renumbered, however, to AMC1 ATM/ANS.OR.B.005(a).

comment 113 ❖ comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 54 Future evolution of the rule	AESA fully supports the notion that the outcome of this NPA has to be merged	It is fundamental for the efficient introduction of the new regulation, in view of the importance of the activities

(A) 66 Article 2 (A) 101 ATM/ANS.AR.C.030 ATM/ANS.AR.C.035 (A) 116 ATM/ANS.OR.A.040 (A) 140 ATS.OR.210 ATS.OR.215	with the outcome of the NPA related to RMT.0469 & RMT.0470 . This position has already been expressed by the Spanish ATM/ANS TAG at the TAG meetings held in 2013.	covered by RMT.0469 & RMT.0470 , the complexity of the transition and the scarceness of resources available for it.
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response *Noted*

Based on the outcome of the NPA consultation and the stakeholders' advice received during the focussed consultation organised after its closure, the Agency plans to issue one opinion in the 4th quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on assessment of changes to functional systems (resulting from the work of RMT.0469) after being consulted. This Opinion will include also the technical requirements for the provision of meteorological services and could contain also other proposals such as DAT, when the deliverables are being consulted.

comment 382

comment by: UK CAA

Page No: 42

Paragraph No: 124, Question on management system

Comment: The UK CAA supports the text of the explanatory note as an improvement to the SMS/ QMS requirements from Commission Regulation (EU) 1035/2011.

response *Accepted*

Considering the NPA consultation outcome, the commented AMC is retained, it is renumbered, however, to AMC1 ATM/ANS.OR.B.005(a).

A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 – Annex II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) - Invitation to comment (b)

p. 42

comment	63	comment by: AENA-NPA2013-08
	<p>Page 43, Paragraph 126 continued. We believe that the proposed ATM/ANS.OR.B.025 'Human Resources' should be removed as it is a considered with in ATM/ANS.OR.B.15 (a) (6).</p>	
response	<p><i>Accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).</p>	

comment	83	comment by: Icelandic Transport Authority
	<p>We support keeping the requirement. The AMC1 ATM/ANS.OR.B.015 Management system ISO 9001 CERTIFICATE FOR AIR NAVIGATION SERVICE PROVIDERS should be kept. The AMC text, "...An EN ISO 9001 certificate, issued by an appropriately accredited organisation, addressing all the elements required in this Subpart" ensures that all elements of ATM/ANS.OR.B.015 are addressed witin the QMS that is EN ISO 9001 certified.</p>	
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered to AMC1 ATM/ANS.OR.B.005(a).</p>	

comment	94	comment by: skyguide Corporate Regulation Management
	<p>We are in favour of keeping the provisions as AMC.</p>	
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.</p>	

comment	132	comment by: AESA / DSANA							
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">PART</th> <th style="width: 40%;">COMMENT</th> <th style="width: 30%;">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td>(A) 124 ATM/ANS.OR.B.015 ATM/ANS.OR.B.025</td> <td><i>Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management</i></td> <td>The need to have a training and recruitment policy is only established in requirement</td> </tr> </tbody> </table>			PART	COMMENT	JUSTIFICATION	(A) 124 ATM/ANS.OR.B.015 ATM/ANS.OR.B.025	<i>Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management</i>	The need to have a training and recruitment policy is only established in requirement
PART	COMMENT	JUSTIFICATION							
(A) 124 ATM/ANS.OR.B.015 ATM/ANS.OR.B.025	<i>Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management</i>	The need to have a training and recruitment policy is only established in requirement							

<p>'Management system' (A) 126</p>	<p><i>system' should be kept or removed and to provide justifications for it.</i></p>	<p>ATM/ANS.OR.B.025 on Human Resources.</p>
<p>ATM/ANS.OR.B.025 'Human resources'</p>	<p><i>Stakeholders are invited to comment whether the proposed ATM/ANS.OR.B.025 'Human resources' should be kept or removed taking into account the requirements introduced in the management system ATM/ANS.OR.B.015(a)(6) and in ATS.OR.220 and the justification for it.</i></p>	<p>This is in spite of the fact that training and competence requirements are covered by the following requirements: - Requirement ATM/ANS.OR.B.015(6), which establishes the need to have trained personnel; - Requirement ATS.OR.205(d)(1), which says that, within the operation of the SMS, personnel must be trained and competent, in addition to properly licensed (when applicable); and - Requirement ATS.OR.225, which establishes the particular requirements that personnel undertaking operational safety-related tasks must fulfil.</p>
<p>Requirement ATM/ANS.OR.B.025 shouldn't be removed. However, this requirement should not be left at this embryonic stage but should be developed in detail within the regulation.</p>		

response *Accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).

comment 140

comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency supports keeping the "Management system" in AMC1, whereas it still provides the competent authority necessary means to check compliance if and when necessary.

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in

the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment

177

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

**124. Management System AMC1
ATM/ANS.OR.B.015**

42 Keep the soft law regarding ISO 9001 as an AMC.

response

Accepted

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment

183

comment by: *CAA Norway*

The possibility of accepting an ISO certificate as AMC should be kept. If there are areas in the provision of ANS which are not covered by the ISO certificate the CA should discover it in the oversight process.

The idea of encouraging integration of all management systems being required is good and the Management requirement should be kept. This will hopefully limit the total size of all management systems in an ATM/ANS provider, which currently is growing in an unhealthy way. It would also force the ATM/ANS provider to find the common parts in the different management system and hopefully be able to simplify the their Management Systems.

response

Accepted

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment

193

comment by: *CAA-NL*

Item 124: We are in favor of the possible use of ISO certification, we are positive to the use of industry standards in general where possible. However we have one comment to the current text, see our detailed comment to introduce a New AMC to ATS.OR.205(a)(1).

response *Accepted*

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment **208** comment by: *CANSO Civil Air Navigation Services Organization*

<p>124. AMC1 ATM/ANS.OR.B.015 'Management system</p>	<p>Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management system' should be kept or removed and to provide justifications for it.</p>	<p>Keep the AMC. As ANSPs are often certified according to ISO standards, changing this would incur unnecessary cost. Therefore, it makes sense to keep ISO as an AMC.</p>
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response *Accepted*

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment **222** comment by: *military safety expert/ safety management systeme inspector*

AMC based on the ISO certification as a means of compliance should be held. The investments (human, financial and procedural resources over the years) done by many ASNP to obtain and maintain ISO certification should not be wasted. In addition, stopping ISO process could lead additional surveillance costs. Finally, the *benefit* of ISO certification reflects on the whole organisation and is a contributing organisational factor for safety management. You should take into account that all the ISO systems already implemented are efficient because there is an ongoing following process.

response *Accepted*

After due consideration of the stakeholders’ responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment	<p data-bbox="363 208 414 246">239</p> <p data-bbox="1209 208 1498 246" style="text-align: right;">comment by: <i>DSNA</i></p> <p data-bbox="363 297 1498 560"> Keep the ISO9001 as an AMC. This is a major component of an Integrated Management System and is beneficial to all aspects covered, ie. safety, security, environment and quality. EASA is encouraged to proceed further and recognised that setting up an Integrated Management System is beneficial for ensuring that the organisation is properly managed to ensure that Performance targets (including safety) are met and that surveillance by NSA is performed appropriately at the right level (risk based oversight). </p> <p data-bbox="363 589 491 622"><u>Rationale</u></p> <p data-bbox="363 622 1498 918"> As part of their management system, ANSPs are often certified according to ISO standards, This ensures that complementarity is achieved between different elements of the Management System, i.e. <u>safety, security, environment and quality</u>. Changing this would incur unnecessary cost and would negate the investment done by the organisation for more than 10 years to reach a mature ISO standard. This would also threatens the Integrated Management System put in place as a coherent and useful mechanism for ensuring that all aspects impacting safety are taken into consideration. </p>
response	<p data-bbox="363 963 491 1008"><i>Accepted</i></p> <p data-bbox="363 1059 1498 1153"> After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though. </p>
comment	<p data-bbox="363 1232 414 1276">256</p> <p data-bbox="1209 1232 1498 1276" style="text-align: right;">comment by: <i>PANSA</i></p> <p data-bbox="363 1328 1498 1400"> <i>This provision should be kept as AMC. Since ANSPs are often certified according to ISO standards, changing this would incur unnecessary cost.</i> </p>
response	<p data-bbox="363 1411 491 1456"><i>Accepted</i></p> <p data-bbox="363 1507 1498 1601"> After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though. </p>
comment	<p data-bbox="363 1680 414 1724">286</p> <p data-bbox="1161 1680 1498 1724" style="text-align: right;">comment by: <i>ROMATSA</i></p> <p data-bbox="363 1776 1050 1848"> Paragraph 124, AMC1 ATM/ANS.OR.B.015 `Management system </p> <p data-bbox="363 1877 1498 2004"> Comment: We propose to keep the AMC. As ANSPs are often certified according to ISO standards, changing this would incur unnecessary cost. Therefore, it makes sense to keep ISO as an AMC. </p>

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment 299 comment by: *AvinorANSP*

Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management system' should be kept or removed and to provide justifications for it.

Keep the AMC. As ANSPs are often certified according to ISO standards, changing this would incur unnecessary cost. Therefore, it makes sense to keep ISO as an AMC.

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.

comment 329 comment by: *IFATCA*

IFATCA has no views on it. However if ISO 9001 is a possible compliance this is clearly not enough. Further it might be important to align this provision with Annex 19 of ICAO.

response *Noted*

The Agency takes the comment into consideration.

comment 350 comment by: *German NSA*

Those requirements do not pose a change or impose new requirements and therefore should be kept in their current form.

response *Accepted*

After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is

renumbered though.

comment	358	comment by: <i>Federal Office of Civil Aviation FOCA</i>
response	<p>FOCA supports the proposal to remove the ISO9001 from the AMC. However, the authority shall be given the competence to repeal the validity of a ISO 9001 certification if doubts arise on the appropriateness of this certification.</p> <p><i>Not accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.</p>	
comment	413	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
response	<p>DFS is an ISO certified organisation. We fully support the remainder of this requirement as AMC. Not least because of the requirements of Regulation 2096/2005 DFS maintains the ISO certificate for evidence. The good experience to use and also maintain the ISO certificate as a means of compliance to SES requirements supports our position towards this AMC.</p> <p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.</p>	
comment	428	comment by: <i>ENAV</i>
response	<p>Keep the AMC. As ANSPs are often certified according to ISO standards, changing this would incur unnecessary cost. Therefore, it makes sense to keep ISO as an AMC.</p> <p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.</p>	
comment	453	comment by: <i>Danish Transport Authority</i>
	<p>124. Management System AMC1 ATM/ANS.OR.B.015</p> <p>We suggest to keep the soft law regarding ISO 9001 as an AMC, for the very reason that it's difficult to see the consequences if the ISO9001 is not an AMC.</p>	

response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is renumbered though.</p>
comment	<p>457 comment by: ENAV</p> <p>Proposal for rewording</p> <p>Old</p> <p><i>Air navigation services and air traffic flow management providers and the Network Manager shall ensure the security clearance of their personnel, if appropriate, and coordinate with the relevant civil and military authorities to ensure the security of their facilities, personnel and data"</i></p> <p>New proposal</p> <p>"Air navigation services and air traffic flow management providers and the Network Manager shall ensure the security clearance of their personnel. appropriate and coordinate with the relevant civil and military authorities to ensure the security of their facilities, personnel and data"</p> <p>Member States shall ensure coordination among relevant civil and military authorities and Air navigation service providers within the National Civil Aviation Security Programme, in compliance with Annex 17 to Chicago Convention."</p>
response	<p><i>Not accepted</i></p> <p>The commented provision is sourced from point 4 of Annex I to the existing Regulation (EU) No 1035/2011, and, at the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements unless it is clearly justified.</p>
comment	<p>477 comment by: NATS National Air Traffic Services Limited</p> <p>AMC1 ATM/ANS.OR.B.015 should be retained unless it can be ascertained that no ANS provider uses this means of compliance currently or will not be using this means of compliance when the rule comes into force. Should there be ANS providers using this means of compliance then, if EASA deem that it is not sufficient, an appropriate transition period should be allowed for unless the ANS provider can demonstrate that the certification process meets all of the relevant EASA provisions</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the question asked in the Explanatory Note, AMC1 ATM/ANS.OR.B.015 is retained as AMC; it is</p>

renumbered though.

