



Opinion No 04/2015

Helicopter Offshore Operations

RELATED NPA/CRD 2013-10 — RMT.0409 (OPS.093(A)) — 20.5.2015

EXECUTIVE SUMMARY

This Opinion addresses the safety risks identified for helicopter offshore operations (HOFO) and ensures a level playing field.

The objective of this Opinion is, firstly, to mitigate the safety risks by introducing specific regulatory provisions, including an approval requirement, for all helicopter offshore operations, and, secondly, to harmonise the regulatory requirements for the EU. To achieve this, a new Subpart K of Annex V (Part-SPA) to Commission Regulation (EU) No 965/2012, applicable to CAT, NCC and SPO, is proposed through this Opinion.

Rules, or parts thereof, embedded in Annex IV (Part-CAT), Annex VII (Part-NCC) and Annex VIII (Part-SPO), covering helicopter offshore operations, are transposed to Subpart K. In addition, related to the identified safety risks and based on safety reviews and new technology, new provisions are introduced in Subpart K.

Consequential amendments concern the Cover Regulation, Annex I (Part Definitions) and Annex II (Part-ARO).

This Opinion is expected to maintain the high level of safety for helicopter offshore operations established by the Member States in which most of the offshore operations take place.

Proportionality is ensured through appropriate rules for the different types of operations. While CAT, NCC and SPO operators are required to follow Subpart K, NCO operations are excluded from these operations.

Applicability		Process map	
Affected regulations and decisions:	Regulation EU (No) 965/ 2012: Annex I (Part-Definitions); Annex II (Part-ARO); Annex IV (Part-CAT); Annex V (Part-SPA); Annex VI (Part-NCC); Annex VIII (Part-SPO); and related AMC/GM.	Terms of Reference	7.10.2011
Affected stakeholders:	Air operators and NAAs.	Concept Paper:	No
Driver/origin:	Safety.	Rulemaking group:	Yes
Reference:	EASp: Operational issues — Other types of operation — Helicopters.	RIA type:	Full
		Technical consultation during NPA drafting:	No
		Publication date of the NPA:	6.6.2013
		Duration of NPA consultation:	3 months
		Review group:	Yes
		Focussed consultation:	No
		Publication date of the Decision:	2016/Q2



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1. Procedural information

1.1. The rule development procedure

The European Aviation Safety Agency (hereinafter referred to as the 'Agency') developed this Opinion in line with Regulation (EC) No 216/2008¹ (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure².

This rulemaking activity is included in the Agency's [4-year Rulemaking Programme](#) under RMT.0409 (OPS.093(a)).

The draft text of this Opinion and the draft Regulation have been developed by the Agency based on the input of the Rulemaking Group RMT.0409 (OPS.093(a)) and RMT.0410 (OPS.093(b)).

All interested parties were consulted through NPA 2013-10³. 368 comments were received from interested parties, representing industry (35 %), national aviation authorities (37 %) and associations/private persons (28 %).

The Agency has addressed and responded to the comments received on the NPA. Based also on advice from the review group, consisting of the original rulemaking group and NAA representatives from France, Italy and Norway, the Agency updated the draft regulations. The Comment-Response Document (CRD) 2013-10⁴ included the draft regulations, the proposed draft AMC/GM, all comments received and the associated Agency's responses thereto.

It should be noted that it was decided to delay the issuance of the CRD to ensure that CAP 1154⁵ was properly addressed and that regulatory changes which were considered relevant for helicopter offshore operations (HOFO) were incorporated.

The process map on the title page summarises the major milestones of this rulemaking activity.

1.2. The structure of this Opinion and related documents

Chapter 1 of this Opinion contains the procedural information related to this task.

Chapter 2 'Explanatory Note' explains the core technical content and, provides information on the stakeholders' concerns as well as an overview of the proposed amendments. The draft rule text proposed by the Agency is published on the Agency's website.⁶

¹ 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).

² The Agency is bound to follow a structured rulemaking process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the Agency's Management Board and is referred to as the 'Rulemaking Procedure'. See Management Board Decision concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material (Rulemaking Procedure), EASA MB Decision No 01-2012 of 13 March 2013.

³ In accordance with Article 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure. <http://easa.europa.eu/document-library/notices-of-proposed-amendments/npa-2013-10>

⁴ <http://easa.europa.eu/document-library/comment-response-documents/crd-2013-10>

⁵ Civil Aviation Authority — Safety review of offshore public transport helicopter operations in support of the exploitation of oil and gas.



1.3. The next steps in the procedure

This Opinion contains proposed changes to European Union regulations. It is addressed to the European Commission, which uses it as a technical basis in order to prepare a legislative proposal.

The Decision containing the related Acceptable Means of Compliance (AMC) and Guidance Material (GM) will be published by the Agency when the related regulation is adopted by the European Commission.

