



# Comment-Response Document 2013-08

## Requirements for service providers and the oversight thereof

CRD to NPA 2013-08 — ANNEX D

RMT.0148 (ATM.001 (A)) & RMT.0149 (ATM.001(B)) AND RMT.0157 (ATM.004(A)) & RMT.0158 (ATM.004(B)) — 6.6.2014

### EXECUTIVE SUMMARY

This Comment-Response Document (CRD) contains the comments received on Notice of Proposed Amendment (NPA) 2013-08 on 'Requirements for ATM/ANS providers and the oversight thereof' (published on 10 May 2013), and the responses provided thereto by the Agency.

Given the importance of the subject and the requests received, the Agency decided to extend the initially proposed standard 3-month consultation period by 12 weeks with the aim to provide stakeholders with the necessary time to ensure a constructive, coherent and consistent commenting. On 2 July 2013, the Agency organised a workshop in Cologne to present the NPA to the stakeholders and to facilitate the consultation process in general. Both the participants and the Agency itself evaluated the workshop as being very beneficial.

As a result of the public consultation, the Agency received 2 357 comments. The Agency expresses its appreciation to the stakeholders who have not only provided their individual comments on the draft proposals, but also expressed their coordinated views through the relevant European stakeholder groups. The Agency considers that the comments received contribute essentially to the improvement of the proposed rules.

The Agency reviewed the comments and provided responses thereto. In order to be able to take an informed decision, the Agency also carried out focussed consultation comprising a series of thematic meetings with the aim to commonly identify and analyse the issues and to establish guidance for the review of the proposals towards drafting the final Opinion. These meetings involved not only experts from the rulemaking groups of the subject RMTs (ATM.001 and ATM.004), but also new experts who contributed actively to the NPA consultation.

The Agency trusts that the responses in this CRD (Annexes C, D and E) satisfy the commentators insofar as they provide further clarification on the subjects addressed. Without prejudice to the final text to be proposed in the Agency's Opinion to be issued as the final step of the subject rulemaking activity, the resulting text (draft Regulation/AMC/GM — Annexes A and B) is also provided in the CRD in order to facilitate the understanding and the evaluation of the changes proposed in the responses to the comments. In addition, the overview of changes resulting from the NPA 2013-08 consultation is presented in the Explanatory Note to be found in Annex A.

**REACTIONS TO THIS CRD SHOULD BE SUBMITTED VIA THE CRT BY CLICKING THE 'ADD A GENERAL REACTION' BUTTON.  
PLEASE INDICATE CLEARLY THE APPLICABLE PAGE AND PARAGRAPH.**

Applicability		Process map	
Affected regulations and decisions:	Regulations (EU) Nos 1034/2011 and 1035/2011	Terms of Reference (ATM.004):	30.8.2010
Affected stakeholders:	Member States, competent authorities/National Supervisory Authorities, service providers, Network Manager, and the Agency	Terms of Reference (ATM.001):	29.9.2010
Driver/origin:	Legal obligation (Basic Regulation, EASp and ICAO SARPs)	Concept Paper:	No
Reference:	N/A	Rulemaking group:	Yes
		RIA type:	Full
		Technical consultation during NPA drafting:	No
		Publication date of the NPA:	10.5.2013
		Duration of NPA consultation:	5 months and 3 weeks
		Review group:	No
		Focussed consultation:	Yes
		Publication date of the Opinion:	2014/Q4
		RMT.0148 (ATM.001 (A)) and RMT.0157 (ATM.004(A))	
		Publication date of the Decision:	2015/Q2
		RMT.0149 (ATM.001 (B))	

## I. CRD table of comments and responses

## (General Comments)

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comment 48

comment by: BCAA

Certain text blocks are a partial transposition of ICAO Annexes. What about the remaining parts of the ICAO Annexes not transposed yet ? Please avoid to end up in double regulation or the risk of conflicts between ICAO level of regulatory framework and the European one.

Examples :

Annex III of the proposed IR is a partial transposition of ANNEX 11 ATS of ICAO.

Annex IV of the proposed IR is a partial transposition of ANNEX 3 Meteo of ICAO.

Annex V of the proposed IR is a partial transposition of ANNEX 15 AIS of ICAO.

response Noted

As correctly mentioned by the commentator, certain Annexes in the commented rule already have transposed ICAO provisions. For those which are not transposed yet, the Agency is dealing with the subjects through separate rulemaking tasks that in the future would amend the proposed rule. It should be noted that one of the main objectives of the Agency is to assist Member States in fulfilling their obligations under the Chicago Convention, by providing a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that its provisions are duly taken into account in the Basic Regulation and in the rules drawn up for its implementation.

In doing so:

- in reference to ICAO Annex 3, the Agency has published a dedicated NPA (NPA 2014-07) to address the technical requirements and operational procedures for the provision of meteorological services;
- in reference to ICAO Annex 15, there is an rulemaking task in progress (RMT.0477) dealing with technical requirements and operational procedures for aeronautical information services (AIS) and aeronautical information management (AIM); and
- in reference to ICAO Annex 11, the Agency is planning the launch of an RMT (RMT.0464) to develop implementing measures on ATS.

comment 104

comment by: ATC the Netherlands

We want to express our general concern on the new Requirements for ATM/ANS providers and the safety oversight thereof as published in NPA 2013-08.

We support the overall political objective of the implementation of *Single European Sky* (SES) as we have done since the programme was launched. SES fits well within the overarching objective of the European Union to remove internal borders. Simultaneously, it contributes to the internal market, supports

the competitiveness of the European aviation industry and benefits the environment. Moreover, SES will deliver better performance for both civil and military airspace users.

However we are of the opinion that the high level political aims of SES can only be achieved by performance oriented innovation.

Ultimately, a focus on the delivery of performance outcomes rather than prescriptive inputs and throughputs will better support the delivery of the Single European Sky. However the regulations as proposed in NPA 2013-08 are not in line with the performance orientation of SES .

The extensive regulations proposed are against the spirit of the performance regulation. The NPA as published is too detailed, overlapping with other regulations, and a hurdle for the future improvements and innovations of the ATM system.

The commission should not regulate both the organizational setup and procedures as well as the performance on the resultant side. Regulating the performance should be accompanied by a strong relaxation of the requirements on the organization and process. If the How, What and Results are all precisely specified this takes away, in essence, a lot of the responsibility of the Service Provider and puts it on the shoulders of the Regulator.

Evidences can be found in:

- Annex II: ATS.OR.210 through ATS.TR.105 are regulating means to achieve the performance.
- ATM/ANS.AR.B.005 – (d) reveals the wish to standardize the Management Systems. In doing so there will be no opportunity to meet challenging performance goals in an innovative way.
- ATM/ANS.OR.A.035 by including “and functions” almost every aspect of the organization needs notification and prior approval. The Competent Authority takes over responsibility from the ANSPs management in this way.

With the SESAR Masterplan, up-to date, interoperable new technologies and systems will be introduced. Current and future regulations must anticipate on those developments allowing a harmonised implementation.

The proposed regulations will, with their extensiveness, effectively freeze the status-quo of seven years ago (since the inception of the common requirements) for the coming decades. For example, with the exceptionally good accident rates the aviation sector currently enjoys, the current thinking on safety management systems is shifting more and more towards the control of safety culture and risk based management, rather than deterministic, massive systems based on verifications and auditing. Another example is the changing use of the airspace with 4D trajectory flying, negotiation based air traffic management, dynamic sectorization and airspace, drones or other unmanned aerial vehicles claiming civilian airspace etc. Also in this regard we see a high risk of micromanagement in the current proposal.

Evidences can be found in

- ATS.OR.205(a)(2), AMC1 “The functions of the safety manager should be...” which is followed by an outdated, incomplete list of non-specific elements, that are sometimes even outright wrong. E.g.: (iii) “provide periodic reports on safety performance”. Typically this is done by line management, not the safety manager. Or: (vii) “ensure initiation and follow-up of internal occurrence / accident investigations” is a typical example of what the directorate operations or technical would need to be doing, and not the safety manager.
- ATS.OR.205(a)(2), AMC1 “Safety Review Board.” Having a safety review board may work for one ANSP and be fully counterproductive in another ANSP. The list specifying what the safety review board should be doing is again, micro management and sometimes even not correct. E.g: 3 (ii) “Ensure that any

safety action is taken in a timely manner and". This cannot be done by the safety review board. It would be too many actions to monitor, besides, the line management of the organization has to ensure this. Equally, another example: (4) "The safety review board should ensure that appropriate resources are allocated to achieve the established safety performance" . The review board would not, supposedly, have command over resources hence this cannot be possible without specifying the organization structure and management map. The organization with its management process would have to ensure this. The Safety Review Board should therefore be removed from the AMCs.

Lastly we have doubt about the proportionality of Annex XII. This Annex is very prescriptive and focussed on current ATM/CNS systems. It should allow for flexibility, proportionality and be future proof with regard to upcoming technology.

The regulation for ATSEPS covers 1/3 of the Implementing Rule and 1/5 of the AMC.

Annex II, ATM/ANS.OR.B.015 already specifies that personnel are trained and competent to perform their duties. The performance regulation, in addition to the requirements to have competent personnel, already guarantees the right levels of competence.

Furthermore, there is no evidence (as stated in the Regulatory Impact Assessment!) that the level of competence of ATSEPs is currently insufficient or may be insufficient in the future. The complexity of the work of ATSEPs is not such that this would warrant extensive regulation and very specific education, where other functionaries of ANSPs have at least an equally important safety role (risk assessors, chief financial officers, CEOs and safety managers).

Finally, there is no historic evidence that below standard competence of ATSEPs has in the past contributed to accidents or serious incidents in ATM/ANS. This regulation implies a large administrative burden on the ATM/ANS provider with *negative* safety benefits.

We do hope you will take the above considerations into account

response

*Noted*

The Agency takes good notice of your comment, in particular when it comes to your support on SES objectives and the further innovation needed for its implementation.

Also, the Agency sees a lot of merit in moving towards a more performance-based regulation. The growing complexity in the aviation systems demands an evolution in the management of safety towards a performance-based approach that focusses on the management of risks. But this cannot be done without thorough consideration, since the performance-based approach, indeed, will complement the more traditional forms of a prescriptive regulatory system. It would also necessitate some investment at least in the beginning in order to set up processes which measure performance. In this sense, it would be difficult to share the view that the performance-based approach would just mean 'regulating less'. The proposed approach in the NPA is based on the 'management system' approach which is purposed to leave it to the organisation itself to set up the system to manage its different (regulated) management objectives. It follows the international best practises and approaches taken in the other aviation domains too. It is very difficult to see how this would 'prevent innovation in ATM'. Your comment also seems to suggest that this proposal overlaps with other regulations. If so, wouldn't a

common approach then simplify the regulatory approach?

The comment also refers to an AMC provision concerning the 'functions of the safety manager'. It is again very difficult to see how this would 'effectively freeze the status-quo of seven years ago', since this quote concerns a (one) means of compliance while there may be other ways and means too. AMC material is subject to this consultation and can be still fine-tuned at the last phases of the adoption process. It also goes without saying that AMC material for the current rules stemming from SES 1 does not even exist. The very same goes with the examples on 'the safety review board', which again can be amended and are not of a binding nature. When it comes to the proposed requirements on ATSEPs, there is a strong legacy stemming from the related EUROCONTROL material whose status many stakeholders see completely differently from what your comment signals. Anyway, these aspects have already been thoroughly debated at the thematic review meetings, and further adaptations based on this will be suggested by the Agency.

Your comment refers also to the need to enable and facilitate the deployment of the European ATM Master plan. This objective is fully agreed and shared also by the Agency. A clear single regulatory framework is seen as one of such important enablers. It is difficult to see how this would benefit from several independent regulations issued for each and every new functionality, as the comment is seen to suggest.

