



**COMMENT RESPONSE DOCUMENT (CRD)
TO NOTICE OF PROPOSED AMENDMENT (NPA) No 2010-07**

DRAFT DECISION OF THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY AGENCY

not to amend Decision No 2003/19/RM of the Executive Director of the European Aviation Safety Agency of 28 November 2003 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

“Amend AMC M.A. 706(e) to cover additional cases for the competent authority to accept that the nominated post holder in the operator/Part-M Subpart G organisation be employed by the contracted Part-145 organisation”

Explanatory Note

I. General

1. The purpose of the Notice of Proposed Amendment (NPA) 2010-07, dated 19 July 2010 was to evaluate the need for amending Decision 2003/02/RM of the Executive Director of the European Aviation Safety Agency of 19 November 2004 on Acceptable Means of Compliance and Guidance Material to 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 (ED Decision 2005/07/R)¹.

II. Consultation

2. NPA 2010-07 was published on the website (<http://easa.europa.eu/rulemaking/notices-of-proposed-amendment-NPA.php>) on 19 July 2010.

By the closing date of 19 October 2010, the European Aviation Safety Agency ("the Agency") had received 13 comments from National Aviation Authorities, professional organisations and private companies.

The review of comments leads the Agency to conclude that the preferred option is supported and therefore no change to the AMC is envisaged.

III. Publication of the CRD

3. All comments received have been acknowledged and incorporated into this Comment Response Document (CRD) with the responses of the Agency.
4. In responding to comments, a standard terminology has been applied to attest the Agency's acceptance of the comment. This terminology is as follows:
 - **Accepted** – The comment is agreed by the Agency and any proposed amendment is wholly transferred to the revised text.
 - **Partially Accepted** – Either the comment is only agreed in part by the Agency, or the comment is agreed by the Agency but any proposed amendment is partially transferred to the revised text.
 - **Noted** – The comment is acknowledged by the Agency but no change to the existing text is considered necessary.
 - **Not Accepted** - The comment or proposed amendment is not shared by the Agency

As no change is proposed to the current AMC M.A.706, no resulting text is provided.

5. The Executive Director Decision regarding Decision No 2003/19/RM of the Executive Director of the European Aviation Safety Agency of 28 November 2003 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 will be issued at least two months after the publication of this CRD to allow for any possible reactions of stakeholders regarding possible misunderstandings of the comments received and answers provided.

¹ As last amended with ED Decision 2010/002/R dated 28 April 2010.

6. Such reactions should be received by the Agency not later than 11 February 2010 and should be submitted using the Comment-Response Tool at <http://hub.easa.europa.eu/crt>.

IV. Explanatory memorandum on the review of comments on NPA 2010-07

The preferred option presented with the NPA was not to make any change to AMC M.A.706(e) that would include additional cases for the competent authority to accept that the nominated post holder in the operator/Part-M Subpart G organisation be employed by the contracted Part-145 organisation. This option was supported by:

- the fact that the distribution of potentially positive economic impact among Member States could not clearly be established;
- the possibility already provided to competent authorities to approve an alternative means of compliance on a case by case basis; and
- a possible negative impact on safety when allowing the nominated post holder to be employed by the contracted Part-145 organisation.

The limited number of comments received to the NPA can be interpreted as an indication for a relatively low priority ranking for the issue at hand as compared to other NPAs that were under consultation at the same time.

Out of the 13 comments, five (including one from an EU NAA) supported the preferred option, i.e. not to make any change to the AMC. Another five comments (including three from EU NAAs) were posted stating that commentators had no specific comments on the issue, which further supports the above interpretation on a generally low interest in the issue. One comment was raised by an EU NAA in support of a change in the AMC.

Moreover, two comments from individual persons expressed disagreement with one of the statements made in the NPA (cf. § 10) in relation to the argument that conflict of interest situations could be better mitigated with an organisational setup where the operator / Part M Subpart G organisation and the Part-145 organisation are the same company, which is also the concept underlying AMC M.A.706(e)(2). Regarding these specific comments, the Agency agrees that the issue would deserve to be further explored in a wider context, meaning for all organisations subject to Regulation (EC) No 2042/2003: For instance, this issue may also be relevant to commercial air transport operators being approved as Part M Subpart G organisations.

However, proposing changes in the rule to better address potential conflicts of interest depending on the organisational setup is clearly going beyond the limited scope of rulemaking task M.022. The Agency welcomes further inputs on this issue, which may also be provided as reactions to this CRD. More specific proposals for rule changes can also be made using the rulemaking proposal form, published on the Agency website². Finally, the issue could be further explored as part of rulemaking task MDM.055 on alignment of Regulation (EC) No 2042/2003 with the new horizontal rule structure and SMS implementation.