⁶ <http://easa.europa.eu/document-library/comment-response-documents>



2. Explanatory Note

2.1. Issues to be addressed

Some Member States and industry stakeholders in whose countries offshore helicopter operations are conducted did not consider Annex IV (Part-CAT) to Regulation (EU) No 965/2012⁷ (hereinafter referred to as the Air OPS Regulation) to reflect the necessary levels of safety that were maintained under JAR-OPS 3 and different additional national rules.

The same parties expressed a need for a dedicated Subpart of Annex V (Part-SPA) to the Air OPS Regulation where helicopter offshore operations (HOFO) would be subject to a specific approval, and all elements of such operations would be described.

Some Member States had imposed additional conditions for commercial air transport helicopter offshore operations and, therefore, issued a separate approval for operators. Such conditions and approvals were not reflected in the Air OPS Regulation. Nevertheless, Article 6(5) of the Air OPS Regulation allows Member States to continue issuing such approvals under certain conditions.

The specific issues to be addressed are, therefore, to assess;

- (a) which rules of Annex IV (Part-CAT) need to be amended and complemented taking into account the situation in the Member States as well as the results of the studies conducted;
- (b) if all offshore-related rules should be included in a new Subpart of Part-SPA, thus requiring a specific approval;
- (c) if non-commercial and specialised operations should be included in Subpart K; and
- (d) whether new technology, either available in or in use by some Member States, should be mandated.

2.2. Objectives

The overall objectives of the EASA system are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2. The specific objectives of this proposal are, therefore,

- (a) to ensure that HOFO conducted as commercial air transport (CAT), non-commercial operations with complex motor-powered helicopters (NCC) or specialised operations (SPO), comply with the general safety objectives of the Basic Regulation;
- (b) to ensure that a level playing field is established;
- (c) to define offshore operations by taking into account the developments in the business; and
- (d) to ensure that appropriate oversight by the regulators is ensured in accordance with a standard set of rules.

⁷ Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European parliament and of the Council (OJ L 296, 25.10.2012, p. 1).



2.3. Outcome of the consultation

2.3.1 Comments on the NPA

A summary of comments on the NPA as well as the responses to the individual comments are included in CRD 2013-10. The revised draft regulations and associated draft AMC/GM were also included in this CRD.

2.3.2 Replies to the CRD

This CRD was published for reactions and additional comments on dedicated questions. The Agency received a total of 105 replies from industry (2), national aviation authorities (53), social partners (48) and private persons (2). These replies consisted of approximately 150 comments and reactions.

In the CRD, the Agency invited stakeholders to provide reactions or particular comments to 3 areas:

(a) Comments provided and responses received.

This area is justified in Chapter 1.3 of the CRD and would allow stakeholders to avoid possible misunderstandings of the comments provided to the NPA, or to react to the responses from the Agency thereto.

The Agency received 22 reactions on responses provided to the NPA comments.

20 of these reactions were:

- (1) general and/or of an informative nature;
- (2) in agreement with one or more of the responses;
- (3) negative to one or more of the responses, without providing a justification or suggestion for improving the text;
- (4) re-introducing one or more initial comments without further justification; or
- (5) introducing one or more new comments which are in conflict with the current regulations.
- (6) a clarification question regarding rule applicability.

These reactions were not further considered for the final Opinion.

The 2 remaining reactions were similar and regarded the discontinuity of Article 6(4) of the Cover Regulation and the introduction of vibration health monitoring (VHM) systems.

These reactions are related to the implementing timeframe for VHM systems and a possible time gap between existing national requirements and applicability of the new rules. This would render the nationally introduced requirement for VHM equipment under Article 6(4) invalid before the requirement for the equipment in the new rule is effective.

The Agency included a recital in the cover regulation.

(b) CAP 1145.

This area is justified in Chapter 2.7 of the CRD where stakeholders were invited to comment on the introduction of additional regulatory text based on the safety recommendations in the CAA



UK offshore review and CAP 1145. Comments were expected to be of a general nature or to address the particular changes to the regulation.

The Agency received 4 comments on CAP 1145 of a general nature. 3 of these also included comments on the associated specific rules:

- (1) One commentator supported the introduction of CAP 1145 into the regulatory text, and also supported the associated specific rules.
- (2) Two commentators expressed a similar general concern for the fact that the study leading to CAP 1145 was considered more valid and more important than other extensive studies such as HSS-2 and HSS-3⁸. They would also appreciate a more extensive assessment of the recommendations made in CAP 1145 and inclusion into the rules. Both commentators, however, supported the associated specific rules which were proposed with the CRD.
- (3) One commentator expressed that CAP 1145 focusses too much on consequence-reducing provisions rather than preventive ones. Further explanation, or a corrective proposal, was not included. The associated specific rules were not commented upon.

