

NOTICE OF PROPOSED AMENDMENT (NPA) No 5/2004

DRAFT OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY,

for 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,

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

Explanatory Note

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to propose an amendment to Annex I (Part M) to the Commission Regulation (EC) No 2042/2003¹ and Annex I to Decision 2003/19/RM². The reason for this proposal is outlined further below.
2. The Agency is directly involved in the rule-making process. It assists the Commission in preparing drafts in accordance with the EASA rulemaking procedures³, which will be submitted to the Commission as “Opinions” (Article 14).
3. This NPA is included in the Agency’s 2004 rulemaking programme.
4. The text of this NPA is developed by the Agency and submitted for consultation by all interested parties in accordance with Article 5(3) of the EASA rulemaking procedure.

II. Consultation

5. 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 urgency of the envisaged measure, the Agency has decided to reduce the length of the consultation period to six weeks in accordance with Article 6(5) of the EASA rulemaking procedure.

Comments to this proposal may be forwarded (*preferably by e-mail*) to:

By e-mail: **NPA-5-2004@easa.eu.int**

By correspondence: Inge van Opzeeland
Postfach 10 12 53
D-50452 Köln
Germany
Tel: +49 221 / 89 990 5008

Comments should be received by the NPA Administrator before **26 November 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.

¹ OJ L 315, 28.11.2003, p. 1

² Decision No 2003/19/RM of 28.11.2003

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

6. All comments received will be responded to and incorporated in a so-called Comment Response Document (CRD). This will 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 Regulation

7. This NPA has been formulated in support of three initiatives resulting from fatal air accidents where the effects of aircraft age were considered to be significant factors.

8. The initiatives include the work of the JAA-WG which concerns Continued Airworthiness of Ageing Aircraft Structures, resulting in the publication by the JAA of TGL 47 (A&G Section 1 Part 3) which contains continued airworthiness information relevant to the operators maintenance programme. Two further initiatives, the work of the Ageing Transport Systems Rulemaking Advisory Committee (ATSRAC) for ageing aircraft systems and that arising from and the "Fuel Tank Ignition Prevention reviews" are also anticipated to result in the publication of continued airworthiness information that will impact Operators maintenance programmes.

9. These initiatives in turn highlighted that JAR-OPS 1 subpart M Section 1 did not require Operators to review their maintenance programmes as a result of changes to Type Certificate holder's recommendations, such as revisions to Maintenance Review Board Reports, mandatory requirements, maintenance needs of the aircraft, etc.

10. It is therefore considered appropriate that the need for the Operator to review continued airworthiness should more appropriately be placed in Section One of JAR-OPS Subpart M requirements.

11. The JAA have amended JAR-OPS subpart M and related AMC material to include these issues. This NPA consists of the transfer of the above referenced amendment to JAR-OPS subpart M into Part M and related AMC material.

V. Regulatory Impact Assessment

12. The proposal is the transfer of existing and approved JAA material. It should have no impact on operators already operating under JAR-OPS.

Draft

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 Agency"), 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 tasks, and in particular Annex I thereof²,

Whereas :

- (1) It is necessary to incorporate the results of conclusions of the investigation of recent accidents regarding ageing aircraft and fuel tank safety in Annex I (hereinafter referred to as "Part M") to the Commission Regulation (EC) No 2042/2003, regarding the continuing airworthiness of aircraft.
- (2) The current absence of text creates a doubt regarding the need for operators to take into account new or modified maintenance instructions promulgated by the Type Certificate holder and to carry out regular reviews of the maintenance programme.
- (3) The measures provided by this Regulation are based on the opinion issued by the Agency³ 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.

¹ OJ L 240, 7.9.2002, p. 1.

² OJ L 315, 28.11.2003, p. 1

³ [To be issued.]

⁴ [To be issued].

- (5) The Commission Regulation (EC) No 2042/2003 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In paragraph M.A.302 Maintenance programme of Annex I to Commission Regulation (EC) No 2042/2003 the following points shall be added:

“(f) The Maintenance Programme must be subject to periodic reviews and amended when necessary. The reviews will ensure that the programme continues to be valid in light of operating experience whilst taking into account new and/or modified maintenance instructions promulgated by the Type Certificate holder.

(g) The Maintenance Programme must reflect applicable mandatory regulatory requirements addressed in documents issued by the Type Certificate holder to comply with Part 21.A.61.”

Article 2

Entry into force

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

DECISION No .../.../RM

OF THE EXECUTIVE DIRECTOR OF THE AGENCY

of []

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

THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY,

Having regard to 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 “Agency”), 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) In Paragraph M.A.302 of Commission Regulation (EC) No 2042/2003, points (f) and (g) have been inserted.
- (2) It is necessary to incorporate the first results of conclusions of the investigation of recent accidents regarding ageing aircraft and fuel tank safety in Annex I (hereinafter referred to as “Part M”) to the Commission Regulation (EC) No 2042/2003, regarding the continuing airworthiness of aircraft and the applicable acceptable means of compliance must be developed.
- (2) The Agency shall issue certification specifications, including airworthiness codes and acceptable means of compliance (hereinafter referred to as AMC), 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 Regulation (EC) No 1592/2002, consulted interested parties widely on the matters which are subject to this Decision and following this consultation provided a written response to the comments received.

HAS DECIDED:

Article 1

In AMC M.A.302 Maintenance programme of Annex I to Decision No 2003/19/RM, the paragraph 3 shall be deleted.

Article 2

In AMC M.A.302 Maintenance programme of Annex I to Decision No 2003/19/RM, the paragraphs 4, 5 and 6 are renumbered 3, 4 and 5 respectively.

Article 3

In Annex I to Decision No 2003/19/RM, the following AMC shall be added:

“AMC M.A.302 (f) Maintenance programme review

1. The Operator should review the detailed requirements at least annually to assess the need for amendments.
2. Furthermore, mandatory information should be reviewed before compliance is required. Such information includes but is not limited to:
 - i. Airworthiness Limitations, for instance, those required by CS 23.1529 Appendix G and CS 25.1529 Appendix H25.4 including where applicable mandatory replacement times of life limited parts, structural inspection intervals together with related structural inspection procedures.
 - ii. Maintenance considerations for instance Certification Maintenance Requirements/ Certification Check Requirements) and those addressed by AMC 25.1309 and AMC 25-19 including where applicable mandatory tasks intended to detect latent safety-significant failures.”

Article 4

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