² <http://easa.europa.eu/rulemaking/annual-programme-and-planning.php>.

V. CRD table of comments and responses

(General Comments)

-

comment	4	comment by: <i>Air Southwest</i>
	<p>Air Southwest agrees with Agency that option 1 (do nothing) is the obvious (and correct) solution.</p> <p>Our reasons are:</p> <p>a. It provides for the NAA to approve equivalent safety cases for small operators.</p> <p>b. The principle of allowing an Operator to hold an AOC without having its own post holder responsible to the accountable manager is a dereliction of duty. The person responsible for continuing airworthiness is as much a post of the AOC as is the person responsible for flight operations.</p>	
response	<i>Noted</i>	
	<p>Small operators may apply for an alternative means of compliance to M.A.706(e) to their competent authority and must then demonstrate that an equivalent level of safety can be ensured.</p>	
comment	5	comment by: <i>Luftfahrt-Bundesamt</i>
	<p>The LBA has no comments on NPA 2010-07.</p>	
response	<i>Noted</i>	
	<p>The Agency acknowledges your comment.</p>	
comment	6	comment by: <i>Swiss International Airlines / Bruno Pfister</i>
	<p>SWISS Intl takes note of the NPA without further comments except for para 19 c.</p>	
response	<i>Noted</i>	
	<p>The Agency acknowledges your comment.</p>	
comment	8	comment by: <i>UK CAA</i>
	<p>Please be advised that the UK CAA have no comments to make on NPA 2010-07.</p>	
response	<i>Noted</i>	
	<p>The Agency acknowledges your comment.</p>	
comment	10	comment by: <i>Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)</i>
	<p>The Swedish Transport Agency, Civil Aviation Department is supporting the</p>	

content of Option 1 of the NPA 2010-07. The present rule gives the NAA the adequate control, and at the same time there is flexibility enough for the industry where there is a local need.

response *Noted*

The Agency acknowledges your comment.

TITLE PAGE

p. 1

comment

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comment by: *Cessna Aircraft Company*

Attachment [#1](#)

See attached file for Cessna Aircraft Company comments.

response

Noted

The Agency acknowledges that Cessna Aircraft Company has no comments on this issue at this time.

A. EXPLANATORY NOTE - I. General

p. 3

comment

11

comment by: *Claude Mas*

the French DGAC has no remarks on this NPA

response

Noted

The Agency acknowledges your comment.

A. EXPLANATORY NOTE - III. Comment response document

p. 4

comment

2

comment by: *Terence MCSTAY*

Dear Sirs and Madams

The intention of this rule change should be primarily to improve safety by defining better accountability.

However as clearly stated in para 10. (copy below) the case of a Part-145 organisation and operator/part-M sub part G that share the same accountable manager are no more likely to take the appropriate actions, only that it is "**expected**" but as the manager is just as likely to feel the economics of the situations so defined, this cannot also be guaranteed that a conflict of interest does not exist.

The rule therefore imposes a stricter set of conditions on the "Stakeholders" Interests than on the "larger entities", without a clear improvement in general aviation maintenance safety.

Yours faithfully

Terence McStay

10. The main objective of the provision in M.A.706(e) is to avoid conflicts of interests: If the nominated post holder is also employed by the contracted

Part-145 organisation, he/she may be reluctant to take actions contrary to the interest of the Part-145 organisation should maintenance tasks have been performed improperly or should some provisions of the contract not have been met, as he/she is also gaining economic benefit from that Part-145 organisation. By contrast, in the case where the Part-145 organisation and the operator/Part-M Subpart G organisation are part of the same company, this company is globally responsible for the actions of its personnel, whether these belong to the operator/Part-M Subpart G organisation or to the Part-145 organisation. In this case, this company is expected to take the appropriate actions to ensure that the procedures followed by the operator/Part-M Subpart G organisation and the Part-145 organisation prevent any possible conflict of interest.

response *Noted*

The preferred option presented in the NPA does not propose any change to the existing rule. Safety could be adversely affected in cases where the operator and the Part-145 organisation are two different companies with the same accountable manager. When the operator and the Part-145 are the same company, the overall accountability and responsibility for continuing airworthiness management are not affected by the existence of a second legal entity that may gain economic benefit also from other customers.

A. EXPLANATORY NOTE - IV. Content of the NPA

p. 4-5

comment

1

comment by: *Trevor Champion*

As stated the objective of the provision is to avoid conflicts of interest, this may not be the case where the operator and its Part M is the same legal entity as the 145 organisation. an "expectation" in the rulemaking that the organisation shall take "appropriate actions" to avoid any possible conflicts of interest does not provide the clarity or clear direction required. AMC MA.706 should be amended to provide an example where possible conflicts of interest can be avoided or M.A 706 (e) deleted or replaced by a provision for smaller commercial operators to allow them to engage with an existing Part M approval holder where competency and independence can be assured.

response

Noted

The change to the rule to allow commercial operators to contract continuing airworthiness activities proposed with this comment is not covered under the Terms of Reference of this task. Contracting of continuing airworthiness management activities is proposed with NPA 2010-09 (task M.014).