Within the framework of this RMT, the Agency equally assessed and took into account any relevant operational recommendations stemming from HSS-2, HSS-3 and CAP 1145. The actions and recommendations of CAP 1145 were included into the rule whenever regulatory action could be considered as the most appropriate action.

(c) Question of authority oversight.

This area is justified in Chapter 2.12.1 of the CRD where stakeholders were invited to comment on a question regarding authority oversight of an operator performing HOFO in a MS other than the MS issuing the Air Operator Certificate (AOC) and (Specific approval) SPA.

The following question was posed in the CRD (item 2.12.1):

Operator XYZ holds an offshore approval from MS A. Operator XYZ has one of its main activities in MS B.

Do stakeholders and NAAs see it as beneficial to introduce a regulatory requirement for operator XYZ to inform MS B before engaging into offshore operations from that MS?

Please justify your answer.

The question was the result of a proposal from the rulemaking review group and, therefore, already supported by the Civil Aviation Authorities of Ireland, Italy, France, Norway and the United Kingdom as part of the group.

The Agency received additional comments in favour of the question from the Civil Aviation Authorities of Norway and the United Kingdom, and also from the Committee for Helicopter Safety on the Norwegian Continental Shelf.

⁸ SINTEF Helicopter Safety Study No 2 and 3



Answers that were not in favour of the question were received from the New European Helicopter Association (EHA) and a private person.

In addition, 7 Norwegian staff associations expressed concerns, both in general comments and in comments on the question, that the very good safety record for Norwegian offshore operations might not be maintained unless a Norwegian AOC was issued to each operator in the Norwegian sector.

Following a discussion between the Committee for Helicopter Safety on the Norwegian Continental Shelf and the Agency, the concerns were understood to indicate a requirement for CAA-NO to be involved before any operator initiates offshore operations on the Norwegian continental shelf. The comments were, therefore, considered to be in favour of the question.

The Agency has included a requirement for an operator to inform the involved NAAs in the final Opinion.

Apart from these specific areas, the majority of reactions and comments targeted a wide range of other issues. In general, these reactions and comments were considered for the final Opinion when they were substantiated and included safety issues or improvements without altering the intentions of the originally proposed text. Some of those reactions and comments that require a more detailed explanation are covered in Chapter 2.3.3 — Specific comments below.

2.3.3 Specific comments

- (a) An emergency exit for each pair of passengers.

The following proposal on specific arrangements related to emergency exits was made:

‘An emergency exit shall be provided for each pair of passengers which is aligned with the passenger seats that is intended to serve in order to permit egress of both passengers within their expected underwater survival time (60 seconds maximum).’

This is an addition to the already included recommendations from CAP 1145. The requirement and its possible implications were not considered in the NPA nor the CRD. The proposal is, therefore, not accepted.

The Agency does, however, consider this to be a safety issue and decided that the proposal will be included in the rulemaking task for Ditching Occupant Survivability (RMT.0120).

- (b) NCC operator performing sea pilot transfer.

A proposal was introduced to allow NCC operators to perform sea pilot transfer outside the remedy of the proposed subpart for HOFO as the rules therein were considered disproportionate, both financially and operationally.

The Agency does not accept this proposal at this late stage based on the following:

- (1) ICAO Annex 6 — Part III defines sea pilot transfers as offshore operations.
- (2) The Agency took this, together with the defined operational risks for the operations in question, into consideration when proposing the regulatory text.
- (3) Member States and industry have accepted the regulations through the NPA/CRD consultation.



- (4) Proportionality and level playing field for all HOFO are ensured by appropriate safety measures for the different types of operations.

Bearing this in mind, the definitions related to offshore operations in Annex I (Part-Definitions) include:

- (1) offshore location, which includes a vessel to which sea pilot transfer is performed;
- (2) offshore operations, which include sea pilot transfer; and
- (3) open sea area, which includes sea areas where sea pilot transfer is performed.

Furthermore, the Agency disagrees to a concept which might initiate a change of sea pilot transfer operations to corporate operations under less stringent regulations outside the scope of Subpart K. This would contradict the work done within this rulemaking task to mitigate the defined safety risks for offshore operations.

2.3.4 Numerical adjustments

To ensure consistency with other SPA subparts, the content of Subpart K is renumbered as compared to the version published with the CRD.

2.4. Summary of the Regulatory Impact Assessment

As identified in the NPA, the regulatory impact assessment specifies that:

- (a) The safety is elevated to a higher standard through the introduction of a harmonised specific approval which ensures to a larger extent that the safety risks are mitigated and properly overseen. Moreover, the proposal aims at addressing all types of operations to fixed or floating offshore structures or vessels that so far were not very common, e.g. offshore wind farming.
- (b) There is a limited economic impact on NAAs and operators.

