

NOTICE OF PROPOSED AMENDMENT (NPA) No 4/2004

DRAFT OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY,

amending Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks.

AND

DRAFT DECISION OF THE EXECUTIVE DIRECTOR OF THE AGENCY,

amending Decision 2003/19/RM on acceptable means of compliance to Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks.

Explanatory Note

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to amend Annex III (Part-66) to the Commission Regulation (EC) No 2042/2003¹ (document 1) and Annex IV to Decision 2003/19/RM² (document 2). The reason for these measures is outlined further below. This proposal is included in the Agency's 2004 rulemaking programme.

2. The text of this NPA was developed by the Agency. It is submitted for consultation of all interested parties in accordance with Article 43 of the basic Regulation and Article 6 of the EASA rulemaking procedure³.

II. Consultation

3. To achieve optimal consultation, the Agency will rely on existing official channels and consultation practice currently applied by the JAA to disseminate the draft Opinion to its widest audience and collect the related comments. Considering the nature of the proposal and the need to act urgently, it is requested to provide comments within 6 weeks in accordance with Article 15 of the EASA rulemaking procedure.

4. Comments should be received (preferable be e-mail) by the NPA Administrator **before 29/10/2004** and if received after this deadline they might not be treated. Comments will not be considered if the form provided for this purpose is not used:

By e-mail: **consultation.EASA-NPA4-04@jaa.nl**

By correspondence: Inge van Opzeeland
NPA Administrator
Joint Aviation Authorities
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¹ OJ L 351, 28.11.2003, p. 1. Commission Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks.

² Decision of the Executive Director of the Agency of 28 November 2003 on acceptable means of compliance and guidance material to Commission Regulation (EC) No 2042/2003 of 20 November 2003.

³ Decision of the Management Board concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material ("rulemaking procedure"), EASA MB/7/03, 27.6.2003.

III. Comment response document

5. All comments received will be responded to and incorporated in a so-called Comment Response Document (CRD). This may contain a list of all persons and/or organisations that have provided comments. The CRD will be widely available ultimately when the Agency's Opinion is submitted to the Commission for adoption.

IV. Content of the draft Commission Regulation

6. The proposed new paragraph 66.A.55 stipulates that personnel exercising certification privileges must be able to produce their licence as evidence of qualification if requested by an authorised person within 24 hours. The intent of this paragraph is to allow competent authorities, contracting aircraft owners or approved organisations to verify that a person certifying maintenance is in fact holder of the proper licence. This paragraph comes directly from JAR 66.55. However, this paragraph disappeared by accident from the final text during the final review process.

7. During the consultation on the draft AMC-66 the Agency was made aware of this error that had been overseen during the development and comments on Part- 66. Unfortunately, it was too late to remedy the problem immediately as Part-66 had already been consulted and corrected. It was agreed that this correction would be made at a later date by the Agency. Consequently it is now proposed to make the necessary correction. The proposed change is to add paragraph 66.A.55 as follows:

“66.A.55 Evidence of qualification

Personnel exercising certification privileges must be able to produce their licence, as evidence of qualification, if requested by an authorised person, within 24 hours.”

8. The absence of paragraph 66.A.55 from Part-66 lead to removal of the related AMC from the Decision 2003/19/RM. If this paragraph is reinstated into the Commission Regulation, the AMC should also be reintroduced into the above stated Decision to explain who an authorised person is. AMC 66.A.55 should read:

“AMC 66.A.55 Evidence of qualification

“Authorised person” means: any person who is required to establish that the holder has a valid Part-66 aircraft maintenance licence, including the scope of such licence. Authorised persons include the Part-145 approved maintenance organisation for the purpose of qualifying the holder for issue/amendment of the Part-145 certification authorisation, any person from a competent authority and any aircraft owner requesting work from certifying staff. ”

V. Regulatory Impact Assessment

9. The proposal is expected to have no effect as it will reinstate an existing requirement that was forgotten in the transfer into EASA of JAR 66.

Draft (document 1)

COMMISSION REGULATION (EC) No .../..

of [...]

amending Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency¹ (hereinafter referred to as ‘the basic Regulation’) and in particular Articles 5 and 6 thereof,

Having regard to Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks², and in particular Annex III thereof,

Whereas :

- (1) The absence in Annex III (hereinafter referred to as “Part-66”) to the Commission Regulation (EC) No 2042/2003 of text creates a doubt on the need for certifying staff to prove qualification and the time in which such staff shall do so.
- (2) Part-66 to Commission Regulation (EC) No 2042/2003 should therefore be amended accordingly.
- (3) The measures provided by this Regulation are based on the Opinion issued by the Agency⁽³⁾ in accordance with Articles 12(2)(b) and 14(1) of the basic Regulation.
- (4) The measures provided for in this Regulation are in accordance with the Opinion⁴ of the European Aviation Safety Agency Committee established by Article 54(3) of the Basic Regulation,

HAS ADOPTED THIS REGULATION:

¹ OJ L 240, 7.9.2002, p. 1.

² OJ L 351, 28.11.2003, p. 1.

³ [To be issued.]

⁴ [To be issued].

Article 1

The following paragraph shall be added to Part-66 to Regulation (EC) No 2042/2003:

“66.A.55 Evidence of qualification

Personnel exercising certification privileges must be able to produce their licence, as evidence of qualification, if requested by an authorised person, within 24 hours.”

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

Member of the Commission

Draft (document 2)

DECISION No .../.../RM
OF THE EXECUTIVE DIRECTOR OF THE AGENCY
of []

amending Decision 2003/19/RM on acceptable means of compliance to Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks.

THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY,

Having regard to Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (hereinafter referred to as the “basic Regulation”), and in particular Articles 13 and 14 thereof,

Having regard to the Commission Regulation (EC) No XX/XX amending Commission Regulation 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,

Whereas:

- (1) Paragraph 66.A.55 has been inserted into Commission Regulation (EC) No 2042/2003, on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks.
- (2) The Agency should issue certification specifications, including airworthiness codes and acceptable means of compliance, as well as any guidance material for the application of the basic Regulation and its implementing rules.
- (3) The Agency has, pursuant to Article 43 of the basic Regulation, consulted widely interested parties on the matters which are subject to this Decision and following that consultation provided a written response to the comments received.

HAS DECIDED:

Article 1

The following paragraph shall be added to Annex IV to Decision 2003/19/RM:

“AMC 66.A.55 Evidence of qualification

“Authorised person” means: any person who is required to establish that the holder has a valid Part-66 aircraft maintenance licence, including the scope of such licence. Authorised persons include the Part-145 approved maintenance organisation for the purpose of qualifying the holder for issue/amendment of the Part-145 certification authorisation, any person from a competent authority and any aircraft owner requesting work from certifying staff.”

Article 2

This Decision shall enter into force on the day following its publication in the *Official Publication of the Agency*.

Done at X, XX XX XX

Patrick GOUDOU