Lastly, with regard to your comment on ATSEP requirements, considering the feedback received from the NPA 2013-08 NPA, the Agency amended Part-PERS accordingly to better address proportionality issues.

comment

111

comment by: LfV

It is unclear how EASA will maintain and update the IR references regarding the ICAO documentation.  
How shall ANSPs act to any possible "old" references?

response

Noted

The European Commission and ICAO signed in May 2011 a Memorandum of Cooperation (MoC) providing a framework for enhanced cooperation. This MoC requires the Parties to ensure timely mutual consultation with a view to achieving improved coordination and coherence between regulations, policies, approaches and ICAO Standards and Recommended Practices (SARPs) (Article 5.1.5). The practical objectives of such mechanisms and processes will be to optimise the use of EU — including Member States — resources in the framework of European interactions with ICAO. This will include better organisation of the European coordination and participation in ICAO Working Groups, panels, task forces and other groups. In turn, such an improved coordination will allow European experts to (1) influence — inasmuch as possible — the outcome of ICAO groups, and (2) to better anticipate the ICAO's proposed amendments to SARPs. Furthermore, this would provide the Agency with enough time in advance to react and provide the necessary support to the

Commission with regard to references update. These principles have been, and will be, thoroughly addressed along with the Member States (e.g.) at the Single European Sky Committee meetings.

comment

301

comment by: *skyguide Corporate Regulation Management*

The extensive regulations proposed in the NPA 2013–08 are against the spirit of the performance regulation. The commission should not regulate both the organizational setup and procedures as well as the performance on the resultant side. Regulating the performance should not include regulating the requirements on the organization and its processes. If the How, What and Results are all precisely specified this takes away, the ANSP's ability to adapt its performance to the results targeted in the Performance Regulation.. It will result in ANSPs not managing to achieve some of the performance targets or the required outputs of this regulation, e.g. in cost reduction or safety targets. It will also hinder the projected move towards performance-based oversight. AMC and GM: Clarity and harmonisation is required to know what text should be at what level (e.g. the questions to stakeholders 96,115, 124, and annex XII...). Throughout the document it has been noted that some GM is written "as AMC" and vice-versa.

response

*Noted*

It should be reminded that the proposed rule has a dual legal basis and it implements the objectives of the Basic Regulation and the SES Regulations as well. Moreover the principal objective of the Basic Regulation is to establish and maintain a high uniform level of civil aviation safety in Europe and in addition to that to promote cost-efficiency in the regulatory and certification processes and to avoid duplication at national and European level. The Agency considers that these objectives were the main driver in the development of the proposed rule.

In doing so, one of the main changes to the existing technical requirements and novelties related to the competent authorities is the move towards risk-based and performance-based oversight. Moreover, the continued validity of the service provider's certificate promotes the implementation of a risk-based oversight scheme by the competent authority, and also to ensure a continuous oversight based on the identified-risks. In addition, service providers' own management system aims at ensuring the achievement of the objectives for the provision of the services and the continuous compliance with the applicable requirements. This is additionally supported by the fact that providers also have to develop performance indicators both with regard to their management system and with regard to the provision of their services. The analysis of these performance indicators is used by the providers for their continuous improvement. This approach also prevents unnecessary (or non-prioritised) use of valuable resources (provider and competent authority) in a re-certification activity. Instead, these resources can concentrate on high-risk areas. This proposal is also aligned with other fields of aviation such as aerodromes, ATCO training organisations, aircraft operators, and initial and continuing airworthiness organisations.

The Agency is aware that the result of the current development would necessitate further amendment to the recently published AMC/GM for SKPIs for RP2. Once the rule is into force and following coordination with the Commission, the Agency will undertake the respective rulemaking activities.

comment 302

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
(B)	AESA would request the possibility of reviewing the translation into Spanish of the outcome of this NPA (both Opinion and Decision) before these are sent to the EC.	It is important to ensure the soundness of the translation in order to avoid situations where the English and the Spanish versions of the regulations state different or even opposite requirements.

response *Noted*

The Agency takes note of the comment.

It is important to be noted that ED Decisions (AMC/GM) are not translated, and they are published only in English.

comment 380

comment by: EUROCONTROL

**Observation/Question**

1. Consistency with the Charging Scheme periods is forecasted.

However, will NPA 2013 - 08 be effective in due time, i.e. for the start of RP2?

According to the Charging Scheme, RP2 costs have to be determined by . . . / . . .

/2014. The standard schedule set out at

<https://easa.europa.eu/rulemaking/notices-of-proposed-amendment-NPA.php>

together with the time required for implementation by ANSPs give little margins before RP2 costs publication.

Should we expect NPA 2013 - 08 to be delayed until RP3 if it cannot be in force at the start of RP2?

response *Noted*

The Agency will duly consider the various transitional provisions and will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation. This issue was also thoroughly discussed at the focused review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome of the consultation of NPA 2013-08 and of other forthcoming NPAs will be issued in a single EASA Opinion by the end of 2014.

Furthermore, the Agency agrees with the rationale to consider the applicability

of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC for SKPI for RP2. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment 384

comment by: EUROCONTROL

**General comment**

The ATM/ANS provider definition (page 10 of the Cover Regulation, Article 2, item 11) includes the term safety-critical. Annex I, Subpart A, ATM/ANS.AR.A. 010 (page 19) introduces safety-significant. Annex III, Subpart A, ATS.OR.225 (page 49) introduces safety-related tasks. It is important to harmonise clarify the the meaning to avoid confusion. It is therefore suggested to include in Article 2 of the Cover Regulation the definition for such terms.

response *Partially accepted*

The Agency takes the comment into consideration. It should be noted that the term 'safety-critical' in the commented definition is stemming from the Basic Regulation. In reference to the 'safety-significant information', the associated GMs are introduced rather than a definition. Based on the NPA consultation and the redrafting work performed, 'safety-related tasks' is removed.

comment

401

comment by: Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)

General comments

One of the more important obligations for the Agency is to assist member states in fulfilling their obligations, as member states of the Chicago Convention. Hence, it's essential, for transparency reasons, that the definitions proposed are either a) word to word the same as the related ICAO definition, or b) that it's made clear to the user/reader of the IR, where definitions may differ from the related ICAO definition.

response *Noted*

comment

402

comment by: *Swedish Transport Agency, Civil Aviation Department  
(Transportstyrelsen, Luftfartsavdelningen)*General  
comments

In some of the Annex to the IR (for example Annex III, IV, V, VII) there is references to several ICAO Annex including their edition and amendment and some Annex to the IR contents text from some ICAO Annex (for example Annex IV). Those editions and amendments to the ICAO Annex in the IR as well as the ICAO text in the IR will be way out of date before the IR is updated since the publication date of the decision for the IR is in 2015 and the implementation of the IR after that date will go on for 2-3 years

This is a problem for the member states when the states shall fulfil their obligations to the Chicago Convention.

It is important that the Agency assist member states in fulfilling their obligations, as member states of the Chicago Convention, not the contrary as in this case.

response

*Noted*

The Agency takes the comment into consideration.

The draft proposed Regulation is updated to reflect the latest amendments of the ICAO Annexes mentioned. Furthermore, the publication of Commission Regulation (EU) No 139/2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, which transposes the relevant parts of Annex 14 to the Chicago Convention, is taken into account for the aerodromes within its scope.

comment

483

comment by: *EUROCONTROL*

**We refer to the sub-parts of Annexes III to XII addressing the technical requirements.**

Each sub-part named Technical Requirements for the provision of ATS/MET/etc. Services (ATS/MET/etc. TR) refers to ICAO Annexes requirements "including all amendments up to No....", which were the latest ones available in 2012.

Meanwhile, ICAO will amend the Annexes as necessary and certain provisions will have to be implemented. As a consequence, European legislation will differ again from the ICAO one.

It is therefore necessary to foster implementation of ICAO provisions as well as alignment with the European legislation.

It is suggested to reword all those sub-parts to allow implementation of the latest version of the SARPs (no reference to the amendments).

response *Not accepted*

The outcome of a discussion taken place at Comitology has shown that such an approach is not appropriate, because a reference just to the 'latest version' of an external text would create a dynamic reference, which means that the ultimate decision of what rules to apply would be fully delegated to an external body (in this case ICAO). In the EU legal system, such a delegation of legislative powers is not foreseen.

The draft Regulation is updated to reflect the latest amendments of the ICAO Annexes mentioned. Furthermore, the publication of Commission Regulation (EU) No 139/2014 laying down requirements and administrative procedures related to aerodromes pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council, which transposes the relevant parts of Annex 14 to the Chicago Convention, is taken into account for the aerodromes within its scope.

comment 552

comment by: *EUROCONTROL*

**1. Page 52 - Annex IV - Part-MET**

Part-MET contains a MET.OR sub-part based on the transposition of relevant ICAO Annex 3 provisions. In addition, the MET.TR sub-part contains the existing provisions from 1035/2011 and, as such, makes reference to ICAO Annex 3 as a whole (amongst other Annexes).

With only the MET.OR sub-part available, it is not possible to assess if Part-MET in total is a relevant and an all-inclusive package of rules to meet the objectives set by the legislator. The MET.OR can only be fully assessed for relevance and completeness after the associated MET.TR sub-part is available.

Furthermore, to combine the transposed ICAO Annex 3 elements in the sub-part MET.OR with references to ICAO Annex 3 in sub-part MET.TR could lead to confusion, conflicting rules and misinterpretation.

We therefore recommend to clarify the situation and ensure that there is no risk of confusion, conflict between rules or misinterpretation.

response *Noted*

Indeed, due to the prioritisation of the rulemaking tasks, the transposition of ICAO Annex 3 Part I and II have been covered separately: Part I under this NPA (MET.OR), and Part II (MET.TR) under the recently published NPA 2014-07. The Agency will integrate the technical requirements part in a single Opinion to this NPA 2013-08 so that the complete package will be available before adoption of the MET rules.

comment 554

comment by: *EUROCONTROL*

**Page 52 - Annex IV - Part-MET**

The proposed Rules provide no clear framework for some of the typical ICAO State obligations coming from ICAO Annex 3. ICAO obligations reflected in Annex 3 go beyond certification, supervision and provision so these provisions require an appropriate placeholder in the Regulation when the decision is made

to transpose ICAO Annex 3 into Community Regulation.

response *Accepted*

A new Article 3 in the Cover Regulation is proposed to cater for this situation. The ICAO obligation of the Contracting States to establish MET offices or stations is, therefore, now covered in this new requirement which is applicable not only for MET purposes.

comment 568 comment by: *CANSO Civil Air Navigation Services Organization*

<b>Title of the rule</b>	<b>Common</b> Requirements for ATM/ANS providers and the safety oversight thereof	There are 9 requirements, not all are related to safety. Therefore we suggest to delete the word safety to ensure consistency between the title and the scope of the regulation.
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response *Accepted*

comment 572 comment by: *CANSO Civil Air Navigation Services Organization*

<b>General</b>	<b>Ensure harmonised publication date between IR ATM and outcome of RMT.0469 / RMT.0470 (safety assessment / software assurance).</b>	<p><b>Rationale:</b> IR ATM will repeal 1034/1035 regulations once in force. If IR ATM does not include safety assessment and software assurance requirements, then there will not be covered by regulation anymore. Related paragraphs: ATM/ANS.OR.A.040, ATS.OR.210 and ATS.OR.215.</p> <p>In addition, there is at the moment no harmonized understanding for what is considered as a change in IR ATM OR.A.040, ATS.OR.210 and ATS.OR.215 and what is considered as a change in RMT 0469/0470 to be integrated into IR ATM reserved parts.</p> <p>It is not possible to operate an SMS without this, there being no specific provisions in ICAO.</p> <p><b>Suggestion:</b> Entry into force of IR ATM should coincide with the availability of RMT.0469 / RMT.0470 for IR ATM reserved parts requirements and guidance. We would prefer to have a single opinion incorporating both NPA's.</p>
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<b>General</b>	<b>Ensure harmonised approach to Fatigue and Rostering between ICAO and this IR (NPA 2013-08)</b>	<p><b>Rationale:</b> ICAO recently initiated a Task Force on Fatigue and Rostering issues for ATM. The publication of IR ATM before the outcome of ICAO Task Force is known induces the risk of a non-harmonised approach and differences in scope and acceptable means of compliance.</p> <p><b>Suggestion:</b> Reserve Fatigue / Rostering part pending an EASA rulemaking task in charge of ensuring harmonised approach with ICAO</p>
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response *Accepted*

The Agency takes note of the comments.

It should be noted that the NPA resulting from the work of RMT.0469 is to be published in parallel with CRD to NPA 2013-08 for consultation. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule, and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed in the forthcoming NPA as well.

Based on the outcome of the current NPA and the following one, the Agency will issue a single Opinion as described into the Explanatory Note to the CRD.

In reference to the comment on fatigue and rostering, the Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements in point 5(b)(i) of Annex Vb on fatigue of air traffic controllers.

