



## TERMS OF REFERENCE

<b>Task No:</b>	RMT.0348 (OPS.073(a)) and RMT.0349 (OPS.073(b))
<b>Issue:</b>	1
<b>Date:</b>	31 May 2012
<b>Regulatory reference:</b>	<ul style="list-style-type: none"><li>• Regulation (EC) No 216/2008<sup>1</sup> (the Basic Regulation)</li><li>• Council Regulation (EEC) No 3922/91<sup>2</sup></li><li>• Commission Regulation (EC) No 1702/2003 (Part-21)<sup>3</sup> and related AMC and GM<sup>4</sup></li></ul>
<b>Reference documents:</b>	<ul style="list-style-type: none"><li>• Draft Regulation on Air Operations:<ul style="list-style-type: none"><li>- Annex I 'DEF' (definitions)</li><li>- Annex III 'Part-ORO' (organisation requirements for air operations)<sup>5</sup></li></ul></li><li>• Draft AMC and GM on Air Operations, Annexes I and III<sup>6</sup></li><li>• Draft Regulation on Air Operations, Annex VI 'Part NCC' and Annex VII 'Part-NCO'<sup>7</sup></li><li>• Draft AMC and GM on Air Operations, Annexes VI and VII<sup>8</sup></li><li>• Draft Regulation on Air Operations, Annex VIII 'Part-SPO' (specialised operations)<sup>9</sup></li><li>• Draft AMC and GM on Air Operations; Annex VIII<sup>10</sup></li></ul>

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<sup>1</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1). Regulation as last amended by Regulation (EC) No 1108/2009 of the European Parliament and of the Council of 21 October 2009 (OJ L 309, 24.11.2009, p. 51).

<sup>2</sup> Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4). Regulation as last amended by Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirement and administrative procedures applicable to commercial transportation by aeroplane (OJ L 254, 20.9. 2008, p. 1).

<sup>3</sup> Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 243, 27.9.2003, p. 6). Regulation as last amended by Commission Regulation (EC) No 1194/2009 of 30 November 2009 (OJ L 321, 8.12.2009, p. 5).

<sup>4</sup> Decision No 2003/1/RM of the Executive Director of the Agency of 17 October 2003 on acceptable means of compliance and guidance material for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations ('AMC and GM to Part-21'). Decision as last amended by Decision 2011/010/R of the Executive Director of the European Aviation Safety Agency of 1 December 2011.

<sup>5</sup> Opinion No 04/2011 of the European Aviation Safety Agency of 1 June 2011 for a Commission Regulation establishing Implementing Rules for air operations. Available under <http://www.easa.europa.eu/agency-measures/opinions.php>.

<sup>6</sup> The Agency's Decision can only be published after the Commission Regulation has been amended. Therefore, for the resulting text at this stage, see:

Annex I 'DEF': Comment-Response Document (CRD), dated 25 November 2010, to Notice of Proposed Amendment (NPA) 2009-02b; Annex III 'Part-ORO': CRD, dated 4 October 2010, to NPA 2008-22c and 2009-02c. Available under <http://easa.europa.eu/rulemaking/r-archives.php>.

<sup>7</sup> Opinion No 01/2012 of the European Aviation Safety Agency of 1 February 2012 for a Commission Regulation establishing Implementing Rules for air operations 'Air Operations – OPS (Part-NCC and Part-NCO)'. Available under <http://www.easa.europa.eu/agency-measures/opinions.php>.

<sup>8</sup> The Agency's Decision can only be published after the Commission Regulation has been amended. Therefore, for the resulting text at this stage, see: CRD, dated 30 August 2011, to NPA 2009-02b. Available under <http://easa.europa.eu/rulemaking/r-archives.php>.

<sup>9</sup> Opinion 02/2012 of the European Aviation Safety Agency of 16 April 2012 for a Commission Regulation establishing the Implementing Rules for air operations 'Air Operations – OPS (Part-SPO)'. Available under <http://www.easa.europa.eu/agency-measures/opinions.php>.

- Draft Regulation, and related AMC and GM on 'Flight Testing'<sup>11</sup>

## 1. Subject:

Flights related to design and production activities

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

Flights related to design and production activities are understood as flights related to the introduction of new aircraft types or changes to the aircraft type design. They are carried out by design and/or production organisations with or without a design organisation approval (DOA) and/or a production organisation approval (POA). Such flights are often referred to as 'manufacturer flights', and include, but are not limited to, test flights, demonstration flights, customer acceptance flights and ferry flights.

