



TERMS OF REFERENCE

- Task Nr:** MDM.097(a) & (b)
- Issue:** 1
- Date:** 1 April 2011
- Regulatory reference:** M.A.301 (8), EU-OPS 1.1045 and JAR-OPS 3. Also referenced in OR.OPS.AOC.125 in CRD b.2 to NPA 2008-22c and 2009-02c and AMC3-OR.OPS.MLR.100 in CRD b.3 to NPA 2008-22c and 2009-02c.
See also AMC M.A.710(b) and (c) bullet point 2 and AMC M.A.904 (a)(2)(l).
- Reference documents:** Regulation EC 2042/2003¹, as last amended;
Regulation EC 859/2008² (EU OPS) and proposed implementing rules for operators, in particular Part-OR.OPS;
BEA - Accident Report Ref: ISBN 978-2-11-099128-7: available at <http://www.bea.aero/docspa/2008/d-la081127.en/pdf/d-la081127.en.pdf>;
AAIB Bulletin 09/2010: Serious incident on B737 in a post maintenance check flight;
http://www.aaib.gov.uk/cms_resources.cfm?file=/Boeing%20737-73V,%20G-EZJK%2009-10.pdf.

1. Subject: Airworthiness and operational aspects for maintenance check flights

2. Problem/Statement of issue and justification; reason for regulatory evolution (regulatory tasks):

Part-M or EU-OPS do not contain specific requirements regarding maintenance check flights, apart from M.A.301 defining maintenance check flights as continuing airworthiness task and a list of 'non-revenue flights' contained in the table of contents for the Operations Manual (Appendix 1 to EU-OPS 1.1045 point 8.7). This table of contents is now transposed into the proposed OPS implementing rules as AMC3-OR.OPS.MLR.100 (CRD b.3 NPA 2008-22c and 2009-02c).

Following the Perpignan accident, the Agency reviewed the OPS requirements and found that the issue of maintenance check flights and more widely that of non-commercial flights of commercial air transport operators is not sufficiently addressed in EU-OPS. Review of OPS implementation in Member States showed that, in the absence of specific requirements in EU-OPS, different practices exist. While some Member States provide clear guidance to operators on the legal and possible approval requirements, others leave it entirely to the operator to determine the applicable requirements and procedures. The

¹ Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 315, 28/11/2003, p. 1). Regulation as last amended by Regulation (EU) No 962/2010 of 26 October 2010 (OJ L 281, 27.10.2010, p. 78).

² Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (OJ L 254, 20.09.2008, p. 1).

Agency felt that the current situation represents a safety gap and inserted task OPS.075 in its Rulemaking Programme. This task should define the different types of non-revenue flights and establish the appropriate requirements to be followed by CAT operators as well as other commercial and non-commercial operators, as appropriate. While it would take some time to accomplish this task and to close the safety gap, paragraph OR.OPS.AOC.125 was inserted in the draft implementing rules requiring operators to clearly describe procedures in the operations manual and to obtain prior approval of these procedures from the competent authority. The proposal was discussed with the OPS.001 review groups which fully supported the proposal.

On the continuing airworthiness side, the rulemaking programme already contained a task on maintenance check flights. M.A.301 defines as a continuing airworthiness task the performance of maintenance check flights when necessary. As of today, there are no Acceptable Means of Compliance or Guidance Material defining further this requirement.

The Agency reviewed the timing of the OPS and Part-M task and decided that as a first step the task addressing maintenance check flights should be advanced. In a second step the task OPS.075 will address all other types of flights.

This task will therefore address maintenance check flights in their entirety, including continuing airworthiness procedures to be included in AMC/GM to Part-M and operational considerations, such as procedures, performance, crew competency, etc. as amendment to the future rules OPS.

Safety recommendations addressed to EASA after Perpignan accident (see link to report above) and safety recommendations 2010-073 and 2010-075 recorded in AAIB Bulletin 09/2010 (link to reference also above) will be considered as input for the amendment of the operations rules in respect of maintenance flights.

3. Objective:

* Establish Acceptable Means of Compliance or Guidance Material to help to determine when a maintenance check flight should be performed and under which protocol and responsibilities.

* Establish operational requirements and crew competence criteria for the performance of these flights. This will not be limited to operators subject to EU-OPS approval but to any operator performing these flights.

Final objective is to reduce the probability of incidents and accidents of this type of flights.

4. Specific tasks and interface issues (Deliverables):

The normal outcome of the task would be the development of a Decision (new Acceptable Means of Compliance or new Guidance Material for Part-M, M.A.301(8)) and an Opinion (proposal to amend OPS implementing rules) with the corresponding Decision (Acceptable Means of Compliance/Guidance Material).

5. Working Methods (in addition to the applicable Agency procedures):

Group

6. Time scale, milestones:

Start: 2011/Q1

NPA: 2011/Q4

CRD: 2012/Q4

Decision: 2013/Q2

Opinion: 2013/Q2