The proposed measures covering fatigue were developed in accordance with the Terms of Reference for RMT.0148 (ATM.001 (a)) & RMT.0149 (ATM.001 (b)). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.

comment 717

comment by: *AvinorANSP*

AMCs should describe how to implement a given requirement (one means of implementing it). A number of proposed AMCs are too vague to achieve this aim, and therefore should not be considered as AMC if not significantly enhanced. Examples of weak or "false" AMCs include:  
 AMC1 ATM/ANS.OR.A.050(b),  
 AMC1 ATM/ANS.OR.B.020,

	AMC1 ATS.OR.205(c)(1)(iv), AMC1 ATS.OR.325, AMC1 ATSEP.OR.120
response	<i>Partially accepted</i>  The Agency takes the comment into consideration .  Based on the NPA 2013-08 consultation, the commented AMCs are either redrafted or removed.

comment	718 <span style="float: right;">comment by: <i>AvinorANSP</i></span>  It would be useful to define clearly <ul style="list-style-type: none"> <li>• endorse,</li> <li>• approve,</li> </ul> accept for better harmonisation in Europe
response	<i>Not accepted.</i>  This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is considered inappropriate such terms to be defined at Implementing Rule level.

comment	719 <span style="float: right;">comment by: <i>AvinorANSP</i></span>  Consistency with abbreviations and terminology , particularly with regards to the definitions in the BR and the SES regulation 549.
response	<i>Accepted</i>  The Agency takes the comment into consideration.

comment	<p data-bbox="359 208 406 241">722</p> <p data-bbox="1093 208 1444 241" style="text-align: right;">comment by: <i>AvinorANSP</i></p> <p data-bbox="359 331 1444 398">Ensure harmonised publication date between IR ATM and outcome of RMT.0469 / RMT.0470 (safety assessment / software assurance).</p> <p data-bbox="359 398 1444 521">Rationale: IR ATM will repeal 1034/1035 regulations once in force. If IR ATM does not include safety assessment and software assurance requirements, then there will not be covered by regulation anymore. Related paragraphs: ATM/ANS.OR.A.040, ATS.OR.210 and ATS.OR.215.</p> <p data-bbox="359 521 1444 656">In addition, there is at the moment no harmonized understanding for what is considered as a change in IR ATM OR.A.040, ATS.OR.210 and ATS.OR.215 and what is considered as a change in RMT 0469/0470 to be integrated into IR ATM reserved parts.</p> <p data-bbox="359 656 1444 723">It is not possible to operate an SMS without this, there being no specific provisions in ICAO.</p> <p data-bbox="359 723 1444 813">Suggestion: Entry into force of IR ATM should coincide with the availability of RMT.0469 / RMT.0470 for IR ATM reserved parts requirements and guidance. We would prefer to have a single opinion incorporating both NPA's</p>
response	<p data-bbox="359 824 478 857"><i>Accepted</i></p> <p data-bbox="359 925 893 958">The Agency takes note of the comment.</p> <p data-bbox="359 969 1444 1193">The Agency is to publish a separate NPA for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Based on the outcome of the said NPAs, the Agency will issue a single Opinion in the 4<sup>th</sup> quarter of 2014.</p>
comment	<p data-bbox="359 1283 406 1317">723</p> <p data-bbox="1093 1283 1444 1317" style="text-align: right;">comment by: <i>AvinorANSP</i></p> <div data-bbox="359 1406 1444 1485" style="border: 1px solid black; padding: 5px;"> <p data-bbox="359 1417 1428 1485">Ensure harmonised approach to Fatigue and Rostering between ICAO and this IR (NPA 2013-08)</p> </div> <p data-bbox="359 1529 1444 1653">Rationale: ICAO recently initiated a Task Force on Fatigue and Rostering issues for ATM. The publication of IR ATM before the outcome of ICAO Task Force is known induces the risk of a non-harmonised approach and differences in scope and acceptable means of compliance.</p> <p data-bbox="359 1686 1444 1753">Suggestion: Reserve Fatigue / Rostering part pending an EASA rulemaking task in charge of ensuring harmonised approach with ICAO</p>
response	<p data-bbox="359 1821 542 1854"><i>Not accepted</i></p>

comment	<p>804 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>General comments to Annex XII Maintenance of CCC (both ATCO and ATSEP). How will EASA maintain and update these documents? Both appendix 1 and 2 are called ATSEP.OR.105. Basic training.</p>
response	<p><i>Noted</i></p> <p>As already explained in CRD to NPA 2012-18, the Agency fully agrees with the need for the future maintenance of the Training requirements related to ATCO, as transposed into EU legislation. This applies to the ATSEP training as well. Obviously, the Agency itself cannot possess and maintain such detailed knowledge and experience on the subject. Therefore, it is foreseen to establish rulemaking tasks in which the stakeholders have a major role in defining and drafting the changes, which will be then channelled swiftly to the rulemaking process concerning the Agency measures.</p>

comment	<p>823 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Appendixes to Annex XII, from page 72 to 78</b> A number of objectives seem out of date. We have understood they were copied and pasted for the existing Common Core Content but a review would be useful to align the objectives to the new context. For example:</p> <ul style="list-style-type: none"> <li>• objective 1.5.1 of subject 1 of appendix 3a to Annex XII, relating to the description of the role of safety regulation, mentions the objectives of the Safety Regulation Commission (we think that it is unnecessary to know for ATSEP);</li> <li>• a number of objectives refer to regulations in force (1035 for example) which will not make sense when the new regulation is adopted.</li> </ul>
response	<p><i>Accepted</i></p> <p>A detailed review has been made to appropriately amend the existing ATSEP CCC and update it with the latest regulatory situation.</p>

comment	<p>828 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>· Too many "Tbd" to be able to provide a solid and stabilized comment. The NPA stipulates that 1034/1035 will be repealed with this publication. This will only be possible at the end of the transitional period and when all the tbd have been completed. The formulation at best should read "<u>will be developed at a later stage</u>"</p>
response	<p><i>Noted</i></p> <p>Taking into account the focussed consultation, which provided the Agency with further valuable advice on how to proceed with the subject, the Agency is to publish the NPA resulting from the work of RMT.0469 for consultation in parallel</p>

with CRD to NPA 2013-08 (in the 2nd quarter of 2014). That NPA will propose provisions for 'assessment of changes to functional systems' to this draft Rule. Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion. Furthermore, this Opinion will additionally include the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.

comment

830

comment by: *Belgocontrol*

· All safety aspects are left aside and will be provided in a specific NPA at a later stage. Involvement from that Safety NPA in the interaction with this NPA is unknown and the impact cannot be assessed at the present time.

response

*Noted*

Taking into account the focussed consultation, which provided the Agency with further valuable advice on how to proceed with the subject, the Agency is to publish the NPA resulting from the work of RMT.0469 for consultation in parallel with CRD to NPA 2013-08 (in the 2<sup>nd</sup> quarter of 2014). That NPA will propose provisions for 'assessment of changes to functional systems' to this draft Rule. Based on the outcome of the said NPAs, the Agency will issue a single Opinion.

comment

833

comment by: *Belgocontrol*

NoNotifications or information on **any** changes to the NSA are prescribed in this NPA. The requirements, as defined in this draft, will create a heavy workload on both the ANSP and the NSA. The scoping of the interaction between the ANSP and the NSA is changing, going into less relevant issues. EASA Competencies are deemed to be safety related – this seems to be exaggerated, as some changes are not directly linked to safety activities. The requirements to define the relevance of the changes are in the remits of the NSA. Therefore some changes in one country will not be assessed in the same manner as in others. This approach does not foster the initial intention of the SES, and furthermore is not in line with the Performance approach taken by the commission. There is no clear justification on the proposed change.

response

*Noted*

It should be reminded that the proposed rule has a dual legal basis and it implements the objectives of the Basic Regulation and the SES Regulations as well. Moreover, the principal objective of the Basic Regulation is to establish and maintain a high uniform level of civil aviation safety in Europe and, in addition to that, to promote cost-efficiency in the regulatory and certification processes and to avoid duplication at national and European level. The Agency considers that these objectives were the main driver in the development of the

proposed rule.

Furthermore, based on the NPA consultation, the provisions related to changes management are reworked to better clarify the scope of the changes and their notification and management mechanism. The subject provisions align the authority requirements for service providers with those already existing in other aviation domains (e.g. aerodromes). The process strikes a balance between a reasonable amount of oversight by the competent authority on the one hand, and a reasonable amount of 'freedom to act' by the service providers on the other hand. Associated GMs are proposed to facilitate the implementation of these new requirements.

comment

967

comment by: EUROCONTROL Safety Team

**General Comment**

The choice of a single regulation splitting, in a structured way, organisation requirements from authority requirements, brings clarity in the roles and responsibilities of both.

response

*Noted*

comment

968

comment by: EUROCONTROL Safety Team

**General Comment**

The traceability provided between individual requirements from the IR (annexes), and AMC/GM, eases the use of AMC/GM.

response

*Noted*

comment

969

comment by: EUROCONTROL Safety Team

**General Comment**

ATM/ANS.OR.B.015 (management system) is welcome as it is a good incentive for organisations to implement an integrated management system, and believe it goes in the right direction because integrated management systems are generally more efficient as they help avoiding duplications between SMS and QMS for example (both have a lot of commonalities)

response

*Noted*

comment

970

comment by: EUROCONTROL Safety Team

**General Comment**

It would be useful to define clearly for better harmonisation in Europe:

	<ul style="list-style-type: none"> <li>• endorse,</li> <li>• approve,</li> <li>• accept.</li> </ul> <p>Proposed definitions (adapted from EUROCONTROL Generic Safety Management Manual Signatory Concept (10.4.8):</p> <ul style="list-style-type: none"> <li>• Endorsement of a document – certifies conformance of the document with the internal requirements</li> <li>• Approval of a document – takes responsibility for the technical (in the sense of specialist knowledge, not only engineering or technological) content of the document.</li> <li>• Acceptance of the document – certification by the competent authority that the document conforms to the regulatory requirements and agreement by the competent authority with the technical (in the sense of specialist knowledge, not only engineering or technological) content of the document.</li> </ul>
response	<p><i>Not accepted.</i></p> <p>This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is considered inappropriate such terms to be defined at Implementing Rule level.</p>
comment	<p>1024 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> N/A  <b>Paragraph No:</b> Throughout – general comment  <b>Comment:</b> UK CAA suggests the amount of new regulatory material should be reduced.  <b>Justification:</b> The amount of content of the IR/AMC/GM dealing with MET, Human Factors and especially ATSEP appears out of proportion and now seems to dominate the material.  The introductory statement in the RIA, recognises that '<i>the level of competence of ATSEP in Europe is currently acceptable</i>'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need.  These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency.</p>
response	<p><i>Noted</i></p> <p>The Agency is acting in accordance with the provisions of the Basic Regulation</p>

in order to propose implementing measures for the training and competence assessment of service providers' personnel. ATSEP is one category of personnel. Whereas safety is the primary objective of the Agency, harmonisation of rules in Europe is also beneficial to affected parties.

This NPA proposes initial training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their basic training syllabi in accordance with their needs. The NPA reproduces the EUROCONTROL ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the initial training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

This approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP initial training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

The RIA for ATSEP reflects this approach.

comment

1043

comment by: Danish Transport Authority

[The initiative of having the 1034- and 1035-regulations consolidated into one regulation is welcomed.](#)

[It seems, however inappropriate to propose to States a version where text hasn't yet been drafted/determined. Examples are \[Article 9 of the IR\]\(#\), although recognising EASA's proposal for such transitional provisions set out in no. 73 of the Explanatory Notes, \[ATS.OR.210\]\(#\) and \[ATS.OR.215\]\(#\) in Annex III and the \[Annexes VI, IX and X on DAT, ASM and ASD respectively\]\(#\).](#)

[For that reason it is recommended to postpone the process of adoption, until the IR in full can be evaluated/commented by States.](#)

The proposed requirements on ATSEP are found to be too detailed, and will have as a consequence that two Danish CNS Providers will have serious difficulties and most likely will have to close down, for the very reason that they are one-man operated.

response

*Partially accepted*

The Agency takes note of the comments.

As correctly mentioned by the commentator, paragraph 73 of the Explanatory Note to NPA 2013-08 addresses the transitional provision and clarifies that adequate transitional provisions can only be proposed after the consultation on the relevant proposals, their evaluation and finalisation of the proposed rule text. It will be proposed in the Agency Opinion to the European Commission and will be discussed together with the rule text during Comitology.

It should be noted that the NPA resulting from the work of RMT.0469 is to be published for consultation in parallel to CRD 2013-08 during the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed in the forthcoming NPA as well.

Based on the outcome of the said NPAs, the Agency will issue a single Opinion

as described in the Explanatory Note to the CRD.

Furthermore, this Opinion will include also the technical requirements for the provision of meteorological services and could contain also other proposals such as DAT, when the deliverables are being consulted.