The text of the subject AMC is sourced from point 3.2 of Annex I to Regulation (EU) No 1035/2011, and the Agency foresees that the ANSPs that are compliant with this requirement today would be able to demonstrate compliance in the same way with ATM/ANS.OR.B.005.

comment	490	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
		No opinion
response		<i>Noted</i>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 5 – Annex II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS p. 42-43
(Part-ATM/ANS.OR) (Part III)

comment	28	comment by: <i>EUROCONTROL</i>
		Page 42 - Para 125 Typo error in title. Confirm that it is ATM/ANS.OR.B.020
response		<i>Noted</i>
		The Agency confirms that it refers to ATM/ANS.OR.B.020 in the Explanatory Note to NPA 2013-08.

comment	29	comment by: <i>EUROCONTROL</i>
		Page 42 - Para 125 It is necessary to clarify what is meant by subcontractors. The NPA 2013-8 (A) Explanatory Note and the Requirements in NPA 2013-8 (B) page 39 are not consistent because ATM/ANS.OR.B.020 speaks of contractors (<i>access to contracted organisation</i>) while the NPA 2013-8 (A) Explanatory Note speaks of subcontractors (<i>competent authority is provided access to the subcontractors' facilities</i>). There is also reference to subcontracted organisations in ATS.OR.225.
response		<i>Accepted</i>
		The Agency takes the comment in due consideration

The necessary amendments are made to the commented provisions to align the terminology aiming at avoidance of unambiguity.

comment 30 comment by: EUROCONTROL

Page 42 - Para 126

Reference to Article 5 of EU 1035/2011 is incorrect because this article deals with derogations.

The appropriate reference should be paragraph 5 of Annex I of EU 1035/2011.

response *Noted*

As correctly mentioned by the commentator it should read 'point 5 of Annex I to Regulation (EU) No 1035/2011'.

comment 31 comment by: EUROCONTROL

Page 43 - Para 126 continued

Training is only one element of competency. Recommend rewording the text to avoid the misconception that competence is acquired via training only.

A definition of *competency (competence)* should be added in NPA 2013-8 (B) Article 2 Definitions.

Competence is taken to mean possession of the required level of knowledge, skills, experience and where required, proficiency in English, to permit the safe and efficient provision of ATM services.

(ESARR 5 ATM Services' Personnel Para 2 Rationale)

response *Partially accepted*

The Agency takes the comment into consideration.

'Training programme' is deleted and the term 'formal process' is amended. The Agency does not consider that a definition for 'competency' is necessary.

comment 197 comment by: CAA Norway

ATM/ANS.OR.B.025 should be kept since the requirement is wider than the requirements introduced in ATM/ANS.OR.B.015(a)(6) and in ATS.OR.220. ATM/ANS.OR.B.025 also require the AMT/ANS provider to establish policies for recruitment and to employ appropriately skilled personnel. The other paragraphs only deals with the training of already employed personnel.

response *Not accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) to address the issue raised by the commentator. The issue was also tabled and thoroughly discussed at the focussed review meetings

organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment

257

comment by: PANSA

ATM/ANS.OR.B.025 shall be deleted and ATM/ANS.OR.B.015(a)(6) shall be re-worded as follows:

A management system that includes...

a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner.

In this context, policies for the recruitment and training of personnel shall be established.

All subsequent GM and AMC and other references need to be updated accordingly.

response

Accepted

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with slight improvement of the text. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment

366

comment by: EUROCONTROL Safety Team

Page 42 Para 125

It is necessary to clarify what is meant by subcontractors.

The NPA 2013-8 (A) Explanatory Note and the Requirements in NPA 2013-8 (B) page 39 are not consistent because ATM/ANS.OR.B.020 speaks of contractors (*access to contracted organisation*) while the NPA 2013-8 (A) Explanatory Note speaks of subcontractors (*competent authority is provided access to the subcontractors' facilities*). There is also reference to subcontracted organisations in ATS.OR.225.

It is proposed that the IR and supporting AMCs/GM refer only to 'primary contractor'. Definitions of 'contractor' and 'primary contractor' are proposed below:

- Contractor:

Independent entity that agrees to furnish certain number or quantity of goods, material, equipment, personnel, and/or services that meet or exceed stated requirements or specifications, at a mutually agreed upon price and within a specified timeframe to another independent entity called contractor, principal, or project owner. In this case the other independent entity is the ATM/ANS provider (adapted from BusinessDictionary.com).

- Primary Contractor

An individual or entity that has a direct contractual relationship with the client or owner of the project. In this case the 'client or owner of the project' is the ATM/ANS provider (adapted from University of Colorado, 1997).

response

Partially accepted

	<p>The Agency takes the comment in due consideration.</p> <p>The necessary amendments are made to the commented provisions to align the terminology aiming at avoidance of unambiguity.</p>	
comment	369	comment by: <i>EUROCONTROL Safety Team</i>
	<p>Page 43 Para 126 continued</p> <p>Training is only one element of competency. Recommend rewording the text to avoid the misconception that competence is acquired via training only.</p> <p>Proposed text: A competency programme that ensures personnel are trained and competent to perform their duties.</p> <p>The proposed text is in line with AMC1ATM/ANS.OR.B.015(a)(6), which speaks first of competence then training. Training is only one element of competency.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration.</p> <p>'Training programme' is deleted and the term 'formal process' is amended.</p>	
comment	370	comment by: <i>EUROCONTROL Safety Team</i>
	<p>Page 43 Para 126 continued</p> <p>A definition of <i>competency (competence)</i> should be added in NPA 2013-8 (B) Article 2 Definitions.</p> <p><i>Competence is taken to mean possession of the required level of knowledge, skills, experience and where required, proficiency in English, to permit the safe and efficient provision of ATM services.</i></p> <p>(ESARR 5 ATM Services' Personnel Para 2 Rationale)</p>	
response	<i>Not accepted</i>	
	<p>The Agency does not consider that a definition for 'competency' is necessary.</p>	
comment	469	comment by: <i>Romanian Civil Aviation Authority</i>
	<p>Comment on Paragraph 126:</p> <p>The proposed ATM/ANS.OR.B.025 'Human resources' should be kept in the Regulation.</p> <p>Justification:</p> <p>In our understanding the requirement refers to ATM/ANS personnel, not only to ATCos and ATSEP. ATS.OR.220 refers to ATCo licensing and ATS.OR.225 (d) refers to Annex XII, related to ATSEP training and competence assessments. Your proposal also keeps ATM/ANS.OR.B.025 as applicable rule for FIS providers applying for a limited certificate according to ATM/ANS.OR.B.015 (b)(2) – see Part C - GM1 ATM/ANS.OR.A.015 table 1, 3rd row. Furthermore in para. 52 (Rule</p>	

	structure),) it is stated that the Agency has the intention to assess if there is a need to complement Annex XII (Specific requirements for ATM/ANS providers regarding personnel training and competence assessment requirements) with specific requirements for the training of other personnel.
response	<p><i>Not accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 5 – Annex II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – Invitation to comment (c)	p. 43
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comment	64	comment by: AENA-NPA2013-08
	<p>Page 43, Paragraph 126 continued.</p> <p>We believe that the proposed ATM/ANS.OR.B.025 'Human Resources' should be removed as it is considered with in ATM/ANS.OR.B.15 (a) (6).</p>	
response	<p><i>Accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>	

comment	84	comment by: Icelandic Transport Authority
	<p>It is our view that either this requirement is kept unchanged or the ATM/ANS.OR.B.015(a) be revised to include a provision on the recruitment and employment of appropriately skilled personnel.</p>	
response	<p><i>Accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>	

comment	<p>95</p> <p style="text-align: right;">comment by: <i>skyguide Corporate Regulation Management</i></p> <p>We are in favour of removing ATM/ ANS.OR.B.025 since its content is already covered in ATM/ANS.OR.B.015(a)(6) and in ATS.OR.225.</p>
response	<p><i>Accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>

comment	<p>132 ❖</p> <p style="text-align: right;">comment by: <i>AESA / DSANA</i></p>						
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response *Not accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment *141*

comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency supports keeping the present format.

response *Not accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment *153*

comment by: *Prospect ATCOs' Branch UK*

We support the deletion of ATM/ANS.OR.B.025 but to keep ATS.OR.220 in order to require compliance with the ATCO Licensing and medical certification requirements by an ATS provider. Furthermore after fruitful discussions with CANSO we support their proposal to amend ATM/ANS.OR.B.015(a)(6) to:

A management system that includes..

a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established.

The subsequent AMC and GM together with other references will need to be updated as required.

response *Accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with

further valuable advice on how to proceed with the subject.

comment

178

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

**126. Human Resources
ATM/ANS.OR.B.025**

43

We support the removal of the paragraph. It is covered by ATM/ANS.OR.B.015 (a) (6).

response

Accepted

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment

194

comment by: *CAA-NL*

Item 126: ATM/ANS.OR.B.025 is a somewhat broader requirement as it is not just about training and licensing, but also relates to appropriate skilled personnel and recruitment policy. If these would be incorporated in ATM/ANS.OR.B.015(a), then B.025 could be deleted.

response

Accepted

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment

198

comment by: *CAA Norway*

Ref comment # 197

response

Noted

comment 209

comment by: *CANSO Civil Air Navigation Services Organization*

126.
ATM/ANS.OR.B.025
'Human resources

Stakeholders are invited to comment whether the proposed ATM/ANS.OR.B.025 'Human resources' should be kept or removed taking into account the requirements introduced in the management system ATM/ANS.OR.B.015(a)(6) and in ATS.OR.220 and the justification for it.

We propose to delete ATM/ANS.OR.B.025 and re-word ATM/ANS.OR.B.015(a)(6) as follows:
A management system that includes...
a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established. All subsequent GM and AMC and other references need to be updated accordingly.

response *Accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with a slight improvement of the wording. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment 223

comment by: *military safety expert/ safety management systeme inspector*

This requirement introduces the necessity to manage staff recruitment in order to ensure the provision of services in a continuous manner. This notion of continuity is not present in the other referenced portion of text.

response *Noted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed

at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment 240 comment by: *DSNA*

We propose to delete ATM/ANS.OR.B.025 and re-word ATM/ANS.OR.B.015(a)(6) as follows:
A management system that includes...
 a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established.
 All subsequent GM and AMC and other references need to be updated accordingly.

response *Accepted*

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with a slight improvement of the wording. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment 269 comment by: *Copenhagen Airports A/S*

Item 126:
 ATM/ANS.OR.B.025 'Human resources' is to be kept.
 This item should be retained despite the fact that the training is covered by other sections of the management system. It is equally important that HR has focussed on, that this is a special group of employees (ATSEP) and is aware of it in the screening and recruitment and hiring processes.

response *Not accepted*

Considering the outcome of the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment 285 comment by: *ROMATSA*

Paragraph 126

Comment:

The proposed ATM/ANS.OR.B.025 'Human resources' should be kept in the Regulation.