The possible effects of different organisational setups and combination of approvals in relation to conflicts of interest would need to be explored in a wider context for all organisations subject to Regulation 2042/2003. This cannot be achieved as part of this rulemaking task, which is limited in scope.

A. EXPLANATORY NOTE - V. Regulatory Impact Assessment

p. 5-8

comment	<p data-bbox="352 300 375 336">3</p> <p data-bbox="970 300 1449 336" style="text-align: right;">comment by: <i>Michael SCHNEIDER</i></p> <p data-bbox="352 353 1324 389">I agree with the summary of EASA: no changes in AMC are necessary.</p> <p data-bbox="352 421 1449 519">Under present conditions there are even conflicts in case where the Part-M Subpart G organisation and the Part-145 organisation are parts of the same operator/company.</p> <p data-bbox="352 551 1449 680">If the Postholder CAMO also is employed as Accountable Manager in operators Part 145 organisation it is difficult for him to find the right balance between the interests of CAMO in flight safety and the economical interests of the Part-145 organisation that belongs to the same operator/company.</p> <p data-bbox="352 712 1449 779">NAAs possibility of acceptance for Postholders employment by a <u>contracted</u> Part-145 organisation is adequately covered by the actual AMC M.A.706 (e) 1.</p> <p data-bbox="352 810 1417 846">Especially for smaller companies the current arrangement in AMC is sufficient.</p> <p data-bbox="352 878 1449 945">The flight safety must not be decreased in today´s time of high economic pressure.</p>
response	<p data-bbox="352 952 438 996"><i>Noted</i></p> <p data-bbox="352 1014 925 1050">The Agency acknowledges your comment.</p> <p data-bbox="352 1081 1364 1117">See also response to comment # 1, above and explanatory memorandum.</p>
comment	<p data-bbox="352 1176 375 1209">7</p> <p data-bbox="671 1176 1449 1211" style="text-align: right;">comment by: <i>Swiss International Airlines / Bruno Pfister</i></p> <p data-bbox="352 1229 1316 1265">SWISS Intl agrees with the statement in para 19c, preferring Option 1.</p>
response	<p data-bbox="352 1288 438 1321"><i>Noted</i></p> <p data-bbox="352 1339 925 1375">The Agency acknowledges your comment.</p>
comment	<p data-bbox="352 1433 375 1467">9</p> <p data-bbox="1098 1433 1449 1469" style="text-align: right;">comment by: <i>Eurocopter</i></p> <p data-bbox="352 1487 1449 1585">Eurocopter supports the option 1 ("Do nothing") for the same arguments as the ones developed in the § 10 of clause IV of the NPA, i.e. to avoid conflict of interests.</p> <p data-bbox="352 1585 1268 1621">Jean-Francis Suquet, on behalf of Catherine Gathier, SSCC Member</p>
response	<p data-bbox="352 1635 438 1668"><i>Noted</i></p> <p data-bbox="352 1686 925 1722">The Agency acknowledges your comment.</p>
comment	<p data-bbox="352 1780 391 1814">13</p> <p data-bbox="1082 1780 1449 1816" style="text-align: right;">comment by: <i>MOT Austria</i></p> <p data-bbox="352 1843 1372 1879">We suggest selecting option 2 and provide herewith the following proposal:</p> <p data-bbox="352 1910 821 1968">Comment/Proposal M.A. 706 (e) independence of PCA</p> <p data-bbox="352 2000 1449 2036">The following should be added to AMC M.A.706(e)(1)at the end of the last</p>

sentence:

...or with a fleet of max. 3 aircraft below 2000 kg MTOW

Justification:

The number of AOC involved is very limited. The competence of the Part 145 Maintenance personal is high and experience in that field of maintenance is a factor of success. The safety is increased as the maintenance of such aircraft always includes in the preparation of the work package the reassessment of Life limited component status reports, AD-status and SB implementation additionally to the aircraft manufacturer checklist. This work should not be done twice.

response

Not accepted

The competent authority may approve an alternative means of compliance to AMC M.A.706(e)(1) and this should be the preferred option, as the demonstration of equivalent level of safety will then be required on a case by case basis, taking into account the specifics of each case. As stated in the comment, the number of operators that may benefit from a rule change is expected to be low. Therefore, a rule change that would be generally applicable should not be required.

Appendix A - Attachments

 [L390-10-3396 Comments.pdf](#)
Attachment #1 to comment [#12](#)