In reference to the ASD, the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM in order to ensure the airspace structures and flight procedures are appropriately surveyed, designed and validated. The development of the subject implementing measures would require time. Therefore, taking into account the difficulty in envisaging the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.

comment

1249

comment by: ENAV

Consistency with abbreviations and terminology , particularly with regards to the definitions in the BR and the SES regulation 549.

e.g. NM and ATFM, ATM / ANS providers and providers of ATM/ANS, provision of ATM/ANS, in the field of ATM/ ANS, ... Or use the term ATM/ANS provider consistently

response

*Noted*

The Agency takes the comment into consideration.

comment

1250

comment by: ENAV

ATM/ANS provider or ATM/ANS providers. Should be singular unless it really needs to be plural.

response

*Accepted*

The Agency takes the comment into consideration.

comment

1251

comment by: ENAV

**Ensure harmonised publication date between IR ATM and outcome of RMT.0469 / RMT.0470 (safety assessment / software assurance).**

**Rationale:** IR ATM will repeal 1034/1035 regulations once in force. If IR ATM does not include safety assessment and software assurance requirements, then there will not be covered by regulation anymore. Related paragraphs: ATM/ANS.OR.A.040, ATS.OR.210 and ATS.OR.215.

In addition, there is at the moment no harmonized understanding for what is

	<p>considered as a change in IR ATM OR.A.040, ATS.OR.210 and ATS.OR.215 and what is considered as a change in RMT 0469/0470 to be integrated into IR ATM reserved parts.</p> <p>It is not possible to operate an SMS without this, there being no specific provisions in ICAO.</p> <p><b>Suggestion:</b> Entry into force of IR ATM should coincide with the availability of RMT.0469 / RMT.0470 for IR ATM reserved parts requirements and guidance. We would prefer to have a single opinion incorporating both NPA's.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment.</p> <p>Taking into account the focussed consultation, which provided the Agency with further valuable advice on how to proceed with the subject, the Agency is to publish the NPA resulting from the work of RMT.0469 for consultation in parallel with CRD to NPA 2013-08 (in the 2<sup>nd</sup> quarter of 2014). That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed in the said NPA as well.</p> <p>Based on the outcome of these NPAs, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>
comment	<p>1252 <span style="float: right;">comment by: ENAV</span></p> <p><b>Ensure harmonised approach to Fatigue and Rostering between ICAO and this IR (NPA 2013-08)</b></p> <p><b>Rationale:</b> ICAO recently initiated a Task Force on Fatigue and Rostering issues for ATM. The publication of IR ATM before the outcome of ICAO Task Force is known induces the risk of a non-harmonised approach and differences in scope and acceptable means of compliance.</p> <p><b>Suggestion:</b> Reserve Fatigue / Rostering part pending an EASA rulemaking task in charge of ensuring harmonised approach with ICAO</p>
response	<p><i>Not accepted</i></p> <p>The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements in point 5(b)(i) of Annex Vb on fatigue of air traffic controllers.</p> <p>The proposed measures covering fatigue were developed in accordance with the Terms of Reference for RMT.0148 (ATM.001). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.</p>
comment	<p>1319 <span style="float: right;">comment by: Deutscher Wetterdienst</span></p>

Dear sir / madam,

Basically, we are of the opinion that the current NPA has not been sufficiently taken into account that the environment and framework in the field of ATM / ANS are expected to change significantly in the coming years. This is especially true for the framework regulations that are currently being reviewed by the European Commission under the SES II +. Moreover, in the current NPA timeliness or synchronization with other provisions not seem to be sufficiently guaranteed. This is especially true for the changes in ICAO Annex 3 and the question of how these are adjusted with EASA Annex 4 (METEOROLOGICAL SERVICE) of the NPA and will be synchronized in future. Due to the continuous change of ICAO regulations and the consequent need to adapt the EASA requirements , it seems appropriate that the EASA introduces a process in agreement with the responsible ICAO bodies ( EANPG et al.) that ensures that changes are taken into account ICAO promptly as part of the EASA rulemaking process. The procedure of EASA seems problematic in the light of that absence of transitional provisions. From the perspective of the DWD transition periods are decisive, but of equal importance is that no "gaps" and legal uncertainty arise. In this context, it should be ensured that for the MET ANSPs, that are already in possession of a certificate and have provided their services over the past years since 2006, no additional burdens and costs are imposed for a recertification.

With respect to NPA (part B, Part-MET) we comment as follows:

MET.OR.100 Quality of data and information Level of attainable accuracy

As ICAO statements on the quality , of data and information are provided already (see Table of Recommended minimum quality of service indicators (QSI) for National Aviation MET services), it should not be spoken on a "not attainable accuracy". On the contrary, the MET services are required to perform a QM system. This quality control could be theoretically used to examine the EASA requirement standards for Europe. In liaison to this it should not be overseen that for the data of other services no quality statements on OPMET data are made. Here is the relevant that the service provider generating meteorological services have a duty to ensure the required quality of their meteorological information. OPMET data from other sources (METAR, TAF, etc.) are therefore not audited by the DWD, but merely passed on to the aviation users.

MET.OR.210 AIRMET / MET.OR.230 Area forecasts for low-level flights

AIRMET information is always to be used in conjunction with GAMET, otherwise an information / safety gap occurs. The DWD provides both Significant Weather Chart (SWC) and GAMET / AIRMET in order to be "full compliant" with the requirements of ICAO Annex 3.

MET.OR.235b Warnings and Alerts

In Germany Wind shear warnings are created and distributed for international airports and regional airports under contractual agreements. They are created and distributed for a height interval of the elevation of the airport up to 1600 FT GND. Warnings of wind shear can be triggered by reports of pilots, or through observations and forecasts of the DWD . The DWD special measurement or remote sensing systems for detection of wind shear ( LLWAS - Low Level Windshear Alert System ) is currently installed in Frankfurt and Munich, enable the derivation of a well-resolved vertical wind profile for a specific airport from the ground to about 2000 FT AGL . These systems will automatically issue wind shear warnings in accordance with ICAO Annex 3 and mediate.

Additional information are data from AMDAR measurements. AMDAR (Aircraft Meteorological Data Reporting) is an international project in which the need for flight guidance and operational control of airliners measuring parameters of

time, position, pressure, temperature, wind speed and direction are taken for meteorological data exchange and aviation weather monitoring. Wind shear warnings must be issued , if not already a thunderstorm warning and / or a TREND with appropriate references (eg gusts , thunderstorms with rain , CB) was issued . This does not apply to automatic LLWAS systems. Typical values here are distances <10 km between thunderstorms and " Final Approach " and <5 km at CB. But if wind shear is detected by pilot, a wind shear warning must be issued regardless of an existing storm warning in addition.

MET.OR.245 Notification of discrepancies to the World Area Forecast Centres (WAFC)

WAFC makes not any amendments on the occasion of a "Notification of Discrepancies". The reporting of deviations of the Meteorological Watch Offices at WAFC is therefore not a common practice anymore.

MET.OR.250 Meteorological reports and other information

Local reports wurden in die DWD Vorschriften aufgenommen und werden mit den automatischen System zur Datenerfassung und Verteilung an internationalen Flughäfen bereitgestellt werden können. Derzeit werden MET REPORT von DWD-Nutzern nicht verwendet. Für Regionalflughäfen gibt es derzeit ebenfalls noch keine Local Reports.

In Germany LOCAL REPORTS are included in the DWD operational instructions and are provided with an automatic system for data collection and distribution at 16 airports. MET REPORT are currently not used by airport users. For regional airports, there exist also no local reports.

For further questions please do not hesitate to contact us.

response

*Noted*

The Agency is aware of the continuous changes of ICAO provisions and the need for EASA to adapt its proposed rules accordingly. The Agency acknowledges the need to establish a maintenance mechanism which will allow EASA to respond to the changing ICAO regulatory environment and start the work at the latest when ICAO publishes the State Letter concerning the intended changes.

MET.OR.100 Quality of data and information Level of attainable accuracy

The Agency considers that some confusion exists between the recommended minimum quality of service indicators for National Aviation MET services (agreed by the European States at METG/22 -ref. Flimsy 1) and which, from the QMS point of view, addresses the Aviation MET Services, and the requirement with respect to the quality of the data and information, which is different from the services and not replaces it, as reflected by MET.OR.100.

MET.OR.210 AIRMET / MET.OR.230 Area forecasts for low-level flights

The statement 'AIRMET information is always to be used in conjunction with GAMET' is true only when abbreviated plain language is used for issuing area forecasts for low level flights. However, ICAO Annex 3 allows that such area forecasts could be also prepared in any other format agreed upon between the meteorological authorities concerned.

MET.OR.235b Warnings and Alerts: Noted

MET.OR.245 Notification of discrepancies to the World Area Forecast Centres (WAFC)

Noted. However, with the evolving technologies, more and more capabilities to identify possible discrepancies to be reported back to WAFC can exist and,

therefore, the provision of MET.OR.245 remains relevant.

MET.OR.250 Meteorological reports and other information: Noted

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p. 1

comment 80 comment by: *NATS National Air Traffic Services Limited*

**General comment - Title of Rule**

The common requirements do not all relate to safety. Therefore delete the word safety to ensure consistency between the title and the scope of the regulation. Suggest rewording to: "Requirements for ATM/ANS providers and the oversight thereof"

response *Accepted*

comment 109 comment by: *LFV*

The scope of the regulation is extended to "ATM/ANS" (including DAT and ASD), thus expanding the requirements to include these services in certification processes, oversight (not just safety oversight), performance monitoring etc. The impact and benefit on this extension should be carefully considered before implementation.

response *Noted*

The Agency takes the comment into consideration. One of the main objectives of this NPA is to implement the Essential Requirements of the Basic Regulation.

In reference to the ASD, taking into account the comment, the Agency excludes the ASD providers from the certification scheme. However, it should be noted that as the organisation of the airspace has a direct effect on the trajectory followed by aircraft, poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should contribute to ensure safe operations within the European airspace. Furthermore, the ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as Performance-Based Navigation (PBN). In this respect, the Agency is to launch a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM on airspace design including procedure design in order to ensure the airspace structures and flight procedures are appropriately surveyed, designed and validated. The outcome of the subject rulemaking task will be reflected in Annex XI and, if necessary, further amendments to the draft Rule will be considered with regard to ASD certification.

In reference to the DAT providers, an RMT is in progress. It should be noted that the result of this RMT (RMT.0593) will amend Annex VII (formerly Annex

VI) to the rule, and a RIA will be developed aiming at evaluating the impact of the regulatory solutions envisaged within the development of the Implementing Rules.

comment

450

comment by: DSNA

DSNA encourages the Agency to avoid as much as possible different wording between European requirements and ICAO requirements. This facilitates compliance and ensures that all personnel are familiar with the same concepts under the same name and alleviates the tasks of regulatory compliance.

DSNA welcomes the development of a comprehensive regulation which encompasses Safety Management Systems (SMS) as well as Quality Management (QMS). The Agency is encouraged to develop this approach further towards the development of an Integrated Safety Management Systems to support Safety, Quality, Security and the Environment. This allows for a better efficiency of the Management System and avoids redundancy in the processes and the surveillance thereof.

response

*Noted*

The Agency takes the comment into consideration.

comment

881

comment by: IFATCA

Attachment [#1](#)

all comments from IFATCA

response

*Noted*

comment

1146

comment by: ENAV

**Title of the rule**

Requirements for ATM/ANS providers and the ~~safety~~ oversight thereof  
There are 9 requirements, not all are related to safety. Therefore we suggest to delete the word safety to ensure consistency between the title and the scope of the regulation.

response

*Accepted*

comment

1216

comment by: NATS National Air Traffic Services Limited

	<p><b>General Comment</b></p> <p>NATS notes that the Impact Assessment does not consider the potential costs to the Industry of implementing these changes. We request that an evaluation of the cost or a mechanism to capture these is included in the Impact Assessment as they may well be of a significant level which industry will find hard to meet.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration. However, it should be noted that the Regulatory Impact Assessment (RIA), in Chapter 7 of subpart D, of the commented NPA, addresses the economic impact related to the regulated service providers. The preferred Option II was assessed from an economic point of view and the reasoning was given to indicate that it would require initial costs for the new providers which will decrease over time.</p>
comment	<p>1223 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>General Comment</b></p> <p>There are a number of areas where SES II+ would require changes to these proposals. NATS recommends that this IR is not submitted for Comitology until SES II+ has been adopted.</p>
response	<p><i>Noted</i></p> <p>The Agency takes due consideration of the comment. The outcome of the ongoing SESII+ initiative will most likely impact certain implementing regulations, including probably the one subject to this consultation. This is one of the reasons for the Agency to continue provide an active and close support to the Commission in this important initiative. However, taking into account the difficulty in envisaging this outcome, including its adoption and applicability dates, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.</p>
comment	<p>1265 <span style="float: right;">comment by: <i>CAA CZ</i></span></p> <p><b><u>General comments</u></b></p> <p>The NSA of the Czech Republic welcomes the proposal introduced by the NPA 2013-08. The NSA especially appreciates structure and clarity of the text, overall simplification of the regulation, extension of the scope of the regulation, unification and alignment of the requirements imposed on both the Authorities and the Providers. The NPA was taken into account during annual revision of the NSA procedures and projects as well. However, the NSA perceives that some parts of the proposed regulation might be dependent on further progress with the Single European Sky and adoption of other initiatives introduced by European Commission.</p> <p>The guidance material offered by the proposal was well expected. Absence of guidance in certain areas previously might have definitely led to either</p>

	misinterpretation or ambiguous understanding of the regulation ultimately rising some standardization concerns and issues.
response	<i>Noted</i>
	The Agency takes the comment into consideration.