	<p>Justification:</p> <p>In our understanding the requirement refers to ATM/ANS personnel, not only to ATCos and ATSEP. ATS.OR.220 refers to ATCo licensing and ATS.OR.225 (d) refers to Annex XII, related to ATSEP training and competence assessments. Your proposal also keeps ATM/ANS.OR.B.025 as applicable rule for FIS providers applying for a limited certificate according to ATM/ANS.OR.B.015 (b)(2) – see Part C - GM1 ATM/ANS.OR.A.015 table 1, 3rd row. Furthermore in para. 52 (Rule structure),) it is stated that the Agency has the intention to assess if there is a need to complement Annex XII (Specific requirements for ATM/ANS providers regarding personnel training and competence assessment requirements) with specific requirements for the training of other personnel.</p>
response	<p><i>Not accepted</i></p> <p>Considering the outcome of the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>
comment	<p>300 comment by: <i>AvinorANSP</i></p> <p>We propose to delete ATM/ANS.OR.B.025 and re-word ATM/ANS.OR.B.015(a)(6) as follows: <i>A management system that includes...</i> a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established. All subsequent GM and AMC and other references need to be updated accordingly.</p>
response	<p><i>Accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with a slight improvement of the wording. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>
comment	<p>330 comment by: <i>IFATCA</i></p> <p>Should be kept in, to be sure that it is being addressed in an adequate manner. The human capital (resources and HF) are too important in numbers to have included elsewhere. ATM/ANS.OR.B.025 Human resources ATM/ANS provider shall employ appropriately skilled personnel to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, it shall establish policies for the recruitment and training of personnel</p>

in accordance with ATM/ANS.OR.B.015(a)(6).
 ATM/ANS.OR.B.015(a)(6) a training programme that ensures that personnel are trained and competent to perform their duties; and
 ATS.OR.220 Licensing and medical certification requirements for air traffic controllers
 Air traffic services providers shall ensure that air traffic controllers are properly licensed and hold a valid medical certificate in accordance with Commission Implementing Regulation (EU) No XXX/XXXX.
 Recent examples by one European country using Alternative Means of Compliance show, that somebody can buy an air traffic controller license, train itself within 90 days and assess itself for final check out. Prior to the change of the air navigation law to reflect the alternative means of compliance, there was a selection process at least 24 month of training and real OJTI as well as exams. Anything which will prevent the current downgrading of safety standards and any ICAO and EU standards shall be prevented. Therefore ATM/ANS.OR.B.024 shall remain.

response *Not accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) to address the issue raised by the commentator. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment 351

comment by: *German NSA*

In case the requirements with regard to the management system are kept, the proposal to remove the provisions concerning ATM/ANS.OR.B.025 'Human resources' is supported.

response *Accepted*

Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment 359

comment by: *Federal Office of Civil Aviation FOCA*

FOCA supports that the ATM/ANS.OR.B.025 remains in the future regulation. ATM/ANS.OR.B.015 prescribes that the personnel needs to be trained and be competent. Interpretation should be avoided that only ongoing-training will be considered as mandatory.
 It's essential that the providers set up guidelines on what the basic skills for personnel for the specific functions are. Based on this, a gap-analysis should be conducted for newly employed personnel. ATM/ANS.OR.B.025 'Human resources' seems to assure such a proceeding.

response	<p><i>Not accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>
comment	<p>383 comment by: UK CAA</p> <p>Page No: 43 Paragraph No: 126, Question on Human Resources . Comment: Given that ATM/ANS.OR.B.025 is derived from a concise and simple existing regulation, UK CAA considers that it is therefore unnecessary to introduce the new, and less concise, article ATM/ANS.OR.B.015. Reference to the ATSEP Annex should simply be added to the existing wording at OR.B.025. ATS.OR.220 does not seem to be a relevant article as it deals with ATCO Licensing and Medical Certification.</p>
response	<p><i>Not accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>
comment	<p>401 comment by: European Transport Workers Federation - ETF</p> <p>ETF makes a proposal and encourages EASA to commit to continue working on developing the competence requirements for all kinds of staff (especially non ATCOs, non ATSEPs).</p> <p>We propose to delete ATM/ANS.OR.B.025 and re-word ATM/ANS.OR.B.015(a)(6) as follows: <i>A management system that includes...</i> a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established. All subsequent GM and AMC and other references need to be updated accordingly.</p>
response	<p><i>Accepted</i></p> <p>Considering the NPA consultation outcome, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with a slight improvement of the wording. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>

comment	420	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	We support the justification and recommend removal of requirement ATM/ANS.OR.B.025 "human resources".	
response	<i>Accepted</i>	
	Considering the outcome of the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.	

comment	429	comment by: <i>ENAV</i>
	We propose to delete ATM/ANS.OR.B.025 and re-word ATM/ANS.OR.B.015(a)(6) as follows: <i>A management system that includes...</i> a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established. All subsequent GM and AMC and other references need to be updated accordingly.	
response	<i>Accepted</i>	
	Considering the outcome of the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with a slight improvement of the wording. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.	

comment	454	comment by: <i>Danish Transport Authority</i>
	126. Human Resources ATM/ANS.OR.B.025 We see the need for a separate paragraph on HR, and can accept the proposed text in ATM/ANS.OR.B.025 as is.	
response	<i>Not accepted</i>	
	Considering the outcome of the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.	

comment	478	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p>Whilst it is recognised that ATM/ANS.OR.B.025 currently exists in the Common Requirements it should be removed and re-word ATM/ANS.OR.B.015(a)(6) as follows: "a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established." All subsequent GM and AMC and other references need to be updated accordingly.</p>	
response	<i>Accepted</i>	
	<p>Considering the outcome of the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with a slight improvement of the wording. The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>	

comment	492	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
	<p>FIT CISL support CANSO's proposal and encourages EASA to commit to continue working on developing the competence requirements for all kinds of staff (especially non ATCOs, non ATSEPs).</p>	
response	<i>Noted</i>	
	<p>The Agency takes note of the comment.</p>	

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 6 – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES p. 44-45 (Part-ATS) (Part I)

comment	32	comment by: <i>EUROCONTROL</i>
	<p>Page 44 - Paras 137 - 139 It is true that ICAO sets the global standards but the current industry best practices need to be strengthened and not weakened by reverting to an old model. It is recommended to keep the draft SMS framework as proposed and ignore the wording of the ICAO SMS framework.</p>	
response	<i>Not accepted</i>	

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

To facilitate the development of the alignment with the ICAO SMS framework, a mapping between the proposed with NPA 2013-08 framework and the new one, introduced with CRD to NPA 2013-08, was developed. The remaining provisions are rearranged either as AMC or GM, when reasonable. This subject and the approach were also tabled and thoroughly discussed at the focussed review meetings organised, where the Agency gathered support on the proposed approach.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment

33

comment by: EUROCONTROL

Page 47 - Para 149

Good, no need for more double regulation.

response

Accepted

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment

59

comment by: AENA-NPA2013-08

Page 44, Paragraphs 137-139.

We Agree with other consultants' comments, *"it is true that ICAO sets the global standards but the current industry best practices need to be strengthened and not weakened by reverting to an old model.*

It is recommended to keep the draft SMS framework as proposed and ignore the wording of the ICAO SMS framework."

response

Not accepted

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the

preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

To facilitate the development of the alignment with the ICAO SMS framework, a mapping between the proposed with NPA 2013-08 framework and the new one, introduced with CRD to NPA 2013-08, was developed. The remaining provisions are rearranged either as AMC or GM, when reasonable. This subject and the approach were also tabled and thoroughly discussed at the focussed review meetings organised, where the Agency gathered support on the proposed approach.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment 69

comment by: AIRBUS

139.

Airbus suggests the Agency to redraft ATS.OR.205 text using the ICAO SMS framework.

Rationale: the ICAO SMS formulation is more precise using a well known terminology and covering a wider range, like:

- "safety performance"
- "measurement"
- "Training & education"
- "Safety communication"
- "Management of change"
- "Continuous process for SMS improvement"

response Accepted

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment 152

comment by: HungaroControl

139.

It is preferred to redraft the wording using the ICAO SMS framework. This would simplify to comply with the two regulatory framework.

response Accepted

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139)

regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

comment

210

comment by: *CANSO Civil Air Navigation Services Organization*

139. SMS framework	Stakeholders are invited to comment whether to keep the draft SMS framework under ATS.OR.205 as proposed, or to redraft it using the wording in ICAO SMS framework. Stakeholders are also invited to provide the Agency with the justifications for their proposal.	CANSO is in favour of re-drafting the wording into the ICAO SMS framework in order to be consistent with the reasoning and justification given in §46. This will lessen the need to comply with differing regulatory frameworks.
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response

Accepted

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 6 – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – Invitation to comment (a) p. 45

comment

82

comment by: *Icelandic Transport Authority*

We support the idea of using the ICAO wording and SMS framework.

response

Accepted

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.

comment	96	comment by: <i>skyguide Corporate Regulation Management</i>
	139. Whenever possible a clear alignment with ICAO provisions is desirable.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.	

comment	133	comment by: <i>AESA / DSANA</i>						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">PART</th> <th style="width: 50%;">COMMENT</th> <th style="width: 35%;">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">(A) 139 ATS.OR.205 ‘Safety management system’</td> <td style="vertical-align: top;"> <p><i>Stakeholders are invited to comment whether to keep the draft SMS framework under ATS.OR.205 as proposed, or to redraft it using the wording in ICAO SMS framework. Stakeholders are also invited to provide the Agency with the justifications for their proposal.</i></p> <p>As stated in the response to (A) 46, in principle, AESA favours the proposed approach. However, in the light of the scarceness of resources both of ANSPs and NSAs and the fact that they are already subject to the requirements of regulation (EU) No 1034/2011 and regulation (EU) No 1035/2011, AESA wonders whether this is really required at this moment in time.</p> </td> <td style="vertical-align: top;"> <p>This NPA should apply the proportionality principle in its full extension. If the SMS requirements are already in place ensuring a high level of safety and the proposed enhancement entails a increased need of resources, this should be left for an ulterior phase.</p> </td> </tr> </tbody> </table>		PART	COMMENT	JUSTIFICATION	(A) 139 ATS.OR.205 ‘Safety management system’	<p><i>Stakeholders are invited to comment whether to keep the draft SMS framework under ATS.OR.205 as proposed, or to redraft it using the wording in ICAO SMS framework. Stakeholders are also invited to provide the Agency with the justifications for their proposal.</i></p> <p>As stated in the response to (A) 46, in principle, AESA favours the proposed approach. However, in the light of the scarceness of resources both of ANSPs and NSAs and the fact that they are already subject to the requirements of regulation (EU) No 1034/2011 and regulation (EU) No 1035/2011, AESA wonders whether this is really required at this moment in time.</p>	<p>This NPA should apply the proportionality principle in its full extension. If the SMS requirements are already in place ensuring a high level of safety and the proposed enhancement entails a increased need of resources, this should be left for an ulterior phase.</p>
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(A) 139 ATS.OR.205 ‘Safety management system’	<p><i>Stakeholders are invited to comment whether to keep the draft SMS framework under ATS.OR.205 as proposed, or to redraft it using the wording in ICAO SMS framework. Stakeholders are also invited to provide the Agency with the justifications for their proposal.</i></p> <p>As stated in the response to (A) 46, in principle, AESA favours the proposed approach. However, in the light of the scarceness of resources both of ANSPs and NSAs and the fact that they are already subject to the requirements of regulation (EU) No 1034/2011 and regulation (EU) No 1035/2011, AESA wonders whether this is really required at this moment in time.</p>	<p>This NPA should apply the proportionality principle in its full extension. If the SMS requirements are already in place ensuring a high level of safety and the proposed enhancement entails a increased need of resources, this should be left for an ulterior phase.</p>						
response	<i>Not accepted</i>							

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.

The Agency considers that the most appropriate implementation of the SMS framework is a combination of IR and AMC. The four components are retained in the IR, while the elements are cascaded between IR and AMC.

To facilitate the development of the alignment with the ICAO SMS framework, a mapping between the proposed with NPA 2013-08 framework and the new one, introduced with CRD to NPA 2013-08, was developed. The remaining provisions are rearranged either as AMC or GM, when reasonable. This subject and the approach were also tabled and thoroughly discussed at the focussed review meetings organised, where the Agency gathered support on the proposed approach.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment

142

comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency supports keeping the draft as proposed. Currently all the ANSP:s have been certified in accordance with 1035/2011, and a change in definitions would not necessarily improve the SMS.

response

Not accepted

After due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework.

comment

179

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

139. SMS

45

We support a full implementation of ICAO Annex 19. This

	ATS.OR.205	will facilitate for all states.
response	<i>Accepted</i>	
	<p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.</p>	
comment	195	comment by: CAA-NL
	<p>Item 139: We can support the current proposal, this to minimize the changes from the current systems in place.</p>	
response	<i>Not accepted</i>	
	<p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.</p> <p>Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework.</p>	
comment	224	comment by: <i>military safety expert/ safety management systeme inspector</i>
	<p>Facing it, we wish to keep the 1035 SMS framework. To meet the OACI SMS framework it should be possible only whether a global approach regarding the other domain is conducting.</p>	
response	<i>Not accepted</i>	
	<p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.</p> <p>Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS</p>	

framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed.

comment 227 comment by: CAA Norway

We would propose to keep the draft SMS framework under ATS.OR.205 as proposed. The proposed framework has been working well for several years and we do not think a rewording to ICAO SMS framework would give additional benefits.

response *Not accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.

Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such, there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework.

comment 241 comment by: DSNA

DSNA does not have a preferred option but would rather be in favour of compliance with ICAO SMS framework

Facilitate compliance between ICAO Annex 19 and EASA regulation for service providers SMS.

From an industry point of view, this would also facilitate ANSP involvement and European representation in international organisations such as CANSO where non-European ANSPs are subjected to regulations aligned with ICAO. E.g. CANSO Standard of Excellence.

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.

comment 258 comment by: PANSA

Re-drafting the wording into the ICAO SMS framework is preferable in order to be consistent with the reasoning and justification given in §46. This will facilitate the

	<i>need to comply with differing regulatory frameworks.</i>	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.	
comment	301	comment by: <i>AvinorANSP</i>
	Avinor is in favour of re-drafting the wording into the ICAO SMS framework in order to be consistent with the reasoning and justification given in §46. This will lessen the need to comply with differing regulatory frameworks.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.	
comment	331	comment by: <i>IFATCA</i>
	IFATCA is in favor of ICAO. No further fragmentation with regard to SMS shall be introduced.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.	
comment	360	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	FOCA supports the option that EASA will include the standards from ICAO Annex 19 and not develop a own legislation for those requirements.	
response	<i>Accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.	

comment	<p data-bbox="357 215 416 241">384</p> <p data-bbox="1187 215 1492 241" style="text-align: right;">comment by: UK CAA</p> <p data-bbox="357 300 1492 501"> Page No: 45 Paragraph No: 139, Question on SMS Framework. Comment: UK CAA was an active participant in the development of ICAO Annex 19 and therefore supports the Agency's efforts to harmonise the IR with ICAO requirements which will also support Member States in meeting their obligations under the Chicago Convention. </p>
response	<p data-bbox="357 517 488 544"><i>Accepted</i></p> <p data-bbox="357 602 1492 730"> After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO. </p>
comment	<p data-bbox="357 824 416 851">421</p> <p data-bbox="812 824 1492 851" style="text-align: right;">comment by: DFS Deutsche Flugsicherung GmbH</p> <p data-bbox="357 909 1492 1111"> See our comment on EN 46 page 14: The proposal is to keep at far the existing requirements for a safety management system and complement missing subjects of (new) ICAO Annex 19. This is truly supported. The exclusive application of the ICAO SMS and thus a renewal of all evidences would not be supported. </p>
response	<p data-bbox="357 1126 544 1153"><i>Not accepted</i></p> <p data-bbox="357 1211 1492 1406"> After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision. </p> <p data-bbox="357 1422 1492 1518"> The Agency considers that the most appropriate implementation of the SMS framework is a combination of IR and AMC. The four components are retained in the IR, while the elements are cascaded between IR and AMC. </p> <p data-bbox="357 1534 1492 1765"> To facilitate the development of the alignment with the ICAO SMS framework, a mapping between the proposed with NPA 2013-08 framework and the new one, introduced with CRD to NPA 2013-08, was developed. The remaining provisions are rearranged either as AMC or GM, when reasonable. This subject and the approach were also tabled and thoroughly discussed at the focussed review meetings organised, where the Agency gathered support on the proposed approach. </p> <p data-bbox="357 1780 1492 1964"> Furthermore, it should be pointed out that prior to Annex 19, the SMS framework of Annex 11 applied to air traffic service providers and, as such there is no difference on the obligations of the State, and the Agency, by adopting the SMS framework, has reduced the burden on States and ATSP, as meeting the rules means that there is also compliance with the Annex 19 SMS framework especially as Regulation (EU) No 1035/2011 is being repealed. </p>

comment	<p>430 comment by: ENAV</p> <p>Re-draft the wording into the ICAO SMS framework in order to be consistent with the reasoning and justification given in §46. This will lessen the need to comply with differing regulatory frameworks.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.</p>
comment	<p>455 comment by: Danish Transport Authority</p> <p>139. SMS ATS.OR.205 We support a full implementation of ICAO Annex 19. This will facilitate for all states. See comments also to no. 46.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO.</p>
comment	<p>479 comment by: NATS National Air Traffic Services Limited</p> <p>It is noted that in the cross reference table of ICAO SMS elements to the draft rule it is necessary to refer to IR, AMC and GM to complete the mapping. Given the status of AMC (can be replaced by AltMC) and GM (not legally binding) it is not considered appropriate to use them as a means of demonstrating compliance with the ICAO SMS elements. Given that Annex 19 will have been published by the time this rule comes into force then States will require ATS providers (amongst others) to implement a SMS. The SMS needs to be established in accordance with the framework elements contained in Appendix 2. Whilst it does not require that the framework is adopted as written the most logical means of demonstrating compliance is to follow the framework as written. Given the above NATS strongly supports that EASA adopt the SMS framework as written and ensures that compliance is demonstrated through a mapping to IR. Additionally EASA should ensure that the ICAO requirement that "...the SMS of a service provider shall be commensurate with the size of the service provider and the complexity of its aviation products or services." is adequately addressed by the rule through the "complex" / "non-complex" concept. It is recognised that the adoption of the ICAO SMS framework may impact upon the EoS M KPI AMC associated with 390/2013. That being the case EASA may wish to delay the rule until RP3 so as to minimise the impact of these changes during</p>

	RP2.
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (questions in paragraphs 46 and 139) regarding the ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align with the framework by implementing it into ATS.OR.200, replacing the existing Implementing Rule provision.</p> <p>The Agency considers that the most appropriate implementation of the SMS framework is a combination of IR and AMC. The four components are retained in the IR, while the elements are cascaded between IR and AMC.</p>
comment	<p>493 comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i></p> <p>No opinion</p>
response	<i>Noted</i>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 6 – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES p. 46-52 (Part-ATS) (Part II)

comment	<p>4 comment by: <i>DASSAULT AVIATION</i></p> <ul style="list-style-type: none"> • This NPA is a great progress in that it clearly clarifies the ATS specific needs associated with flight test. Mutual understanding between crews and ATS providers is paramount since many maneuvers performed during flight test will differ radically from conventional airline profiles. Economic efficiency implies that test points be performed quickly and sharply. One test flight usually involve many engineers on the ground and companies like DASSAULT can't afford to "redo" missed points again and again. Some flight test points are compatible with traditional ATS services, which adds some flexibility, but they are not a majority. • In France, ATS providers providing services to flight testing are specifically trained for this purpose. They benefit from a one year fully integrated EPNER course during which, teamed with a test pilot and a flight engineer, they get familiarized with all unconventional maneuvers or profiles typical from flight testing. • This formation is mentionned in the NPA, but not the fact that it really needs to be exhaustive. A short or incomplete formation phase would result in less efficiency in the management of often complicated profiles. This formation cannot simply be a "add on" to a standard ATS provider's certificate.
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	<ul style="list-style-type: none"> Some risky maneuvers, like for example a flutter dive to MDF, will definitively need a geographical proximity with flight test ground control stations, in which flight test parameters, transmitted by datalink, are monitored by dedicated engineers. This means that specific or preferred areas still need to be available, with adequate qualified ATS providers manpower.
response	<p><i>Noted</i></p> <p>The Agency takes the comments in due consideration.</p> <p>The Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate which further allows any limitations or conditions to be specified, if deemed necessary.</p> <p>With regard to the issue on 'flight tests with impossible immediate manoeuvrability', it should be noted that this subject is already addressed in GM1 ATS.TR.100(b) (formerly GM1 ATS.TR.105(b)).</p>
comment	<p>5 comment by: <i>EUROCOPTER</i></p> <p>Eurocopter strongly supports the introduction of specific provision for ATS providers providing service to flight test. For a manufacturer, safety and efficiency of flight test are key objectives. These specific provisions are necessary to better reach these objectives.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment in due consideration.</p>
comment	<p>34 comment by: <i>EUROCONTROL</i></p> <p>Page 48 - Para 163 According to psychologists most forms of judgement are essentially 'cognitive' since they involve the process or act of knowing (or thinking that one knows). The term 'cognitive judgement' is rarely seen because the 'cognitive' qualifier is not usually necessary. In the case of the regulation, the term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation. The term 'judgement' would do in the context of this IR (and also EC 1109/2008 where the term first appeared), but better would be 'abilities', since medical fitness would affect more than just judgement (e.g. detection, alertness). Recommend adding a definition of 'cognitive judgement' in the IR.</p>
response	<p><i>Noted</i></p> <p>The text is modified and does not any longer include the term 'cognitive judgement'.</p>

comment	35	comment by: EUROCONTROL
	<p>Page 49 - Para 173 We agree with the point that service providers cannot be held responsible for stress employees are accumulating and experiencing outside work.</p>	
response	Noted	

comment	36	comment by: EUROCONTROL
	<p>Page 50 - Para 174 We support the obligation to implement a CISM programme.</p>	
response	Noted	

comment	37	comment by: EUROCONTROL
	<p>Page 50 - Para 174 Clarification is needed as regards the reference to CISM training (<i>obligation for all ATC service providers to implement such a programme and to provide the relevant training</i>). Is this a reference</p> <ul style="list-style-type: none"> • to the professional training of CISM peers or • generic training to staff? <p>If the latter, then it makes no sense because CISM is not something that could be trained. CISM programmes are awareness programmes to indicate that it is available and to show its benefits.</p>	
response	<p>Noted</p> <p>The reference to CISM programme is twofold: ATS.OR.320(a) requires the implementation of a critical incident stress management programme, of which trained peers are important components; the second aspect in ATS.OR.320(c) requires the provider to educate and inform air traffic controllers on critical incident stress management.</p>	

comment	47	comment by: Turbomeca
	<p>Comment related to item 185: These specific needs are also confirmed by industry performing flight testing. Some types of test flights are not compatible with general and commercial aviation flights and need to be carried out under specific procedures and/or</p>	

response	<p>specific airspaces.</p> <p>But it must also be noted that, as regards TURBOMECA FRANCE test flights, most of them are performed in LFBP airspaces (CTR, TMA) under local arrangements with LFBP ATS to ensure compatibility and safety with other users.</p> <p>Items 186 and 187: Turbomeca agrees</p> <p><i>Noted</i></p> <p>The Agency takes the comment in due consideration.</p>
comment	<p>60 comment by: AENA-NPA2013-08</p> <p>Page 50, Paragraph 174.</p> <p>Clarification is needed as regards the reference to CISM training (<i>obligation for all ATC service providers to implement such a programme and to provide the relevant training</i>).</p> <p>Is this a reference</p> <ul style="list-style-type: none"> • to the professional training of CISM peers or • generic training to staff? • <p>If the latter, then it makes no sense because CISM is not something that could be trained. CISM programmes are awareness programmes to indicate that it is available and to show its benefits.</p>
response	<p><i>Noted</i></p> <p>The reference to CISM programme is twofold:</p> <p>ATS.OR.320(a) requires the implementation of a critical incident stress management programme, of which trained peers are important components; the second aspect in ATS.OR.320(c) requires the provider to educate and inform air traffic controllers on critical incident stress management.</p>
comment	<p>71 comment by: AIRBUS</p> <p># 160.</p> <p>The Agency should regroup the items 160 & 161.</p> <p>Rationale: This will avoid any misunderstanding regarding applicability of this requirement for flight crew; the link with ATS should be made clearer. Our proposal is to add the following text at the end of the existing 160 item:</p> <p>“Although the Fatigue Risk Management System is not directly applicable to the ATS and has not been validated for ATS application, the principles are useful guidelines”.</p>
response	<p><i>Not accepted</i></p> <p>The scope of applicability of provisions in Section 3 of Subpart A of Annex I is clearly defined in ATS.OR.305. It addresses air traffic control service providers and air traffic controllers.</p>

comment	75	comment by: AIRBUS
	<p># 194 The term “<i>level of attainable</i>” is too vague. Airbus proposes the following alternative wording: “quantitative description derived from system needs”.</p>	
response	<p><i>Noted</i></p> <p>Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to replace it with the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.</p>	

comment	113 ❖	comment by: AESA / DSANA																
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(A) 116 ATM/ANS.OR.A.040																		
(A) 140 ATS.OR.210																		
ATS.OR.215																		
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. Seeing the necessity of completing the rule with the provisions related to the assessment of changes to functional systems in ATM/ANS which will complement some of the Annexes (e.g.</p>																	

Annex II and Annex III), and taking into account the advice received during the focussed consultation organised during the comments' review, the Agency intends to issue a combined Opinion as a result of the consultation of NPA 2013-08 and the outcome of the consultation of the following NPA on RMT.0469.

comment	<p>332</p> <p>para144 From an IFATCA perspective much more should be taken into account to satisfy the total system approach when it comes to Human Factors</p>	comment by: <i>IFATCA</i>
response	<p><i>Accepted</i></p> <p>The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirement under subparagraph 5(b)(iv) of Annex Vb.</p> <p>Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, cognitive abilities, are already part of regulatory proposals produced by the Agency.</p> <p>The Agency sees the consideration of human factors/human performance as a transversal activity, to be progressed along with the development of specific provisions implementing the Essential Requirements in the Basic Regulation. For example, safety regulation addressing ATM/ANS system and constituents and where human factors shall be carefully considered and addressed, is yet to be developed.</p> <p>The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting the ATM/ANS safety regulation.</p>	
comment	<p>333</p> <p>para150 Explain impaired cognitive judgment. From an IFATCA perspective much more should be taken into account to satisfy the total system approach when it comes to Human Factors.</p>	comment by: <i>IFATCA</i>
response	<p><i>Accepted</i></p> <p>The text is modified and does not any longer include the term 'cognitive judgement'.</p> <p>The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirement</p>	

under subparagraph 5(b)(iv) of Annex Vb.

Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, cognitive abilities, are already part of regulatory proposals produced by the Agency.

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The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting ATM/ANS safety regulation.

comment 334

comment by: IFATCA

para 151-161

These shall be elevated to IR.

IFATCA's policies on work and rest scheme shall be accepted as AMC

Definition:

Operational Duty: The period which a controller is actually exercising the privileges of the controller's licence at an operational position.

Rosters should be constructed following a simple pattern, with shifts of the same or very similar lengths and adequate breaks between shifts and shift cycles.

The average time of operational duty and breaks should not exceed 32 hours per week

(Jerusalem 95.C.2).

Each shift should not exceed 7 hours 30 minutes including breaks (Jerusalem 95.C.2). A minimum rest period of 11 consecutive hours per day should be provided (Santiago 99.C.22).

The continuous operational duty for a controller should be 2 hours maximum and should be reduced to 90 minutes for controllers working with visual terminals and/or radar displays; after which a minimum 30 minutes break, away from the working environment should be given to controllers (Copenhagen 78.C.6, amended Jerusalem 95.C.2).

At least one break of a minimum of 1 hour duration, on both day and afternoon shift, shall be given to controllers for the purpose of eating at regular times and to prevent gastrointestinal dysfunctions (Santiago 99.C.23).

Extra rest hours shall be provided when requested by a pregnant controller.

By night the total operational duty time should not exceed 5 hours (Jerusalem 95.C.2).

Controllers shall not be held liable in the case of an accident or incident if the controller has previously registered a formal complaint of exaggerated working hours or lack of fatigue management and these have been determined to be a major contributing factor to the incident or accident.

response *Not accepted*

It is not clear from the comment which elements of the draft NPA IFATCA proposes to elevate to Implementing Rules.

The text of ATS.OR.330 is modified also to include a minimum of elements of the rostering system, previously in AMC1 ATS.OR.330(c), that the air traffic control service provider is required to define in order to manage occupational fatigue, in consultation with the air traffic controllers or, if applicable, their representatives. The variety of operations by air traffic control service providers requires a flexible approach, which would be hindered by a more normative prescription at this stage.

The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.

comment 335

comment by: *IFATCA*

para 174

IFATCA recommends to talk about Critical incident stress management to avoid confusion with the Mental Health Professionals. See comments in definition

response *Noted*

comment 336

comment by: *IFATCA*

IFATCA is opposed to a European, even national wide application of a third category of flights rules (next to GAT and OAT). As from a total system approach it is jeopardizing the overall safety. This is in particular the case with regard to existing European or nationwide systems and/or components thereof. E.g. RVSM cannot comply to the safety case anymore in continental Europe if a certain amount of GAT traffic has to be taken into account.

Experience with test flights in cross border areas show, that it is completely unsafe procedure to handle this traffic in non-segregated airspace with separate unknown and not assessed procedures

Further IFATCA is worried that a new set of unit endorsement is introduced. (see CRD) *ATCO B020 (d) For air traffic controllers providing air traffic control services to aircraft carrying out flight tests, the competent authority may, in addition to the requirements set out in paragraph (b), set out additional requirements to be met.*

Further IFATCA is aware that even in cross border area, unknown service providers provide service to test flight without coordination and unknown licensing and training endorsement. This should be stopped and not institutionalized.

IFATCA is not opposed to mixed mode operations – but what is being proposed in the regulatory approach is different to mixed mode.
Mixed mode policy of IFATCA below

Page updated 2009

Page 3 2 3 15

ATS 3.14 MIXED MODE OPERATIONS

The ATM system will continue to evolve through the use of technology. To permit certain categories of non-equipped flights to operate in mandatory equipage airspace, exemptions are given.

The controller is often used as the mitigation to permit these flights to operate, however there is a limit to the number of pieces of information, which can be displayed, either on

the data display or the radar to indicate these exemptions, and also the cognitive function of the controller to react to numerous triggers.

Despite the use of individual safety case applications, there is an identified need to conduct a safety analysis on mixed mode operations, in all its variances.

IFATCA policy is:

Mixed mode operations are defined as ATM Operations that require different procedures due to variances in airspace users' characteristics and/or ATM design within the same area of controller responsibility.

Efforts should be undertaken to reduce existing Mixed Mode Operations by creating intrinsically safe solutions.

Introductions of new Mixed Mode Operations should be avoided by creating intrinsically safe solutions.

When safety of a Mixed Mode Operation cannot be completely managed at an intrinsic level, assessment must take place that the change in the ATM system does not increase controller workload to an unacceptable level.

response *Noted*

The Agency takes note of the comment.

During the rule development, the Agency was made aware of the specific needs required by ATS providers which provide ATS services to flight test, especially in carrying out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate. However, nothing prevents the competent authority from deciding not to include such a privilege into the certificate, if deemed necessary.

comment 432

comment by: CAA Norway

We support the Agency's approach regarding reduced medical fitness.

response *Noted*

comment 481

comment by: *Vantage Air Traffic Services*

This should include all members of Air Traffic Services, ATSEP seems to have been overlooked, all members of ATS can have a major impact on safety, therefore all members of ATS should be covered within this section.

response *Partially accepted*

The Agency is of the opinion that the term 'personnel providing an ATC service' under paragraph 5(b) of Annex Vb of the Basic Regulation is to be understood as air traffic controllers licensed in accordance with applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on the management system in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220.

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 7 – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) p. 52-54

comment 85

comment by: *Icelandic Transport Authority*

We support the removal of the words „level of attainable“ and support the wording as in **MET.OR.100 Quality of the data & information** as presented in the NPA.

response *Noted*

Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.

comment 97

comment by: *skyguide Corporate Regulation Management*

194. We propose to maintain "level of attainable" (accuracy). In future there will be more MET forecast data in comparison to measured data. The attainable level of accuracy is a better way of describing the performance of such data (especially for forecasted data). Moreover, the attainable level of accuracy will probably be improved over time due to better methods and IT capabilities.

response

Noted

Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.

comment

134

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 194 MET.OR.100 'Quality of the data and information'	Stakeholders are invited to comment whether the term 'level of attainable' [accuracy] should be maintained or removed and propose any other alternative wording that would provide the same objective. Neither AESA nor MET NSA have neither observations nor comments on this item. Both AESA and MET NSA thus consider that this wording should be maintained.	n/a

response

Noted

Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.

comment

180

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

194. Quality of data MET.OR.100	52	We prefer the wording from regulation (EU) No 1035/2011. Keep the wording "level of attainable accuracy".
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response *Noted*

Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.

comment 212

comment by: *CANSO Civil Air Navigation Services Organization*

194. MET.OR.100 'Quality of the data and information'	Stakeholders are invited to comment whether the term 'level of attainable' [accuracy] should be maintained or removed and propose any other alternative wording that would provide the same objective.	For keeping the term as in ICAO.
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response *Accepted*

Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.

comment 225

comment by: *military safety expert/ safety management systeme inspector*

nothing to say (meteo provider interest)

response *Noted*

comment	259	comment by: PANSA
	<i>Keeping the term as in ICAO is preferable.</i>	
response	<i>Accepted</i>	
	Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.	
comment	260	comment by: Copenhagen Airports A/S
	Item 194: We recommend that the associated GM to MET.OR.100 should be extended with further guidance regarding the objective of the term. It is assumed that the item relates to the original definition "accuracy" from ICAO Annex 3 section 2.2.5, and that the goal is to obtain weather forecasts (TAF) that predicts the "correct" weather within specified specifications (attachment B in annex 3). It is recommended as a minimum to clarify the text of the GM.	
response	<i>Noted</i>	
	Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.	
comment	265	comment by: CAA-NL
	Item 194: "Level of attainable" could be deleted, however the TRs should define the minimal quality (including for example resolution and integrity) and accuracy of the measurements.	
response	<i>Accepted</i>	
	Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules. The forthcoming technical requirements define the minimum quality and accuracy of the measurements.	

comment	<p data-bbox="359 212 414 241">302</p> <p data-bbox="1129 212 1481 241" style="text-align: right;">comment by: <i>AvinorANSP</i></p> <div data-bbox="359 302 1481 405" style="border: 1px solid black; padding: 5px;"> <p>Stakeholders are invited to comment whether the term 'level of attainable' [accuracy] should be maintained or removed and propose any other alternative wording that would provide the same objective.</p> </div> <p data-bbox="359 409 798 439">For keeping the term as in ICAO</p>
response	<p data-bbox="359 517 486 546"><i>Accepted</i></p> <p data-bbox="359 712 1481 869">Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.</p>
comment	<p data-bbox="359 1014 414 1043">337</p> <p data-bbox="1189 1014 1481 1043" style="text-align: right;">comment by: <i>IFATCA</i></p> <p data-bbox="359 1099 1481 1227">It is not obvious what has been transposed from Annex 3 and from the WMO Aeronautical Meteorological recommendations. IFATCA proposes that a mapping is created to reduce uncertainties. E.g. in the definition there typhoons defined, which might not be something that common in Europe</p>
response	<p data-bbox="359 1252 542 1281"><i>Not accepted</i></p> <p data-bbox="359 1337 1481 1464">A drafting document table published with NPA 2013-08(E) was developed in order to help stakeholders detect the changes that were made from ICAO Annex 3 and their equivalent rules into the draft EASA rules. An appropriate mapping is proposed.</p>
comment	<p data-bbox="359 1556 414 1585">385</p> <p data-bbox="1189 1556 1481 1585" style="text-align: right;">comment by: <i>UK CAA</i></p> <p data-bbox="359 1644 542 1673">Page No: 52</p> <p data-bbox="359 1677 981 1706">Paragraph No: 194 referencing MET.OR.100</p> <p data-bbox="359 1711 1481 1771">Comment: The UK CAA fully supports the removal of the words 'level of attainable' in terms of the accuracy requirement.</p> <p data-bbox="359 1776 1481 1966">Justification: The words 'level of attainable' were unclear as to the intent. It has been interpreted by some as requiring providers to be able to attest to the accuracy of meteorological information in advance of the information being provided, which is extremely difficult, as opposed to being able to demonstrate subsequently (through verification processes), a historical record of the accuracy of the information, which allows providers to demonstrate the quality of services.</p> <p data-bbox="359 1971 1481 2031">Proposed Text: "Meteorological services providers shall confirm the accuracy of the information distributed for operations, including the source of such</p>

	information, whilst also ensuring that such information is distributed in a timely manner, and updated as required.”
response	<p><i>Noted</i></p> <p>Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.</p>
comment	<p>431 comment by: ENAV</p> <p>194 For keeping the term as in ICAO.</p>
response	<p><i>Accepted</i></p> <p>Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.</p>
comment	<p>456 comment by: Danish Transport Authority</p> <p>194. Quality of data MET.OR.100 We prefer the wording from regulation (EU) No 1035/2011. Keep the wording “level of attainable accuracy”.</p>
response	<p><i>Noted</i></p> <p>Taking into account the comments and the various positions taken/proposals made on whether the term 'level of attainable' [accuracy] should be maintained, the Agency proposes to change into the ICAO term (contained in Attachment A and B of ICAO Annex 3): 'operationally desirable accuracy'. This term would then be consistent with the rest of the MET rules.</p>