Due to the specific nature of flights related to design and production activities, these flights are presently excluded from the Agency's Opinions on air operations (Opinions 04/2011, 01/2012 and 02/2012). Instead, at present these flights are carried out in compliance with national provisions while harmonised operational requirements should be provided in the area of air operations.

This gap needs to be closed. The Agency started doing so by establishing Implementing Rules, Acceptable Means of Compliance (AMC) and Guidance Material (GM) for flight testing by amending Part-21 and the associated AMC and GM<sup>12</sup>. However, in the course of the rulemaking activity related to this ToR the operational requirements concerning flight testing will also be reviewed and, if necessary, amended.

Commercial or non-commercial flights carried out by these organisations for the purpose of:

- transporting passengers, cargo or mail;
- pleasure; or
- carrying out a specialised task where the aircraft is either flown very low, carrying out unusual manoeuvres, lifting or towing external loads/goods or where persons enter or leave the aircraft during flight

are addressed by the operational requirements published with the Agency's Opinion 04/2011, 01/2012 and 02/2012.

It should be mentioned that maintenance check flights are not included in this task. They are covered by separate rulemaking tasks of the Agency, namely RMT.0393 (MDM.097(a)) and RMT.0394 (MDM.097(b)) and are envisaged to be finalised in 2013.

Any 'non-revenue' flight conducted by operators not involved in design and production activities will be addressed in the Agency's future rulemaking tasks RMT.0352 (OPS.075a) and RMT.0353 (OPS.075).

No preliminary Regulatory Impact Assessment (Pre-RIA) was required to determine whether the tasks RMT.0348 (OPS.073(a)) and RMT.0349 (OPS.073(b)) should become part of the Agency's Rulemaking Programme. The reason is that the driving force behind these rulemaking tasks is the Basic Regulation itself. It establishes an obligation to carry out these rulemaking tasks and the timelines for delivering them.

<sup>10</sup> The Agency's Decision can only be published after the Commission Regulation has been amended. Therefore, for the resulting text at this stage, see: CRD, dated 27 October 2011, to NPA 2009-02b. Available under <http://easa.europa.eu/rulemaking/r-archives.php>.

<sup>11</sup> The Agency is planning to publish the CRD to NPA 2008-20 on 'Flight Testing' in the second quarter of 2012. It will then be available under <http://easa.europa.eu/rulemaking/comment-response-documents-CRDs-and-review-groups.php>.

<sup>12</sup> The Agency's rulemaking task MDM.003 on Flight testing (see NPA 2008-20 and the CRD thereof). This rulemaking task covers aspects related to certification but also operational requirements.

<p><b>3. Objective:</b></p> <p>The objective of these rulemaking tasks is to establish or to amend, as appropriate, Implementing Rules and associated AMC and GM on operational requirements for flights related to design and production activities. The final objective is to establish a harmonised safety level and conditions under which these flights are to be conducted.</p>								
<p><b>4. Specific tasks and interface issues (deliverables):</b></p> <p>Review and amend the Commission Regulation establishing the Implementing Rules for air operations (e.g. DEF, Part-ORO and Part-SPO) and the associated AMC and GM. In addition, concerning operational requirements, it is envisaged to review and, if needed, to amend Regulation (EC) No 1702/2003 (Part-21) and the associated AMC and GM.</p>								
<p><b>5. Working methods</b> (in addition to the applicable Agency's procedures):</p> <p>Task to be carried out by a Group.</p> <p>RIA type: At the present stage a light RIA is envisaged. However, if necessary, a full RIA will be provided.</p>								
<p><b>6. Time scale, milestones:</b></p> <table><tr><td>NPA:</td><td>2014/Q1</td></tr><tr><td>Opinion:</td><td>2015/Q1</td></tr><tr><td>CRD:</td><td>2015/Q1</td></tr><tr><td>Decision:</td><td>2016/Q1</td></tr></table>	NPA:	2014/Q1	Opinion:	2015/Q1	CRD:	2015/Q1	Decision:	2016/Q1
NPA:	2014/Q1							
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