<b>Table of contents</b>	p. 2-8
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comment	414	comment by: CAA-NL
	<p style="text-align: center;">Annex I thru XII</p> <p>General comment related to various Parts:                  Our comments to the ATCO NPA 2012-18 included that various requirements there were actually requirements to the ANSP. These should be introduced here at its proper place.</p>	
response	<i>Noted</i>	
	The Agency takes note of the comment.	

<b>COVER REGULATION - Article 1</b>	p. 9
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comment	81	comment by: NATS National Air Traffic Services Limited
	<p style="text-align: center;">Article 1, 1 (a)</p> <p>The term " provision of ATM/ANS" is misleading as the scope is ATM/ANS providers.                  Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.                  Suggest amending the text to read "...common requirements for an ATM/ANS provider".</p>	
response	<i>Partially accepted</i>	
	The Agency takes the comment into consideration and the provision is amended accordingly.	

comment	82	comment by: NATS National Air Traffic Services Limited
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response	<p style="text-align: center;">Article 1, 1 (b)</p> <p>The term “ in the field of ATM/ANS” is misleading as the scope is ATM/ANS providers.  Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.  Suggest amending the text to read “...requirements to be applied by the competent authorities and the qualified entities acting on their behalf in order to exercise the oversight function of an ATM/ANS provider”</p> <p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the provision is amended accordingly.</p>
comment	<p>83 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;">Article 1, 2 (a)</p> <p>The term “ provision of ATM/ANS” is misleading as the scope is ATM/ANS providers.  Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.  Suggest amending the text to read “...activities other than those defined in this regulation by an ATM/ANS provider”</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the provision is amended accordingly.</p>
comment	<p>84 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;">Article 1, 2 (b)</p> <p>The term “ provision of ATM/ANS” is misleading as the scope is ATM/ANS providers.  Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.  Suggest amending the text to read “...resources allocated by the ATM/ANS provider to those activities to which (a) applies”</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the provision is amended accordingly.</p>

comment	<p>110 <span style="float: right;">comment by: LfV</span></p> <p>A definition of safety surveys, as noted in annex III, would be appreciated. A definition of accountable manager, as noted in annex II, would be appreciated.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes notes of the comments.</p> <p>The majority of the draft rule provisions are amended based on the consultation and the work performed after the NPA publication. 'Safety surveys' is not used any more in the Regulation and the Agency does not consider the introduction of the definition to be necessary.</p> <p>Who the accountable manager is and what are his/her responsibilities are laid down in the newly developed provision on 'Personnel requirements'. As the provision is detailed enough the Agency does not consider the introduction of the definition to be necessary.</p>
comment	<p>198 <span style="float: right;">comment by: Icelandic Transport Authority</span></p> <p>Paragraph 2 should be deleted. Para 1 is clear on the scope of ATM/ANS. It should not be necessary to restate that fact in para 2. If considered essential, the guidance material might include para 2.</p>
response	<p><i>Not accepted</i></p> <p>The main changes in the Cover Regulation originate from the amalgamation between the two Regulations, Regulation (EU) No 1034/2011 and Regulation (EU) No 1035/2011. Article 1 results from the amalgamation of the Articles on scope. Therefore, the Agency disagrees with the proposal to have the commented provision removed.</p>
comment	<p>275 <span style="float: right;">comment by: skyguide Corporate Regulation Management</span></p> <p>There seems to be a fundamental problem with issuing such a major regulation for commenting when it is not complete. We suggest that EASA wait for the outcome of the Rulemaking Drafting Groups (RMT.0469 and RMT.0470) prior to finalising its analysis on the comments received from this round of consultation, and that EASA submit the consolidated proposed text to stakeholders in a second NPA consultation, since the text coming from the RDGs will need to be reviewed in context.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration. Seeing the necessity of completing the rule with the provisions related to the assessment of changes to functional systems in ATM/ANS which will complement some of the Annexes (e.g. Annex III and Annex IV), and taking into account the advice received</p>

during the focussed consultation organised during the comments review, the Agency intends to issue a single Opinion as a result of the consultation of NPA 2013-08 and the outcome from the consultation of the following NPA on RMT.0469.

comment	514	comment by: <i>HungaroControl</i>
	Agreed.	
response	<i>Noted</i>	

comment	763	comment by: <i>ROMATSA</i>
	<p>Comment: To reword paragraph 1 of Art. 1 in order to ensure the consistency between subpara (a) and (b).</p> <p>Justification: Art.1 para.1, article a and b are not consistent: a) applies to an activity and b) applies to an organisation.</p>	
response	<i>Accepted</i>	
	The Agency takes the comment into consideration and the provision is modified.	

comment	1037	comment by: <i>UK CAA</i>
	<p><b>Page No:</b> 9  <b>Paragraph No:</b> Article 1, sub-paragraph 2  <b>Comment:</b> UK CAA suggests sub-paragraph 2 should be deleted.  <b>Justification:</b> The paragraph seems unnecessary. If it is to remain, a number of typos should be corrected:  <b>Proposed Text:</b>  1(b) '... the field <b>of</b> ATM/ANS'  2 '...make provision <del>for</del> <b>to</b> the contrary...'  2(a) '... the provision of ATM/ANS <del>by a provider</del>' (tautology)</p>	
response	<i>Not accepted</i>	
	<p>The main changes in the Cover Regulation originate from the amalgamation between the two Regulations, Regulation (EU) No 1034/2011 and Regulation (EU) No 1035/2011. Article 1 results from the amalgamation of the Articles on scope. Therefore, the Agency disagrees with the proposal to have the commented provision removed.</p> <p>The necessary consistency amendments are made.</p>	

comment	1272	comment by: <i>Romanian Civil Aviation Authority</i>
	<p>Proposal:</p> <p>To reword paragraph 1 of Art. 1 in order to ensure the consistency between subpara (a) and (b).</p> <p>Justification:</p> <p>Art.1 para.1, article a and b are not consistent: a) applies to an activity and b) applies to an organisation.</p>	
response	<i>Accepted</i>	
	<p>The Agency takes the comment into consideration and the provision is amended accordingly.</p>	

**COVER REGULATION – Article 2**

p. 9-13

comment	2	comment by: <i>Jan Loncke</i>
	<p>Definitions : 2. 'Acceptable Means of Compliance (AMC)'</p> <p>I suggest to change the word "are" into "means", in order to be in line with other EU regulations (e.g. Opinion 01/2013).</p> <p>The text would then read as follows :</p> <p>'Acceptable Means of Compliance (AMC)' <del>are</del> means non-binding standards adopted by the Agency to illustrate means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules</p>	
response	<i>Accepted</i>	

comment	3	comment by: <i>Jan Loncke</i>
	<p>Article 2 Definitions : 1. 'Aerial work'.</p> <p>I suggest to add the word "etc." at the end of the definition, to be consistent with the text of the same definition in EU 923/2012.</p> <p>The text would then read as follows :</p> <p>" 'Aerial work' means an aircraft operation in which an aircraft is used for specialised services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue or aerial advertisement, <b>etc.</b>;"</p>	
response	<i>Accepted</i>	

comment	5	comment by: <i>Jan Loncke</i>
	<p>Suggest to replace "en route" with "en-route" in the definition of 'AIRMET information'.</p> <p>'AIRMET information' means information issued by a meteorological watch office concerning the occurrence or expected occurrence of specified <del>en-route</del> <b>en-route</b> weather phenomena which may affect the safety of low-level aircraft operations, and which was not already included in the forecast issued for low-level flights in the flight information region concerned or sub-area thereof;</p>	
response	<i>Accepted</i>	

comment	6	comment by: <i>Jan Loncke</i>
	<p>Suggest to add "aerodrome flight information service unit" in the definition of 'air traffic services unit', in order to have it in line with EU 923/2012.</p> <p>'Air traffic services unit' means a generic term meaning variously, air traffic control unit, flight information centre, <b>aerodrome flight information service unit</b> or air traffic services reporting office;</p>	
response	<i>Accepted</i>	

comment	7	comment by: <i>Jan Loncke</i>
	<p>Suggest to add between brackets (ACC) in definition 10. 'Area Control centre' to be consistent with other definitions, such as AFS.</p> <p>'Area control centre <b>(ACC)</b>' means a unit established to provide air traffic control service to controlled flights in control areas under its jurisdiction;</p>	
response	<i>Accepted</i>	

comment	8	comment by: <i>Jan Loncke</i>
	<p>Suggest to add the word "a" in the definition of 'Control area' (that way it will be lined up with the definition in EU 923/2012) :</p> <p>'Control area' means <b>a</b> controlled airspace extending upwards from a specified limit above the earth;</p>	
response	<i>Accepted</i>	

comment	9	comment by: <i>Jan Loncke</i>
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	<p>I don't see a reason, why to 'limit' the definition about the problematic use of psychoactive substances, to ATCO's only. In my opinion the hazards or problems created, due to the problematic use of such things, are also applicable to other groups of personnel (e.g. technical &amp; engineering personnel, ...). Therefore, I propose to drop the words "by an ATCO" : 'Problematic use of psychoactive substances' means the use of one or more psychoactive substances <b>by an ATCO</b>, in a way that: (a) constitutes a direct hazard to the user or endangers the lives, health, or welfare of others; and/or (b) causes or worsens an occupational, social, mental or physical problem or disorder;</p>
response	<p><i>Accepted</i></p> <p>The text is modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.</p>

comment	<p>10 <span style="float: right;">comment by: <i>Jan Loncke</i></span></p> <p>Suggest to replace "en route" with "en-route" in the definition of 'SIGMET information' : 'SIGMET information' means information issued by a meteorological watch office concerning the occurrence or expected occurrence of specified <b>en-route</b> <del>en-route</del> weather phenomena which may affect the safety of aircraft operations;</p>
response	<p><i>Accepted</i></p>

comment	<p>23 <span style="float: right;">comment by: <i>BCAA</i></span></p> <p>definition 11 ATM/ANS : this definition goes far beyond the scope and definitions of the Single European Sky Framework Regulation 549/2004 and even far beyond the EASA scope as defined in Regulation 216/2008. 549/2004 : "air navigation services" means air traffic services; communication, navigation and surveillance services; meteorological services for air navigation; and aeronautical information services; =&gt; ATS + CNS + MET + AIS "air traffic management (ATM)" means the aggregation of the airborne and ground-based functions (air traffic services, airspace management and air traffic flow management) required to ensure the safe and efficient movement of aircraft during all phases of operations; =&gt; ATS + ASM + ATFM "air traffic services" means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services); 216/2008 :</p>
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	<p>(a) the design, production, maintenance and operation of aeronautical products, parts and appliances, as well as personnel and organisations involved in the design, production and maintenance of such products, parts and appliances;</p> <p>(b) personnel and organisations involved in the operation of aircraft.</p> <p>Note that in this IR proposal even data origination is within the scope of the Regulation. This is too much and it is double use with the aeronautical data quality implementing rule 73/2010 already in place.</p> <p>The same remark for elements like airspace design. This element is not in the scope of 549/2004 or 216/2008 neither.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Furthermore, the Agency organised focussed consultation comprising a series of thematic meetings with the aim to analyse issues commented during the consultation. The subject definition was further discussed and based on the advice received, the Agency amended the provision.</p>