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 8 – Annex V – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (Part-AIS) and Annex VII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SURVEILLANCE SERVICES (Part-CNS)

p. 54

comment 135 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(A) 207 CHAPTER 8 - Annex V (Part-AIS) and Annex VII (Part-CNS)	There is a lack of requirements for the systems that are not under ICAO Annex 10, e.g. PSR or SMR.	Although this may be part of the activities undertaken in RMT.0479 & RMT.0480 , it is important the establish a common criterion for these systems. It must be noted that SMR is an important part of A-SMCGS.

response *Noted*

In the future, the Agency will consider the transposition of the provisions of ICAO Annex 10 into the EU law amending the subject Annex. Therefore, the Agency takes note of the comment at this stage and will consider it during the work to be done through (a) separate rulemaking task(s).

comment 266 comment by: CAA Norway

We support the minor changes done.

response *Noted*

A. Explanatory Note – IV. Overview of the proposed changes – CHAPTER 10 – Annex XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS p. 55-63

comment 38 comment by: EUROCONTROL

Page 57 - Para 224

The inclusion of a definition of ATSEP is welcome. However this definition needs to be in Art 2 of the IR and not buried in an Annex. Recommendation is to include definition of ATSEP in list of definitions of IR.

response *Accepted*

The term ATSEP is now defined in Annex I (link to Article 2 of the Cover Regulation).

comment 39 comment by: EUROCONTROL

Page 57 - Para 226

Sentence should read *The Agency does not **intend** (verb) to reinvent the wheel and not *intent* (noun).*

response *Accepted*

comment 40 comment by: EUROCONTROL

Page 58 - Para 230

We support the proposal that for ATSEP basic training only two subjects, Induction and Air Traffic Familiarisation, are mandatory while the other subjects will be mandatory only if they are relevant to the work to be performed by the ATSEP.

response *Noted*

comment 41 comment by: EUROCONTROL

Page 58 & 59 - Para 230 continued

We support the proposal that for ATSEP qualification training only three subjects, Safety, Health and Safety and Human Factors, are mandatory while the other subjects will be mandatory only if relevant for the work to be performed by the ATSEP.

response *Noted*

comment 42 comment by: EUROCONTROL

Page 62 - Para 248: ATSEP.OR.020

We support the requirement for language competency and it should be flexible enough to cater for the different geographical and work environments. Cross-border communication is however not limited to FAB context. Many FABs have a border with states not participating in FABs. We recommend removing the reference to cross-border communication limited to FAB context.

response *Noted*

The reference to FAB is only made in guidance material and not in the rules

(AMC), where a general reference to the need to communicate across operational boundaries is given.

comment 43 comment by: EUROCONTROL

Page 63 - Para 256: ATSEP.OR.135

This requirement focuses only on the instructor's technical skills. There is need to ensure that the instructors have the non-technical skills and knowledge appropriate to their role as instructors. The Organisational Requirement should also mandate that ATSEP training instructors receive the appropriate training as theoretical instructors and as on-the-job-instructors, as necessary.

response *Noted*

Although teaching at the level of instructor takes place in an offline environment where the safety impact is limited, it is acknowledged that instructors need to have some non-technical skills.

comment 44 comment by: EUROCONTROL

Page 63 - Para 257: ATSEP.OR.140

This requirement focuses only on the assessor's technical skills. There is need to ensure that the assessors have the non-technical skills and knowledge appropriate to their role as assessors. The Organisational Requirement should also mandate that ATSEP assessors receive the appropriate training as assessors.

response *Noted*

Although teaching at the level of assessor takes place in an offline environment where the safety impact is limited, it is acknowledged that assessors need to have some non-technical skills.

comment 147 comment by: HungaroControl

224.

The definitions in the EN 224 and the IR ATSEP.OR.005 (b) have different scopes. Clarification is needed to decide which definition is correct.

Additionally, the systems used by the NM are not included in either of these definitions. Do those provisions need amendment to include these systems as well?

response *Noted*

The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be

those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

comment 196

comment by: CAA-NL

Item 214/215: These paragraphs give an explanation for the legal basis for the requirements for ATSEPS. It refers to Annex Vb (Essential Requirements for ATM/ANS and air traffic controllers) to the Basic Regulation which stipulates under point 5(a)(iv) that 'the service provider shall use only suitably qualified and trained personnel and implement and maintain training and checking programmes for the personnel'. To our opinion this is suitably regulated by ATM/ANS.OR.B.015(a) and ATM/ANS.OR.B.025 which give requirements for exactly what is stipulated in the Annex to the BR. There is no need and no specific assignment to EASA to come up with such a detailed proposal for ATSEPS.

response *Not accepted*

The legal basis has to be clarified in order to provide the source of the mandate given to the Agency. ATM/ANS.OR.B.025 only implements the provisions of the EASA Basic Regulation and is, therefore, not the legal basis as such.

comment 226

comment by: *military safety expert/ safety management system inspector*

comments related to §225:

ATSEP CCC standards are supposed to be updated in the next years, so they should not be transposed directly into IR or AMC.

We prefer a dynamic referencing document, which is the best option to harmonize and to facilitate future updates.

Proposals: In case transposing would be not possible, it is essential for the following conditions to be fulfilled :

- All the subjects, subject objectives, topics, sub topics and associated objectives should be in the same document.
- The updates of the document should be defined within a working group that includes training organizations, ANSPs and competent authorities

EASA should establish a process aiming at update the training objectives.

Concern: could you explain if the taxonomy is a rules or an suggestion for best practices?

response *Noted*

As mentioned in the Explanatory Note, referencing the ATSEP CCC is not legally possible for the Agency. The maintenance of the ATSEP CCC in the future is still under discussion within the Agency to decide how the update of the ATSEP CCC

can be included in the European rules. In terms of process, the majority of the CCC expected to be changed lies in the AMCs, meaning that the process of updating EU rules can be done relatively quickly. Except for editorial updates, the Agency will take as a basis the update from EUROCONTROL (wider than EU) and ensure the change on that ground. Once the update is made, the Agency intends to publish a consolidated version of the ATSEP rules so that the IRs and the AMCs and GMs are contained in one single document. With regard to the taxonomy, it is included in the AMC and is, therefore, part of the rule. The ATSEP CCC has been transposed as such (also in the format structure) in order not to change too much of what is currently contained in the EUROCONTROL ATSEP CCC.

comment

228

comment by: *CANSO Civil Air Navigation Services Organization*

**Explanatory notes
ATSEP.OR.005
Scope (b)**

224. The Agency, therefore, proposes to define ATSEPs in ATSEP.OR.005(b) as 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related ATM/ANS systems shall be considered to be an ATSEP'.
(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP;

The definitions in the EN 224 and the IR ATSEP.OR.005 (b) have different scopes. We would appreciate clarity on which definition is correct . Additionally, the systems that the NM uses are not included in either of these definitions. Should we amend one of them to include these systems as well?
Proposed definition by CANSO:
(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems, as well as systems used by the Network Manager, shall be considered to be ATSEP;

response

Noted

The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

comment	<p>243</p> <p style="text-align: right;">comment by: <i>DSNA</i></p> <p>§224</p> <p>There is a mistake in the ATSEP definition, comparing with the definition given in the IR, paragraph ATSEP.OR.005 (b). Expl Note (doc A, §224) = 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related ATM/ANS systems shall be considered to be an ATSEP' IR (doc B, ATSEP.OR.005 (b)) = 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP';</p>
response	<p><i>Noted</i></p> <p>The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.</p>
comment	<p>244</p> <p style="text-align: right;">comment by: <i>DSNA</i></p> <p>§225</p> <p>CCC standards are supposed to be updated in the next years, so they should not be fully transposed directly into IR or AMC. We prefer a dynamic referencing to the Eurocontrol document, which is the best option to harmonise and to facilitate future updates. In case transposing is not possible, it is essential that the following conditions are fulfilled</p> <ul style="list-style-type: none"> • All the subjects, subject objectives, topics, sub topics and associated objectives should be in the same document. • The updates of the document should be defined within a working group that includes training organisations, ANSPs and competent authorities • EASA should establish a process for update the training objectives.
response	<p><i>Noted</i></p> <p>As mentioned in the Explanatory Note, referencing the ATSEP CCC is not legally possible for the Agency. The maintenance of the ATSEP CCC in the future is still under discussion within the Agency to decide how the update of the ATSEP CCC can be included in the European rules. In terms of process, the majority of the CCC expected to be changed lies in the AMCs, meaning that the process of updating EU rules can be done relatively quickly. Except for editorial updates, the Agency will take as a basis the update from EUROCONTROL (wider than EU) and ensure the change on that ground. Once the update is made, the Agency intends to publish a consolidated version of the ATSEP rules so that the IRs and the AMCs and GM are contained in one single document.</p>

comment	<p data-bbox="363 277 416 315">245</p> <p data-bbox="1198 277 1498 315" style="text-align: right;">comment by: PANSA</p> <p data-bbox="363 367 1498 495">224. The Agency, therefore, proposes to define ATSEPs in ATSEP.OR.005(b) as 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related ATM/ANS systems shall be considered to be an ATSEP'.</p> <p data-bbox="363 497 1498 624">(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP;</p> <p data-bbox="363 627 517 658"><u>Comment:</u></p> <p data-bbox="363 660 1498 692"><i>The definitions in the EN 224 and the IR ATSEP.OR.005 (b) have different scopes.</i></p> <p data-bbox="363 694 507 725"><u>Proposal:</u></p> <p data-bbox="363 728 1498 855">(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems, as well as systems used by the Network Manager, shall be considered to be ATSEP;</p> <p data-bbox="363 857 560 889"><u>Justification:</u></p> <p data-bbox="363 891 1353 922"><i>Proposed definition encompasses systems used by the Network Manager.</i></p>
response	<p data-bbox="363 925 443 963"><i>Noted</i></p> <p data-bbox="363 1021 1498 1227">The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.</p>
comment	<p data-bbox="363 1294 416 1332">268</p> <p data-bbox="1123 1294 1498 1332" style="text-align: right;">comment by: CAA Norway</p> <p data-bbox="363 1395 1498 1597">The changes suggested will harmonise the ATSEP requirements in Europe and is an important step in the right direction. In Norway the Eurocontrol CCC has been the basis for the development of ATSEP training and assessment for several years, but still these requirements will probably - together with the ATCO HR requirements - require considerably time and resources from the ATM/ANS provider to be implemented in an acceptable way.</p>
response	<p data-bbox="363 1597 443 1635"><i>Noted</i></p>
comment	<p data-bbox="363 1753 416 1792">287</p> <p data-bbox="1155 1753 1498 1792" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="363 1854 587 1886">Paragraph 224</p> <p data-bbox="363 1917 507 1948">Comment:</p> <p data-bbox="363 1951 1498 2016">The definitions in the EN 224 and the IR ATSEP.OR.005 (b) have different scopes. We would appreciate clarity on which definition is correct .</p>

response *Noted*

The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

comment 290

comment by: *Irish Aviation Authority*

Document: A – Explanatory Note

Page No: 57

Paragraph No: 227 and later paragraphs.

Comment: THE ATSEP provisions are focussed on requirements for large, often state-run, en-route ANSPs and do not have sufficient flexibility provisions to accommodate states, like Ireland, where there is a market of contestability, with many smaller ANSPs in competition with each other. The measures proposed will endanger the financial health of many of these smaller entities, to the benefit of larger providers, as these smaller businesses would have over-proscriptive and dis-proportionate requirements, which will not improve safety, imposed upon them.

Justification: The ATSEP requirements are over prescriptive and define training requirements to a far too intricate level of detail.

Proposed Text: Comments and suggestions are provided later in respect of the IR, AMC and GM material to allow more flexibility.

response *Noted*

The Agency's responses are given in the related IRs, AMCs and GMs.

comment 362

comment by: *Kerry Airport*

Document: A – Explanatory Note

Page No: 57

Paragraph No: 227 and later paragraphs.