For NAAs and CAT operators already involved in offshore operations, the impact is limited as the new rules are largely based on existing national provisions and related NAA oversight. This might not be the case for Member States where offshore operations represent only a marginal or non-existing activity. However, the impact is considered to be limited as it is not expected that a large offshore sector would suddenly emerge in these Member States.

NCC and SPO operations only represent a marginal offshore activity. Therefore, overall, the impact will be limited.

- (c) Proportionality is ensured by partly establishing different mitigating measures for the different types of operations for the identified safety risks valid for all helicopter offshore flights carried out in the same areas.

This applies for example to Vibration Health Monitoring (VHM) system, Flight Data Monitoring (FDM) system, Helicopter Terrain Avoidance and Warning System (HTAWS) and flight following systems which are limited to CAT operators, and Public Address (PA) system which is limited to CAT and NCC operators. Nevertheless, the requirements for obtaining a Part-SPA approval are similar for all operators.



Proportionality is also achieved by taking into account the basic set of rules that an operator will have to comply with, i.e. Part-ORO, Part-CAT, Part-NCC and Part-SPO.

- (d) Regulatory harmonisation and coordination with FAA or TCCA is not considered necessary as the operations are in sea areas adjacent to the Member States, and, therefore, not transatlantic flights.

2.5. Overview of the proposed amendments

The main change is the introduction of a specific approval for HOFO, valid for CAT, NCC and SPO operators. NCO operators are not affected by this new rule.

This approval includes a set of rules specific for HOFO.

It is proposed to be introduced as a new Subpart K of Annex V (Part-SPA) to the Air OPS Regulation.

In addition, the Air OPS Regulation is proposed to be amended to accommodate the regulations in Subpart K as follows:

- (a) the Cover Regulation is amended to establish the applicability of Subpart K;
- (b) Annex I (Definitions) contains changes or additional definitions related to HOFO;
- (c) Annex II (Part-ARO) — Authority Requirements for Air Operations includes provisions for HOFO approval and oversight;
- (d) Annex IV (Part-CAT) — Commercial Air Transport is amended as paragraphs or parts thereof which are specific for HOFO are transposed to Subpart K;
- (e) Annex VI (Part-NCC) — Non-commercial operation with complex motor-powered aircraft is amended as paragraphs or parts thereof which are specific for HOFO are transposed to Subpart K; and
- (f) Annex VIII (Part-SPO) — Specialised operations is amended as paragraphs or parts thereof which are specific for HOFO are transposed to Subpart K.

Done at Cologne, on 20 May 2015

Patrick KY

Executive Director



3. References

3.1. Affected regulations

Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1), specifically:

- Cover Regulation;
- Annex I — Definitions for terms used in Annexes II-VIII (Part-Definitions);
- Annex II — Authority Requirements for Air Operations (Part-ARO);
- Annex IV — Commercial Air Transport Operations (Part-CAT);
- Annex V — Specific approvals (Part SPA);
- Annex VI — Non-commercial air operations with complex motor-powered aircraft (Part-NCC); and
- Annex VIII — Specialised Operations (Part-SPO).

3.2. Affected decisions

- Decision 2012/015/R of the Executive Director of the Agency of 24 October 2012 on Acceptable Means Of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council. (Guidance Material to Annex I — Definitions). Decision as last amended by Decision 2015/002/R of 29 January 2015.
- Decision 2014/025/R of the Executive Director of the Agency of 28 July 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-ARO of Regulation (EU) No 965/2012 and repealing Decision 2014/014/R of the Executive Director of the Agency of 24 April 2014 (AMC and GM to Part-ARO — Issue 3).
- Decision 2014/015/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-CAT of Regulation (EU) No 965/2012 and repealing Decision 2012/018/R of the Executive Director of the Agency of 24 October 2012 (AMC and GM to Part-CAT — Issue 2), last amended by Decision 2015/007/R of 29 January 2015.
- Decision 2012/019/R of the Executive Director of the Agency of 24 October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council. (Acceptable Means of Compliance and Guidance Material to Part-SPA), last amended by Decision 2013/020/R of 23 August 2013.



- Decision N° 2013/021/R of the Executive Director of the Agency of 23 August 2013 on adopting Acceptable Means of Compliance and Guidance Material for non-commercial operations with complex motor-powered aircraft (Part-NCC), last amended by Decision 2015/003/R of 29 January 2015.
- Decision 2014/018/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-SPO of Regulation (EU) No 965/2012 (AMC and GM to Part-SPO). Decision as last amended by Decision 2015/006/R of 29 January 2015.

3.3. Reference documents

ICAO Annex 6, Part III, specifically:

- Section I, Chapter 1; and
- Section II, Chapter 4.