comment	<p>24</p> <p style="text-align: right;">comment by: <i>BCAA</i></p> <p>definition 11 : speaks about ATM/ANS provider. Why always speaking about ATM/ANS and not simplify into ANS only ? The definition is taking all the elements of ANS anyway and even more than that. ANS provider is easier to read and write and is also more in line with SES vocabulary already long time in use.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the commented provision is amended accordingly. The 'ATM/ANS provider' is replaced by 'service provider'.</p>

comment	<p>25</p> <p style="text-align: right;">comment by: <i>BCAA</i></p> <p>definition 11 : ATM/ANS provider : as it is defined now, there is an issue with the rules for doing oversight by NSA at ANS provider. Until now the NSA is only competent for these elements that are defined in 1034/2011 oversight regulation:</p> <p>"1. This Regulation establishes requirements to be applied to the exercise of the safety oversight function by competent authorities concerning air navigation services, air traffic flow management (ATFM), airspace management (ASM) for general air traffic and other network functions. " = &gt; ANS (ATS) + ATFM + ASM</p> <p>Note that the current definition of ATM/ANS provider in definition 11 goes far beyond the scope and competence of the national supervisory authority. How can they do safety oversight in a domain that is wider than their legal competence ?</p>
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response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>The Agency organised focussed consultation comprising a series of thematic meetings with the aim to analyse issues commented during the consultation. The subject definition was further discussed and based on the advice received, the Agency amended the provision.</p> <p>Furthermore, it should be noted that the subject draft rule will have a dual legal basis and aims to implement the objectives laid down in Regulation (EC) No 2016/2008 and SES Regulations as well.</p>
comment	<p>62 <span style="float: right;">comment by: <i>ATC the Netherlands</i></span></p> <p>AMC are indeed non binding standards, so why is an approval for the different methods of compliance necessary as described in art 7.4          Definition 11 ATM/ANS Provider: this definition has an other scope than defined in the BR art 3. The wider aspect of this definition can create confusion.</p>
response	<p><i>Noted</i></p> <p>The Basic Regulation empowers the Agency to develop three different types of soft law: Certification Specifications (CS), Acceptable Means of Compliance (AMC) and Guidance Material. AMC means non-binding standards adopted by the Agency to illustrate means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules. ATM/ANS.AR.A.015 and ATM/ANS.OR.A.020 (former Article 7) 'Means of compliance' introduces the scheme to deal with the means of compliance alternative to the AMC issued by the Agency. It requires to be reviewed by the competent authority prior to implementation by the service provider.</p> <p>In reference to the comment on the definition, the Agency takes note.</p> <p>The Agency organised focussed consultation comprising a series of thematic meetings with the aim to analyse issues commented during the consultation. The subject definition was further discussed and based on the advice received, the Agency amended the provision.</p>
comment	<p>85 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;">Article 2, 23.</p> <p>The term " the context of ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p>The term "equipment" is usually interpreted as being hardware and software, so what is meant by equipment if software is mentioned separately? This definition is different to that which exists in the 1035/2011</p>

response *Noted*

The Agency takes note of the comment.

Taking into account the focussed consultation, which provided the Agency with further valuable advice on how to proceed with the subject, the Agency is to publish the NPA resulting from the work of RMT.0469 for consultation in parallel with CRD to NPA 2013-08 (in the 2<sup>nd</sup> quarter of 2014). That NPA will propose an alternative definition to the commented one.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment *105* comment by: *EUROCONTROL*

**Page 9 - Article 2: Definitions**  
Inclusion of a list of definitions is welcomed.

response *Noted*

comment *106* comment by: *EUROCONTROL*

**Article 2 - Definitions**  
Recommend to add definition of competence (competency) as often this is equated only with training.  
*Competence is taken to mean possession of the required level of knowledge, skills, experience and where required, proficiency in English, to permit the safe and efficient provision of ATM services.*  
(ESARR 5 ATM Services' Personnel Para 2 Rationale)

response *Not accepted*

As correctly mentioned by the commentator, the term 'competence' is often meant as training. However, the Agency does not consider it appropriate to introduce the proposed definition as a lot of non-binding measures clarify the intent.

comment *107* comment by: *EUROCONTROL*

**Article 2 - Definitions**  
The term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation.  
According to psychologists most forms of judgement are essentially 'cognitive' since they involve the process or act of knowing (or thinking that one knows). The term 'cognitive judgement' is rarely seen because the 'cognitive' qualifier is not usually necessary. In the case of the regulation, the term cognitive judgement needs to be clearly defined to avoid ambiguity and

	<p>misinterpretation. The term 'judgement' would do in the context of this IR (and also EC 1109/2008 where the term first appeared), but better would be 'abilities', since medical fitness would affect more than just judgement (e.g. detection, alertness). Recommendation is to include a definition of 'cognitive judgement' in the list of definitions. The same recommendation is made in our comment on Page 49 - ATS.OR.305.</p>
response	<p><i>Noted</i></p> <p>The text is modified and no longer includes the term 'cognitive judgement'.</p>

comment	<p>108 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Article 2 - Definitions</b> There is no definition of Air Traffic Safety Electronics Personnel. ATSEP is only defined in Annex XII where the description of ATSEP refers also to safety related ATM and CNS systems. There is no definition of what are safety related ATM and CNS systems. Recommendation is to include a definition of safety related ATM and CNS systems.</p>
response	<p><i>Not accepted</i></p> <p>The definition of ATSEP is amended and is now inserted in Annex I (moved from GM to Annex XIII). The scope of Annex XIII (former Annex XII) should not be limited to ATM/CNS in order to encompass more services as specified in the definition. Consequently, the term 'safety-related ATM/CNS system' is no longer kept.</p>

comment	<p>118 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 10 - Para 16</b> We propose an alternative definition for 'Critical incident stress': <i>'Critical incident stress' reactions are strong emotional, physical reactions or - in long term - behavioural changes of an individual following an event or incident.</i></p>
response	<p><i>Not accepted</i></p> <p>The Agency is of the opinion that the definition proposed in the NPA is more accurate.</p>

comment	<p>122 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 10 - Para 18</b></p>
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	<p>It is not only ATCOs who suffer from fatigue and need to safely perform their tasks. We recommend that <i>ATCOs</i> is replaced by <i>personnel providing ATC service</i> as stated in (BR Annex Vb 5b(i)).</p>
response	<p><i>Partially accepted</i></p> <p>The text is modified, from 'air traffic controller' to 'individual' with the intention to focus on a person rather than on the identification of groups of personnel.</p>

comment	<p>124 <span style="float: right;">comment by: EUROCONTROL</span></p>
	<p><b>Page 12 - Para 49</b></p> <p>The definition of stress is not of any use as it is circular reasoning i.e. stress is the outcome of a stressful event. Stressful event is however not defined in the regulation. This definition based on the 1984 Model by Lazarus and Folkman cannot be easily tracked back to the demands safety critical personnel experience in their work. Additionally there is no way to extract any scientifically measurable rule from this definition. Moreover the term <i>individual perception</i> seems to push the responsibility of stress management upon the individual instead on the organisation which should be responsible for better work conditions in order to reduce the risks connected to stress and to promote welfare at work.</p> <p>A better definition is needed because this term is very important in view that it reflects one of the major amendments to the regulation.</p> <p>Stress is result of the combination of psychological, physiological, and behavioural reactions that people have in response to events that threaten or challenge them.</p> <p>Three better definitions for stress (and the source) are listed below:</p> <ul style="list-style-type: none"> <li>• Stress is a bodily response to a stimulus that disturbs or interferes with the "normal" physiological equilibrium of a person and, in the context of aviation, refers to a state of physical, mental or emotional strain due to some external or internal stimulus (SKYbrary – Stress)</li> <li>• Stress is a condition or feeling experienced when a person perceives that demands exceed the personal and social resources the individual is able to mobilise. (SKYbrary – Stress in ATC)</li> <li>• The total of all assessable influences impinging on a human being from external sources and affecting it mentally. (ISO10075-1-1995)</li> </ul> <p>The first proposal is considered to be the best of the three above although it still has limitations. Leaving the physiological equilibrium due to a stress reaction is not abnormal. In fact it is just a normal process and should not be seen as an issue. The problem lies in the chronic aspect or in a daily (or acute) stress not allowing proper return to the equilibrium and eventually leading to mental and physical consequences. A good definition should refer to this temporal aspect.</p> <p>The ISO definition is too restrictive referring to "mental stress" and missing physical consequences especially since ATCOs are subject to these physical risks caused by stress.</p>
response	<p><i>Partially accepted</i></p> <p>The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.</p> <p>Guidance Material to ATS.OR.310 to better define sources of occupational stress is provided.</p>

comment	141	comment by: LfV
	Would appreciate a better definition of functional system (scope) and thus clarify what changes are other than that to functional systems.	
response	<i>Partially accepted</i>	
	The Agency takes the comment into consideration. A definition of 'functional system' will be proposed and tabled for consultation with the NPA resulting from the work RMT.0469 related to 'assessment of changes to functional system'. Furthermore, for better clarification, the provisions on 'changes' are further reworked and amended.	

comment	213	comment by: AENA-NPA2013-08
	<p><b>Article 2 - Definitions</b></p> <p>It is necessary to include a definition for “<b>certificate</b>” and “<b>certification</b>”.</p> <p>Including “<i>based on the individual’s perception</i>” in the definition of stress leaves it opened to a subjective interpretation. Therefore, it is proposed to modify the guidance material as highlighted in red:</p> <p>49. ‘Stress’ means the outcomes experienced by an individual when faced with a potentially stressful event. <del>The experience of the event as negatively stressful (distress), neutral or positive (eustress) is based on the individual’s perception of their ability to manage the event;</del></p>	
response	<i>Not accepted</i>	
	<p>The Agency does not agree with the need to repeat these definitions as they already exist in Article 3 (e) and (g) of the Basic Regulation.</p> <p>The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology. The adopted definition is not in line with the text proposed in this comment.</p>	

comment	214	comment by: AIRBUS
	The Agency should introduce a definition for the Total System Approach with regards to the risk-based and the performance-based oversight (refer to Part A, p65).	
response	<i>Not accepted</i>	
	The Agency takes note of the comment. Total system approach is a high level policy the Agency has chosen to achieve its objectives, in particular high and uniform level of aviation safety. It would be very difficult to define such a policy in an implicit manner. In EASA Opinion No 01/2008 'Extension of EASA system	

to ATM/ANS' the total system approach to safety has been illustrated as means where all elements of the aviation safety chain are to be analysed in a centralised manner, in particular interfaces, so as to specify to each player in the safety chain what mitigating measures they need to implement to reduce not only their own contribution to the risks, but also the overall level of exposure. Taking into account the level of technical integration of the aviation system now and in the future, the Agency continues to see this as an essential aviation safety policy in Europe.

comment

262

comment by: AENA-NPA2013-08

**Article 2.**

Definition # 11: The fact that the term ATM/ANS includes more services than ATM and ANS separately is confusing and should be clarify properly.

Definition #18: Does the term 'fatigue' apply to ATSEP? This term appears in relation with ATCO and also in the objective 3.1.2 of the AMC3 ATSEP.OR.110 Qualification training, so it is necessary to introduce an explanation about it.

Definition #39: Does the term 'psychoactive substances' apply to ATSEP? This term appears in relation with ATCO and also in the objective 4.2.3 of the AMC3 ATSEP.OR.110 Qualification training, so it is necessary to introduce an explanation about it.

response

*Accepted*

The Agency takes the comment into consideration.

The Agency organised focussed consultation comprising a series of thematic meetings with the aim to analyse issues commented during the consultation. The subject definition was further discussed and based on the advice received, the Agency amended the provision.

The text of both definitions No 18 and No 39 is modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.

These modifications are introduced for the sake of clarity, but do not change the scope of provisions in Section 3 of Subpart A of Annex IV (previously Annex III).

comment

276

comment by: skyguide Corporate Regulation Management

All definitions should be completely harmonised with the definitions of ICAO AN 19.