Comment: THE ATSEP provisions are focussed on requirements for large, often state-run, en-route ANSPs and do not have sufficient flexibility provisions to accommodate smaller ANSPs who operate in competition with each other. The proposed measures will have a dis-proportionate impact on smaller ANSP's due to the over-proscriptive and dis-proportionate requirements, which will not provide any additional improvement over existing safety standards. In addition the financial costs associated with implementation will be dis-proportionate for smaller ANSP's and place them at a financial disadvantage to the benefit of larger service providers.

Justification: The ATSEP requirements are over prescriptive and define training requirements to a far too intricate level of detail. The UK CAA has conducted an analysis

response *Noted*

comment 371 comment by: EUROCONTROL Safety Team

Page 57 Para 224

The inclusion of a description of ATSEP is welcome. However there is inconsistency between the description of ATSEP in the EN and the one shown in Annex XII of the proposed IR. The description of ATSEP in the Annex XII is considered to be better and it is recommended to include this as definition of ATSEP in list of definitions (ART 2) of IR and not left buried in an Annex.

response *Noted*

The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

comment 386 comment by: UK CAA

Page No: 57

Paragraph No: 224

Comment: The term 'operate' is considered to include staff other than ATSEPs, such as ATCOs.

Justification: Limitation of scope to better define staff covered by ATSEP requirements.

Proposed Text: Delete the word 'operate'.

response *Not accepted*

In GM1 ATSEP.OR.005(b), the Agency provides guidance explaining that the term 'operate' has to be understood, in the context of ATSEP, differently than in the context of ATCOs.

comment 387 comment by: UK CAA

Page No: 57

Paragraph No: 227 and later paragraphs.

Comment: The introductory statement in the RIA, recognises that '*the level of competence of ATSEP in Europe is currently acceptable*'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, , these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need.

response	<p>These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency.</p> <p>Justification: The ATSEP requirements are over prescriptive and define training requirements to a far too intricate level of detail.</p> <p>Proposed Text: Comments and suggestions are provided later in respect of the IR, AMC and GM material to allow more flexibility.</p>
	<p><i>Noted</i></p> <p>The Agency's responses are given in the related IRs, AMCs and GMs.</p>

comment	388	comment by: UK CAA
	<p>Page No: 63 Paragraph No: 256 and 257 Comment: The references to Training Instructors and Technical Skills Assessors are examples of over-prescriptive and dis-proportionate requirements. Justification: The introductory statement in the RIA, recognises that '<i>the level of competence of ATSEP in Europe is currently acceptable</i>'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, , these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need.</p> <p>These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency.</p> <p>The use of training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified.</p> <p>Proposed Text: Comments and suggestions are made later in respect of the IR, AMC and GM material, to delete such references.</p>	
response	<p><i>Noted</i></p> <p>The Agency's responses are given in the related IRs, AMCs and GMs.</p>	

comment	403	comment by: USAC-CGT
	<p><u>The NPA must have only one ATSEP scope definition.</u> Expl Note (doc A, §224) = '<i>Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related</i></p>	

response	<p>ATM/ANS systems shall be considered to be an ATSEP' IR (doc B, ATSEP.OR.005 (b)) = 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP;</p> <p>We propose to keep : 'Any authorised personnel who is competent to install, operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP';</p>
	<p><i>Noted</i></p> <p>The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.</p>

comment	<p>424 comment by: DFS Deutsche Flugsicherung GmbH</p>
response	<p>Comment on EN 225: DFS fully acknowledges the way EASA deals with the Eurocontrol Spec-132. However, when implementing courses, this documentation is difficult to handle for a training provider. Spreading relevant parts for one training course over different documents may lead to unintended leaps or omissions in concrete course implementations. DFS recommends that EASA provides and maintains a consolidated version of the Annex XII training documentation, i.e. subject, topic, subtopic and related objectives in one single document.</p> <p><i>Noted</i></p> <p>Because of the different process IRs and AMC/GM need to go through for adoption (IR: Comitology and AMC/GM: Agency Decision), the relevant parts of the training are separate. Also, because of the length of the ATSEP CCC, and in order not to have many pages containing implementing rules, specific appendices were created. The Agency intends to publish a consolidated version of the ATSEP rules in the future.</p>

comment	<p>425 comment by: DFS Deutsche Flugsicherung GmbH</p>
	<p>Comment on EN 229: EASA proposes to locate subject, topic and subtopic at IR-level. The ATSEP CCC document needs to be updated on a regular basis, already in 2015, and new content will continuously evolve. New content mostly will require one or more new subtopics. In the proposed structure such kind of changes will require full EU involvement in any of these changes and EASA will have no flexibility to implement under its own responsibility.</p>

response	<p>DFS proposes to systematically allocate subtopics to the AMC level rather than at IR level.</p> <p><i>Not accepted</i></p> <p>The proposal by DFS to rearrange the sub-topics at the level of AMC rather than that of IR was initially considered by the Agency at a time when the flexibility given to service providers was limited (no choice in the number of subject for Basic Training). In order to maintain an appropriate level of harmonisation in Europe (which is not the case with the flexibility given), the Agency considered necessary to ensure a minimum of harmonisation by integrating the sub-topics at the level of IRs. If new sub-topics should be included with the revision of the ATSEP CCC at EUROCONTROL, they would be properly assessed and if transposed in EASA rules, they would be subject to Comitology procedure for adoption.</p>
comment	<p>426 comment by: DFS Deutsche Flugsicherung GmbH</p> <p>Comment on EN 230: According to Eurocontrol Spec-132 basic training is designed to "...impart fundamental knowledge of the CNS/ATM environment and skills applicable to all learner ATSEPs."</p> <p>Following the EASA proposal outlined here, the fundamental knowledge of the CNS/ATM system is reduced to the subjects "Induction" and "Air Traffic Familiarisation". From a DFS point of view, this cutback to only two subjects is fully disproportional and contradicts the overall target of establishing a safe ATM/ANS system. Instead, it is vital that any engineering or technical personal acting within the area of CNS/ATM safety related systems has a fundamental knowledge of the other technical domains defined for ATSEPs.</p> <p>The aspects of proportionality and economical viability are considered sufficiently by the concept of the different qualification streams.</p> <p>There is also no good reason to abandon any subject in basic training for economical reason. Courses are available starting from 7 working days (on-site) or from about 1500,- EUR (e-learning). Supporting business models which cannot afford that amount of qualification requirements from an economical point of view is not sustainable and will not be able to provide safe services in the ATM/ANS service context.</p> <p>DFS proposes to either</p> <ul style="list-style-type: none"> • Prescribe the complete Basic course as mandatory <p>or</p> <ul style="list-style-type: none"> • Discard the concept of a Basic course completely and shift the remaining subjects "Induction" and "Air Traffic Familiarisation" into the Qualification Shared course.
response	<p><i>Not accepted</i></p> <p>While the Agency acknowledges the necessity for all ATSEP to have the appropriate knowledge of the basics, the separation between the mandatory (shared) basic training subjects and the optional basic training subjects is made to offer flexibility to service providers in order to ensure that their ATSEP have the basic training needs in accordance with the type of work they will perform and on the related systems they will be working on.</p>

comment	<p data-bbox="359 206 422 241">434</p> <p data-bbox="1212 206 1485 241" style="text-align: right;">comment by: ENAV</p> <p data-bbox="359 291 486 324">Refer to:</p> <p data-bbox="359 324 1485 459">224. The Agency, therefore, proposes to define ATSEPs in ATSEP.OR.005(b) as 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related ATM/ANS systems shall be considered to be an ATSEP'.</p> <p data-bbox="359 459 1485 593">ATSEP.OR.005 Scope (b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP;</p> <p data-bbox="359 593 1485 660">The definitions in the EN 224 and the IR ATSEP.OR.005 (b) have different scopes. The systems that the NM uses are not included in either of these definitions.</p> <p data-bbox="359 660 646 694">Proposed rewording:</p> <p data-bbox="359 694 1485 824">(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems, as well as systems used by the Network Manager, shall be considered to be ATSEP;</p>
response	<p data-bbox="359 824 446 869"><i>Noted</i></p> <p data-bbox="359 918 1485 1122">The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.</p>

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comment	<p data-bbox="359 1361 422 1406">288</p> <p data-bbox="1117 1361 1485 1406" style="text-align: right;">comment by: CAA Norway</p> <p data-bbox="359 1444 502 1478">Chapter 4</p> <p data-bbox="359 1478 1485 1612">Option 1: Establishment of the management system by the competent authority, is supported. This will ensure a more systematic approach to processes that are done or partly done already and it would also further harmonise the European authorities.</p> <p data-bbox="359 1612 502 1646">Chapter 5</p> <p data-bbox="359 1646 1485 1747">Option 1: Implementation of the findings classification, is supported. This would mean more demanding work for the authorities, but would probably increase the "quality" of process related to non-comformities.</p> <p data-bbox="359 1747 502 1780">Chapter 6</p> <p data-bbox="359 1780 1485 2004">Option 1: Limits the flexible risk-based approach only for a period of two years, is supported. Option 1 and Option 2 are both far better requirements than the existing requirement. We support Option 1 since we would like to audit, in particular smaller organisations, at least every 2 years. Things may change very fast in smaller organisations (like the financial situation), and with Option 2 it could in certain situations be tempting to extend the audit period longer than the criteria allows.</p>
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response	<p>Chapter 7 Option 1: Extend the scope of Annex I Option 2: Amend Commission Implementing Regulation ... and extend it to make it applicable to all ATM/ANS providers. No strong opinions! Chapter 8 Option 1: Apply the same criteria that exist for FIS providers eligible to derogations. As remarked in our reply no. 7 we are uncertain of when the declaration may be used. Chapter 9 Option 3: Introduce training and competence assessment and transpose the ATSEP CCC in the Implementing Rules and in AMC, is supported.</p>
	<i>Noted</i>

comment	<p>291 comment by: <i>Irish Aviation Authority</i></p> <p>Document: A – Explanatory Note Page No: 63 Paragraph No: 256 and 257 Comment: The references to Training Instructors and Technical Skills Assessors are examples of over-prescriptive and dis-proportionate requirements. Justification: THE ATSEP provisions are focussed on requirements for large, often state-run, en-route ANSPs and do not have sufficient flexibility provisions to accommodate states, like Ireland, where there is a market of contestability, with many smaller ANSPs in competition with each other. The measures proposed will endanger the financial health of many of these smaller entities, to the benefit of larger providers, as these smaller businesses would have over-proscriptive and dis-proportionate requirements, which will not improve safety, imposed upon them. The use of such training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified. Proposed Text: Comments and suggestions are made later in respect of the IR, AMC and GM material, to delete such references.</p>
response	<p><i>Not accepted</i></p> <p>The Agency introduced some provisions on training instructors and technical skills assessors because they are considered as being part of the safety chain. The Agency does not consider that these requirements are over-prescriptive and disproportionate as they are drafted at a very high level and only contain general requirements. The way service providers organise themselves to comply with these requirements is left to them.</p>

comment	<p>292 comment by: <i>Irish Aviation Authority</i></p> <p>Document: A – Explanatory Note Page No: 67 Paragraph No: ATSEP (Air Traffics Safety Electronics Personnel) Comment: The introductory statement recognises that '<i>the level of competence of ATSEP in Europe is currently acceptable</i>'. There is no associated argument as to</p>
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response	<p>why this level of competence will not be maintained under current regimes nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, it can only be construed that these over-proscriptive and dis-proportionate regulations are being enacted for purposes other than safety..</p> <p>Justification: The RIA is not detailed as regards analysis of future situations, cost and practicality of the proposals.</p> <p>Proposed Text: No text proposed.</p> <p><i>Not accepted</i></p> <p>The Agency is acting in accordance with the provisions of the Basic Regulation in order to propose implementing measures for the training and competence assessment of service provider's personnel. ATSEP is one category of such personnel. Whereas safety is the primary objective of the Agency, harmonisation of rules in Europe is also beneficial to affected parties.</p> <p>This NPA proposes initial training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their basic training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the initial training to AMC level. Service providers may comply with the objectives in the way which they consider most appropriate to them.</p> <p>This approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. The ATSEP initial training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.</p> <p>The RIA for ATSEP reflects this approach.</p>
comment	<p>363 comment by: Kerry Airport</p> <p>Document: A – Explanatory Note Page No: 63 Paragraph No: 256 and 257</p> <p>Comment: The references to Training Instructors and Technical Skills Assessors are examples of over-prescriptive and dis-proportionate requirements.</p> <p>Justification: THE ATSEP provisions are focussed on requirements for large, often state-run, en-route ANSPs and do not have sufficient flexibility provisions to accommodate states, like Ireland, where there is a market of contestability, with many smaller ANSPs in competition with each other. The measures proposed will endanger the financial health of many of these smaller entities, to the benefit of larger providers, as these smaller businesses would have over-proscriptive and dis-proportionate requirements, which will not improve safety, imposed upon them.</p> <p>The use of such training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified.</p> <p>Proposed Text: Comments and suggestions are made later in respect of the IR, AMC and GM material, to delete such references.</p>
response	<p><i>Not accepted</i></p>

The Agency introduced some provisions on training instructors and technical skills assessors because they are considered as being part of the safety chain. The Agency does not consider that these requirements are over-prescriptive and disproportionate as they are drafted at a very high level and only contains general requirements. The way service providers organise themselves to comply with these requirements is left to them.

comment 364

comment by: Kerry Airport

Document: A – Explanatory Note

Page No: 67

Paragraph No: ATSEP (Air Traffics Safety Electronics Personnel)

Comment: The introductory statement recognises that '*the level of competence of ATSEP in Europe is currently acceptable*'. There is no associated argument as to why this level of competence will not be maintained under current regimes nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, it can only be construed that these over-proscriptive and dis-proportionate regulations are being enacted for purposes other than safety. It is already acknowledged in ESARR5 guidance material that there are different levels of ATSEP competence; e.g. Level 1, 2 and 3 tasks; therefore three levels of training. This does not appear to be considered in the NPA and could, dependant on interpretation, have the potential to place an unnecessary training and financial burden on small ANSP's..