Regardless of its source, EASA should make any possible effort not to deviate from basic ICAO terms and definitions. Placing ATFM and ASM outside of ATM, but inside of ANS is completely against any ICAO concept and definition. Namely, ICAO makes a rather clear and linear hierarchy in terms ANS = ATM+CNS+AIS(M)+MET+SAR; ATM=ATS+ATFM+ASM; ATS=ATC+FIS+ALRS. This has been established at latest as of FANS concept, endorsed at 10th Air Navigation Conference (1990) and reinforced at 29th ICAO Assembly Session (1992, Resolution 29-2, Harmonization of the implementation of the ICAO CNS/ATM systems). This is the concept upon which ICAO SARPs and strategic

objectives are set. Not only does it introduce confusion in regard to terminology, but it gives rise to various ambiguities at all sorts of levels, e.g. provision of ATM without ATFM or ASM functions seems unlikely, due to the fact that these functions are strongly integrated. Further, it corrupts established global standards, e.g. ECCAIRS (European Co-ordination Centre for Aviation Incident Reporting Systems) where, again e.g. ATFM factors are counted in as ATM factors in incident reporting. Finally, we would like to suggest that an approach which deviates from ICAO principles in scope and content of fundamental terms (like ATM or ANS) doesn't support the need for harmonization of ATM at the global level, and also runs counter to the "total system approach" which EASA are attempting to achieve, since the "total system approach" intends to "eliminate[...] the risk of safety gaps or overlaps, and seeks to avoid conflicting requirements and confused responsibilities."(EASA website - <https://easa.europa.eu/atm/total-system-approach.html> )

When thinking of this issue, we have a lot to learn from history - not speaking the same language took ICAO and FAA twenty years to harmonize RNAV standards. EASA should take into account the costs and efforts of this harmonization as standard costs that will be inevitable if this path is taken.

In the same line as above, the IR separates Airspace Management from Airspace Design, and groups Airspace Design and IFP procedures design. However, airspace design is an indispensable part of airspace management, and separate function from IFP design (in regard to objectives, methodologies, responsibilities). Other way around, there cannot be an effective airspace management without the airspace design, but there can be airspace design without the IFP design.

The regulatory objective of this separation is not clear. If the objective of the legislator is to allow airspace design as a function to be provided on the open market, EASA should investigate what in the existing regulatory framework prevents this, and address it. Namely, even today, the deliverables of the airspace design (even if provided by a company external to ANSP) must, at certain point be integrated in the functional ATM system, and at that point, the deliverables of airspace design will be subject to exactly the same requirements that other deliverables and/or services of ANSP are subject to – primarily risk assessment and mitigation and safety oversight.

response

*Noted*

The Agency takes note of the comments.

However, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version<sup>1</sup> of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule, which has a dual legal basis, the above provisions should be reflected accordingly.

Furthermore, the Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in Regulation (EC) No 216/2008

<sup>1</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0216:20091214:EN:PDF>

nor in Regulation (EC) No 549/2004, thus, it may appear excessive to regulate it as an ATM/ANS service according to Article 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements included in Paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation of the Agency to ensure safe airspace structure and flight procedures designs, and, hence, the legal basis for its regulation. The commentator is right in the sense that including ASD in the definition of ATM/ANS would mean that the ASD service should be certified. The concern that a certification process for ASD providers may be too cumbersome in certain situations (e.g. airspace structures) is acknowledged. Moreover, any Implementing Rule, in accordance with Article 8b(7)(b) of the Basic Regulation, should be 'proportionate to the type and complexity of the services provided.' Therefore, it could be reasonable in the case of ASD to envisage a leaner certification process, if any.

On the other hand, it is obvious that ASD has a direct effect on the trajectory followed by aircraft; poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should, therefore, contribute to ensure safe operations within the European airspace. Furthermore, ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as Performance-Based Navigation (PBN).

Since the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM on ASD including procedure design, with the aim to ensure the airspace structures and flight procedures are appropriately surveyed, designed, and validated, it seems appropriate that this RMT analyses and decides the most appropriate way to regulate the organisations that design these elements. It is, therefore, proposed that the decision about the need of certification will be addressed by that rulemaking task without prejudging the approach in this NPA. ASD will, therefore, be removed from the definition of service provider (formerly ATM/ANS provider) and certificate respectively until the output of RMT.0445. The comment will be duly considered during the work of the said rulemaking task.

comment 303

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION

<p>Article 2.49 <b>Definition of 'Stress'</b></p>	<p><b>AESA proposes to modify the following paragraphs:</b>  <i>"'Stress' means the outcomes experienced by an individual when faced with a potentially stressful event.</i>  <i>The experience of the event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event."</i></p>	<p><b>The alternative wording proposed would be the following:</b>  <i>"'Stress' means the outcomes experienced by an individual when faced with a potentially stressful event. The experience of the event can be classified as negatively stressful (distress), neutral or positive (eustress)."</i></p>
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response *Not accepted*

The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology. The adopted definition is not in line with the text proposed in this comment.

comment 356

comment by: *HungaroControl*

Management system, safety management system  
 3 possible options for the definition:  
 Option 1. To avoid duplication, we propose definitions of management systems and safety management systems that point to the relevant provisions in the annexes.  
 Option 2:  
 Delete definition 46 (Safety management system), and define each element of the management system and the management system itself in the annexes.  
 Option 3:  
 Define "Management system" and "safety management system" in article 2 and specify the in the annexes.

response *Partially accepted*

The Agency takes the proposal into considerations and partially accepted option 3. The NPA already contains a definition of 'Safety management system'. Moreover ATM/ANS.AR.B.001, ATM/ANS.OR.B.005 and ATS.OR.200 further define the management system(s) and the safety management system respectively. Furthermore, the Agency is aware of any possible duplication and has clarified, where necessary, the text to make management system and safety management system complementary for ATS providers.

comment	366	comment by: <i>Prospect ATCOs' Branch UK</i>
	Definition 19 - Flight documentation is not limited to charts or forms containing <i>only</i> meteorological information. This definition should be reworded as it suggests that this is the case as it is currently written.	
response	<i>Accepted</i>	
	In order to avoid any overlap in the future, the term 'flight documentation' is moved to Annex IV (Part-MET) where the term is used. It is not used anywhere else in the document.	

comment	367	comment by: <i>Prospect ATCOs' Branch UK</i>
	Definition 27 - Just Culture	
	The definition of Just Culture includes a reference to 'gross negligence'. This has been the topic of much debate with the proposals for the Commission regulation on occurrence reporting. There is no common definition across the member states for 'gross negligence' and it will be interpreted in many different ways by the different judicial systems in each state. As a suggestion the definition could reference that ultimately agreed in the occurrence reporting regulation, or remove the reference to gross negligence.	
response	<i>Not accepted</i>	
	The Agency takes note of the comment.	
	However, it is important to be noted that there is already a definition of the subject term in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013. The commented definition was consistent therewith, however, is now removed.	

comment	368	comment by: <i>Prospect ATCOs' Branch UK</i>
	Definition 39. We would propose that the reference to ATCO is deleted. Therefore it would read:	
	<p style="padding-left: 40px;">'Problematic use of psychoactive substances' means the use of one or more psychoactive substances in a way that:</p> <p>(a).....as proposed text.....</p> <p>(b).....as proposed text.....</p>	
	There are many occasions when other ATM staff are carrying out duties on behalf of or delegated by an ATCO. It is therefore appropriate that the same provision for them to be free from the effects of psychoactive substances should apply.	

response *Accepted*

The text is modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.

comment 377 comment by: *HungaroControl*

40. Psychoactive substances

tobacco **nicotine**

response *Not accepted*

The Agency is of the opinion that replacing tobacco with nicotine would not add clarity with regard to the definition of psychoactive substances, as tobacco does not contain nicotine only.

comment 385 comment by: *EUROCONTROL*

**Page 11 - Cover Regulation - Article 2 - Definitions - Item 26**  
 Definition of Hazard has some editorial to be corrected.  
 "26. 'Hazard' means any means any condition, event, or circumstance which could induce a harmful effect;"  
 Suggest deleting "any means" unless, with the insertion of a comma, the original meaning is in fact:  
 "26. 'Hazard' means any means, any condition, event, or circumstance which could induce a harmful effect;"

response *Accepted*

comment 400 comment by: *CAA-NL*

**Article 2 introduction paragraph**  
 The definition of certificate in the EASA BR (216/2008) regulation which is valid for this regulation is different from the one used in regulation EC 549/2004 (the framework regulation), there is now an inconsistency within the regulatory framework. Is it the intention with the SES II+ package to align these definitions?

response *Noted*

The Agency takes note of the comment.

It does not, however, address the subject NPA, but the separate SES2+ proposal, which has been introduced by the Commission.

comment

403

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 2 Definitions	<p>9 6. 'Air traffic services unit' means a generic term meaning variously, air traffic control unit, <u>flight information centre</u>, or air traffic services reporting office.</p> <p>We are aware that this is an ICAO definition. However, AFIS-units provide FIS at aerodromes. The definition flight information centre is not used in the regulation and this creates confusion for all concerned. In Appendix I to Annex I (template for certificates) the ATS-services/type of services do not include any centre.</p> <p>We propose that you delete the definition for Air traffic services unit as the following definitions apply.</p> <p>From Regulation (EU) No 1108/2011: "flight information service" shall mean a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights.';</p> <p>From Regulation (EU) No 549/2004: 'air traffic services' means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);</p>
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response

*Not accepted*

The Agency takes note of the comment.

However, it is important to be noted that the commented term is used throughout the draft Regulation (e.g. ATS.TR.100, MET.OR, 205, etc.) and, therefore, the definition is proposed. Moreover, there is already a definition of the subject term in European Union law, namely Article 2(35) of Regulation (EU) No 923/2012. The proposed definition is consistent therewith.

comment

404

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 2 Definitions	<p>11 31. Meteorological satellite</p> <p>According to explanatory notes 2013-08 (E) this definition is not transposed as is its common dictionary meaning</p> <p>Proposed to be deleted.</p>
Article 2 Definitions	<p>11 32. Meteorological station</p> <p>The ICAO definition includes "established by a Member State" which is changed to "established by a Competent Authority".</p> <p>To establish different Air Navigation Services are an obligation</p>

		accepted by ICAO Member States according to the Chicago Convention, this obligation cannot be transferred to a Competent Authority. In the NAP 2013-08 (E) it is noted concerning Contracting State obligation that the text is considered to be covered by SES legislation this is not correct either as explained above. Propose to delete “establish by a Competent Authority” in the definition 32 Meteorological station.
Article 2 Definitions	11	36. OPMET The proposed definition is limiting OPMET to preparatory or in-flight planning of flight operations, although this information can also be used by other means by e.g. ATS, aerodrome operators, SAR and MET using METAR for preparation or continuous review of TAF. The definition is either in line with the scope in MET.OR.005. Proposed definition – operational meteorological information (according to ICAO EUR Doc 018)

response *Accepted*

31. Accepted and removed.  
32. Accepted. The definition of a meteorological station is amended accordingly.  
36. Accepted and changed into the definition from ICAO EUR Doc 018.

comment

405 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 2 Definitions	12	40. Psychoactive substances If caffeine as a substance is excluded, the use of caffeine tablets as psychoactive medication will become accepted. Caffeine in tablet form may create tolerance and dependency with a high risk of safety related side effects over dosage and a risk of anxiety at withdrawal.
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response *Not accepted*

Based on the comments and responses received to the question posed in NPA

2012-18 on the same subject, the Agency proposed to exclude caffeine from the list of psychoactive substances. For consistency purposes, the same definition is used. The Agency does not agree with the justification that when it comes to the possible tolerance, dependency or side effects, a distinction could be made whether the person has consumed coffee or other beverages containing caffeine or caffeine pills. The Agency is ready to undertake the necessary action towards ICAO to propose an update of the subject definition.

comment

406

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 2 Definitions	13	A definition for AFIS is missing. We propose that you include the following definition: "aerodrome flight information service" shall mean a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights at an uncontrolled aerodrome.' This is the definition for FIS from EU regulation no 1108/2009 with additional text "at an uncontrolled aerodrome".
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response

*Partially accepted*

The Agency takes the comment into consideration. With the CRD, a definition of the subject is proposed.

comment

407

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 2 Definitions	13	A definition of accountable manager is missing.
Article 2 Definitions	13	A definition of ATSEP is missing.
Article 2 Definitions	13	A definition of DAT is missing.

response

*Partially accepted*

The Agency takes the comment into considerations.

In reference to a definition of 'accountable manager' the Agency is introducing a new provision on 'Personnel requirements' which specifies in detail the subject and, therefore, the Agency does not see a need for a definition.

A definition of ATSEP is added.

A definition of DAT will be proposed with the NPA resulting from the work of RMT.0593 'Technical requirements and operational procedures for the provision of data for airspace users for the purpose of air navigation'. That NPA is anticipated to be published for consultation in the 3<sup>rd</sup> quarter of 2014.

comment

459

comment by: *DSNA*

49. 'Stress'

The use of "*stressful event*" in the definition may lead one to read this as a circular definition.