Justification: The RIA is not detailed as regards analysis of future situations, cost and practicality of the proposals.

Proposed Text: No text proposed.

response *Not accepted*

The Agency is acting in accordance with the provisions of the Basic Regulation in order to propose implementing measures for the training and competence assessment of service provider's personnel. ATSEP is one category of such personnel. Whereas safety is the primary objective of the Agency, harmonisation of rules in Europe is also beneficial to affected parties.

This NPA proposes initial training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their basic training syllabi in accordance to their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the initial training to AMC level. Service providers may comply with the objectives in the way which they consider most appropriate to them.

This approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. The ATSEP initial training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

The RIA for ATSEP reflects this approach.

comment 389

comment by: UK CAA

Page No: 67

	<p>Paragraph No: ATSEP (Air Traffic Safety Electronics Personnel) Comment: The introductory statement in the RIA, recognises that <i>'the level of competence of ATSEP in Europe is currently acceptable'</i>. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need. These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency. Justification: The RIA is not detailed as regards analysis of future situations, cost and practicality of the proposals.</p>
response	<p><i>Not accepted</i></p> <p>The Agency is acting in accordance with the provisions of the Basic Regulation in order to propose implementing measures for the training and competence assessment of service provider's personnel. ATSEP is one category of personnel. Whereas safety is the primary objective of the Agency, harmonisation of rules in Europe is also beneficial to affected parties.</p> <p>This NPA proposes initial training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their basic training syllabi in accordance to their needs. The NPA reproduces the Eurocontrol ATSEP CCC but allows for flexibility, offering optional training and leaving all the content of the initial training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.</p> <p>This approach offers the necessary flexibility and proportionality to all kind of service providers according to the types of services they provide and the number of ATSEP they have. The ATSEP initial training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.</p> <p>The RIA for ATSEP reflects this approach.</p>

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comment	<p>136 comment by: AESA / DSANA</p> <table border="1"> <thead> <tr> <th data-bbox="359 1769 518 1848">PART</th> <th data-bbox="518 1769 1284 1848">COMMENT</th> <th data-bbox="1284 1769 1476 1848">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td data-bbox="359 1848 518 2027">(A) V Summary of the RIA Open</td> <td data-bbox="518 1848 1284 2027"><i>Additionally, stakeholders are kindly invited to provide data on administrative cost impacts introduced by these draft rules and any other quantitative information they may find</i></td> <td data-bbox="1284 1848 1476 2027">n/a</td> </tr> </tbody> </table>	PART	COMMENT	JUSTIFICATION	(A) V Summary of the RIA Open	<i>Additionally, stakeholders are kindly invited to provide data on administrative cost impacts introduced by these draft rules and any other quantitative information they may find</i>	n/a
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issues	<i>necessary to bring to the attention of the Agency.-</i>			
response	<i>Noted</i>			

comment	242	comment by: <i>DSNA</i>
	<p>The costs necessary to demonstrate compliance with new requirements like Human Factors issues (Fatigue, Stress, Rostering) have not been evaluated. Industry requires a transition period necessary to implement Fatigue Risk Management concepts, bearing in mind the uncertainties raised in our comments and on-going ICAO task force.</p> <p>As a comparison, the airline industry has been working on those same issues for a very long time before it was actually regulated at European and ICAO level. This was also accompanied by high level and practical seminars and workshops on those issues, as well as research fundings.</p> <ul style="list-style-type: none"> - NASA In-Flight Crew Fatigue Studies 1981-89 - 1993: Air New Zealand seeks an innovative, data driven approach for crew scheduling. - 2001-2005 Ultra Long Range Crew Alertness Workshops - 2009 revision of ICAO Prescriptive flight and duty time limitations (annex 6) - 2009-2011 ICAO Fatigue Risk Management Task Force 	

response	<i>Noted</i>	
	<p>In consideration of the content of provisions related to stress and fatigue management proposed with NPA 2013-08, the Agency did not recognise the need for a RIA on these subjects.</p> <p>The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements, in this case those under subparagraph 5(b)(ii) of Annex Vb on stress.</p> <p>The set of measures proposed by the Agency provides for the necessary implementation of the Essential Requirements under subparagraph 5(b)(ii) of Annex Vb on stress.</p> <p>The scope of the ICAO ATCO FRMS Task Force covers exclusively fatigue and its management, and not stress. The Agency is aware of and actively involved in this ICAO activity. It will take due account of its results with a reassessment of these provisions at that time, under its RMT.0486.</p> <p>The Agency will duly consider the definition of transition period in the light of comments received for the purpose of the Opinion.</p>	

comment	264	comment by: <i>Copenhagen Airports A/S</i>
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response	At this point of time it is not possible for CPH to quantify
	<i>Noted</i>
comment	289 comment by: CAA Norway
response	<p>CAA Norway will get increased costs and will need to use additional resources on implementing the new AR requirements, like Management System, Findings classification, performance based and risk-based oversight. There will also be more ATM/ANS providers to certify. In the long term it is not foreseen any additional costs caused by the new regulations.</p>
	<p><i>Noted</i></p> <p>On a general basis, expecting more information from ANSPs and competent authorities regarding their current national legislative framework and quantitative information on the specific impacts envisaged by them, the identified impacts are deemed to be valid. With the period of transition proposed by NPA 2013-08, it is foreseen that the potential additional costs would be smoothly introduced and balanced with other positive aspects, like better working conditions through harmonised requirements (e.g. facilitation of the SSP implementation as required by ICAO) and more flexibility, thanks to this regulatory harmonisation. Unless more precise and significant information would be given, especially on the impact foreseen by the commentator, a general review of the RIA cannot be undertaken.</p> <p>In any case, the Agency has the view that the similarity of the authority requirements and organisation requirements with those in other domains, will alleviate the possible impact due to the experience that the competent authorities will have obtained but also due to commonality of the requirements (e.g. common internal procedures, common ways of treating findings, etc.).</p>
comment	338 comment by: IFATCA
response	<p>IFATCA invites EASA to consider postponing any further consultation on this NPA including the CDR prior to the completion of all the elements not clarified or open so far. Too many important issues are missing in order to completely appreciate the overall impact.</p>
	<p><i>Not accepted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is going to issue a dedicated NPA on the provisions related to the assessment of changes to functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and that of the NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p>

Furthermore, this Opinion will include also the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

339

comment by: IFATCA

see comment under general comments. IFATCA was unable to collect valid data for this question. It is however foreseen that the set up of oversight and the requirements put on NSA, competent authorities and ANSP (including contracted services) will mean a increase in rule-making and regulatory activities in the order of magnitude of 25%. Only by trying to be compliant with the reporting requirements for safety an average seize ANSP will have to hire about 10 investigator out of the ops room.

response

Noted

On a general basis, expecting more information from ANSPs and competent authorities regarding their current national legislative framework and quantitative information on the specific impacts envisaged by them, the identified impacts are deemed to be valid. With the period of transition proposed by NPA 2013-08, it is foreseen that the potential additional costs would be smoothly introduced and balanced with other positive aspects, like better working conditions through harmonised requirements (e.g. facilitation of the SSP implementation as required by ICAO) and more flexibility, thanks to this regulatory harmonisation. Unless more precise and significant information would be given, especially on the impact foreseen by the commentator, a general review of the RIA cannot be undertaken.

In any case, the Agency has the view that the similarity of the authority requirements and organisation requirements with those in other domains, will alleviate the possible impact due to the experience that the competent authorities will have obtained but also due to commonality of the requirements (e.g. common internal procedures, common ways of treating findings, etc.).

Furthermore, it should be noted that the proposed provisions on occurrence reporting do not add any additional requirements that a properly established SMS is required to have. In any case, the proposed provisions do not suggest any specific way of structuring such reporting systems which remains responsibility of the service provider.

comment

427

comment by: DFS Deutsche Flugsicherung GmbH

The implementation of this regulation would end up in 650.000 EUR and create additional annual costs at the amount of 120.000 EUR.
DFS is ready to explain the calculation basis and more details on request.

response

Noted

DFS indicated that 'The implementation of this regulation would end up in 650.000 EUR and create additional annual costs at the amount of 120.000 EUR.'

The total revenues of DFS are in the range EUR 1,1 billion in 2012 (source: DFS

Annual Report 2012, English version, page 21).

The relative share of the potential cost impacts in relation to the total revenues is approximately 0.06 % for the non-recurrent costs and 0.01 % for the recurrent costs.

DFS provided detailed confidential information. The Agency answered that some of the cost impacts are not necessarily linked to NPA 2013-08 or are not sufficiently justified.

Meanwhile, it has to be noted that CRD to NPA 2013-08 has taken into account a number of comments provided by DFS and other stakeholders: this has certainly the potential to decrease the perception of cost impacts with the final rules (e.g. see the new rules for ATSEP in CRD to NPA 2013-08).

comment	494	comment by: <i>comments provided on behalf of FIT/CISL Italian trade union</i>
		Not an issue.
response		<i>Noted</i>

A. Explanatory Note – VI. How to comment on this NPA

p. 71

comment	340	comment by: <i>IFATCA</i>
		Attachment #9
		see complete comment file attached
response		<i>Noted</i>

D. Appendices – I. RULE STRUCTURE AND ITS FUTURE EVOLUTION

p. 75-76

comment	45	comment by: <i>EUROCONTROL</i>
		Page 75 D - Appendices: I. Rule structure and its future evolution Annex XII is missing from the bullet points.
response		<i>Noted</i>
		This is due to the format of the table. It will be rectified.

Appendix A – Attachments

 [CRT Comments on EASA NPAs HANSA V.pdf](#)
Attachment #1 to comment [#46](#)

 [ACCEPTABLE MEANS OF COMPLIANCE WITH NPA 2013.pdf](#)
Attachment #2 to comment [#48](#)

 [Draft ATSEP AMC-GM ANNEX XI.pdf](#)
Attachment #3 to comment [#48](#)

 [GPA ATSEP Compliance Matrix.pdf](#)
Attachment #4 to comment [#48](#)

 [GPA AENG - ATSEP Training Progress Matrix.pdf](#)
Attachment #5 to comment [#48](#)

 [IMPLEMENTATION COSTING ESTIMATE FOR POSSIBLE INTRODUCTION OF REGULATION OF AIR TRAFFIC SAFETY ELECTRONICS PERSONNEL - Prestwick Airport Response - August 2012.pdf](#)
Attachment #6 to comment [#48](#)

 [Draft ATSEP IR Material - ANNEX XI.pdf](#)
Attachment #7 to comment [#48](#)

 [ICAO framework 2013 NPA 2013 08.pdf](#)
Attachment #8 to comment [#315](#)

 [IFATCA Comments on NPA2013-08 131030.pdf](#)

Attachment #9 to comment [#340](#)