The term 'stressor' (or pressure) referring to the cause of a stress experience is meant here.

Proposal:

49. 'Stress' means the outcomes experienced by an individual when faced with a potentially ~~cause~~ ("stressor") of human performance modification ~~stressful event~~. The experience of the causal source ("stressor") may impact the individual's performance ~~event~~ as negatively ~~stressful~~ (distress), neutrally or positively (eustress) ~~is~~ based on the individual's perception of their ability to manage the ~~source event~~;

response

*Accepted*

The proposed definition of 'stress' is modified accordingly, with minor modifications.

comment

485

comment by: *Federal Office of Civil Aviation FOCA*

Article 2 (definitions)

- number 32: "established by a Competent authority": please use either Competent Authority or competent authority, typo/inconsistent use
- number 26: "Hazard means any means..." : typo ("any means" is redundant)

response

*Accepted*

The Agency takes the proposals into consideration.

comment	<p data-bbox="351 277 406 313">516</p> <p data-bbox="1037 277 1444 313" style="text-align: right;">comment by: <i>HungaroControl</i></p> <p data-bbox="351 358 1444 526">"For the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 and Article 3 of Regulation (EC) No 216/2008 apply. However, the definition of 'certificate' in Article 2(15) of Regulation (EC) No 549/2004 does not apply. The following definitions also apply: "</p> <p data-bbox="351 560 1444 817"><i>It is proposed to add to Article 2 Definitions also all those presently missing definitions of phrases used in the new regulation and the correct interpretation of which is very important (e.g. Air Traffic Flow Management (ATFM) Providers, Air traffic service (ATS) providers, Meteorological service (MET) providers, Aeronautical information service (AIS) providers, Data (DAT) providers, Communication navigation and surveillance service (CNS) providers, Air traffic flow management (ATFM) providers, Airspace management (ASM) providers, Airspace design service (ASD) providers, flight information service provider).</i></p>
response	<p data-bbox="351 840 534 873"><i>Not accepted</i></p> <p data-bbox="351 929 1444 1019">As correctly mentioned, for the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 and Article 3 of Regulation (EC) No 216/2008 apply in accordance with the draft rule.</p> <p data-bbox="351 1041 1444 1366">Furthermore, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version<sup>2</sup> of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule which has a dual legal basis, the above provisions are reflected accordingly and it is considered inappropriate to repeat the same definitions in an Implementing Rule to the above-mentioned Regulations.</p>
comment	<p data-bbox="351 1467 406 1500">626</p> <p data-bbox="1037 1467 1444 1500" style="text-align: right;">comment by: <i>EUROCONTROL</i></p> <p data-bbox="351 1556 702 1590"><b>Page 10 - Definition 19</b></p> <p data-bbox="351 1590 1444 1680">Flight documentation is not unique to MET. The definition should therefore be made more restrictive to clearly indicate that this is the MET part of the flight information or should be widened to cover all elements of briefing.</p>
response	<p data-bbox="351 1702 478 1736"><i>Accepted</i></p> <p data-bbox="351 1792 1444 1881">In order to avoid any overlap in the future, the term 'flight documentation' is moved to Annex V (Part-MET) where the term is used. It is not used anywhere else in the document.</p>

<sup>2</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0216:20091214:EN:PDF>

comment 630

comment by: EUROCONTROL

**Page 10 - Definition 11**

The 'ATM/ANS provider' definition mentions data origination.

The NPA material, however, does not appear to indicate (or foresee) requirements for Data Originators. This is an important fact as those are regulated parties under Commission Regulation (EU) No 73/2010. Furthermore, it seems that private entities being Data Originators (e.g. survey or procedure design offices) do also not appear to be under the scope of this NPA (rule). Quality, safety, interoperability and performance requirements need to be allocated in a consistent manner to all relevant parties which perform safety critical input to the data supply chain.

Suggestion: If this future rule is supposed to complement or replace ADQ (even if allowing transition) those areas must be added to the rule.

response *Noted*

It needs to be pointed out that the Basic Regulation defines the scope of ATM/ANS and the related safety objectives to be complied with through the appropriate implementing measures which shall be developed. It also defines the ATM/ANS in the definition in its Article 3, and the related safety objectives are laid down in the Essential Requirements of Annex Vb thereto. This scope definition is similar to the SES service provision Regulation, but with some explicit differences which are to be included in the implementing measures and are proposed in NPA 2013-08. The Basic Regulation's definition of ATM/ANS consists of the SES service provision Regulation's definitions for ATM and ANS complemented with the services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation.

Moreover, the ToR for RMT.0593 dealing with the subject further elaborate on the necessity of such implementing measures to be developed. Please refer to <https://easa.europa.eu/rulemaking/docs/tor/RMT/ToR%20RMT.0593%20&%20RMT.0594%20Issue%201.pdf>.

Furthermore, it should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3<sup>rd</sup> quarter of 2014. The comment will be duly considered with that NPA development.

comment 643

comment by: Jan Sondij

Definition of OPMET: consider to include "operational aeronautical" between "means ..... meteorological information"

response *Accepted*

comment 682

comment by: AENA-NPA2013-08

**Article 2, Definitions.**

In any safety relate document, it is of paramount importance to have clear definitions to avoid ambiguity, confusions and thus errors.

The document defines ATM/ANS services but does not specifically define what ANS services are or what ATM services are.

response *Noted*

The Agency takes note of the comment; however, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version<sup>3</sup> of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation."

comment 725

comment by: *AvinorANSP*

Recommend to add definition of competence (competency) as often this is equated only with training.

Competence is taken to mean possession of the required level of knowledge, skills, experience and where required, proficiency in English, to permit the safe and efficient provision of ATM services.

(ESARR 5 ATM Services' Personnel Para 2 Rationale)

response *Not accepted*

As correctly mentioned by the commentator the term 'competence' is often meant as training. However, this is not the case in the subject draft rule, as 'competence' is used in a different sense as well. Therefore, the Agency does not consider appropriate to introduce the proposed definition.

comment 727

comment by: *AvinorANSP*

There is no definition of Air Traffic Safety Electronics Personnel in the proposed IR. ATSEP is only described in Annex XII and in Explanatory Notes paragraph 224. However there is inconsistency between these. The description of ATSEP in Annex XII refers also to safety-related air traffic management and communication, navigation, and surveillance systems.

Additionally, the systems that the NM uses are not included in either of these definitions. Should we amend one of them to include these systems as well?

Proposed definition by CANSO:

(b) Any authorized personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems, as well as systems used by the Network Manager, shall be considered to be ATSEP;

<sup>3</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0216:20091214:EN:PDF>

response	<p><i>Partially accepted</i></p> <p>ATSEP is now defined in Article 2(7) of the Cover Regulation. It is based on ATSEP.OR.005(b) which is now removed.</p> <p>The scope is not limited to ATM/CNS but it is made broader, also in order to include the Network Manager. The new definition reflects the approach of CANSO.</p>
comment	<p>728 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>There is no definition of what are safety related ATM and CNS systems. Recommendation is to include a definition of safety related ATM and CNS systems.</p>
response	<p><i>Not accepted</i></p> <p>The Agency proposes a new definition of ATSEP which makes the scope of Annex XII broader than ATM/CNS. Consequently, the term 'safety-related ATM/CNS systems' is not used anymore.</p>
comment	<p>731 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>The definition of stress is not of any use as it is circular reasoning i.e. stress is the outcome of a stressful event. Stressful event is however not defined in the regulation. This definition based on the 1984 Model by Lazarus and Folkman cannot be easily tracked back to the demands safety critical personnel experience in their work. Additionally there is no way to extract any scientifically measurable rule from this definition. Moreover the term individual perception seems to push the responsibility of stress management upon the individual instead on the organisation which should be responsible for better work conditions in order to reduce the risks connected to stress and to promote welfare at work.</p> <p>A better definition is needed because this term is very important in view that it reflects one of the major amendments to the regulation.</p> <p>Stress is result of the combination of psychological, physiological, and behavioural reactions that people have in response to events that threaten or challenge them.</p> <p>Three better definitions for stress (and the source) are listed below:</p> <ul style="list-style-type: none"> <li>• Stress is a bodily response to a stimulus that disturbs or interferes with the "normal" physiological equilibrium of a person and, in the context of aviation, refers to a state of physical, mental or emotional strain due to some external or internal stimulus (SKYbrary – Stress)</li> <li>• Stress is a condition or feeling experienced when a person perceives that demands exceed the personal and social resources the individual is able to mobilise. (SKYbrary – Stress in ATC)</li> <li>• The total of all assessable influences impinging on a human being from external sources and affecting it mentally. (ISO10075-1-1995)</li> </ul> <p>The first proposal is considered to be the best of the three above although it still has limitations. Leaving the physiological equilibrium due to a stress</p>

	<p>reaction is not abnormal. In fact it is just a normal process and should not be seen as an issue. The problem lies in the chronic aspect or in a daily (or acute) stress not allowing proper return to the equilibrium and eventually leading to mental and physical consequences.</p>
response	<p><i>Partially accepted</i></p> <p>The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.</p> <p>GM to ATS.OR.310 to better define sources of occupational stress is provided.</p>

comment	<p>765 <span style="float: right;">comment by: ROMATSA</span></p>
	<p>Comment: The list of definitios to be complemented with the definition for:</p> <ul style="list-style-type: none"> <li>- <b>certificate</b></li> <li>- <b>safety</b></li> <li>- <b>security</b></li> <li>- <b>ATM/ANS functions</b></li> <li>- <b>ATSEP</b></li> </ul> <p><b>ATSEP authorized personnel</b> (e.g. licensed ATSEP personnel by the Competent Authority according to the provisions of ESARR 5).</p> <p>Justification: In Art. 2 it is said that the definition of 'certificate' in Article 2(15) of Regulation (EC) No 549/2004 does not apply. If a recognised definition of a term is not accepted in the context of this Regulation it is necessary to provide another definition consistent with the objective and the scope of this Regulation. For ATSEP a definition is suggested at point 33.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the proposals into consideration.</p> <p>However, it should be noted that for the purpose of this (draft) Regulation, the definition of the term 'certificate' in Article 3(g) of Regulation (EC) No 216/2008 applies.</p> <p>Furthermore, as it is stated in Article 2 of the proposed rule, for the purpose of this (draft) Regulation, the definitions in Article 3 of Regulation (EC) No 216/2008 apply, where 'ATM/ANS' is defined.</p> <p>In reference to the definition of ATSEP, the draft rule is amended and a definition is introduced in Annex I.</p> <p>In reference to the proposal on 'safety' and 'security', it is considered inappropriate such terms to be defined at Implementing Rule level.</p>

comment	<p>766 <span style="float: right;">comment by: ROMATSA</span></p>
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	<p>Comment: The list of definitions should be complemented with those for all services that are covered by the IR. Definitions of declaration and certification are necessary also.</p> <p>Justification: The IR contains mandatory requirements for all air navigation services considered, but there are not definitions for all of them. The Article does not provide definitions for ASD and DAT. A description for ASD is provided in AMC &amp;GM[1] and in the BR DAT is referred as relevant data, sensitive safety data, and personal data without any definition. In our opinion it is not workable to impose binding requirements for a service which is not clearly defined and its reference to/description in other non-binding materials is not acceptable.</p> <hr/> <p>[1] According with GM1 ATM/ANS.OR.A.005 the airspace design service is presented as a service for the design, survey, and validation of airspace structures and flight procedures before being deployed and used by aircraft.</p>
response	<p><i>Not accepted</i></p> <p>It important to be noted that, for the purposes of this (draft) Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 and Article 3 of Regulation (EC) No 216/2008 apply.</p> <p>Furthermore, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version<sup>4</sup> of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule which has a dual legal basis, the above provisions are reflected accordingly and it is considered inappropriate to repeat the same definitions in an Implementing Rule to the above-mentioned Regulations.</p> <p>In addition, it should be noted that 'certificate' is defined in Article 3 of Regulation (EC) No 216/2008. With regard to the term 'declaration', the Agency considers it as self-evident that does not require specific definition for the purpose of this Regulation.</p>

comment	<p>798 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 10 - Articiel 2 - Definition 11</b> Although the definition of "ATM/ANS provider" includes the network manager (as it also refers to ATM network functions), there are many instances (for example, in art. 5.1) where the Network Manager is explicitly mentioned in addition to ATM/ANS providers. The definition, as it stands now, could be misleading, conveying the message that the Network Manager is not an ATM/ANS provider.</p>
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<sup>4</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0216:20091214:EN:PDF>

response

*Accepted*

The Agency takes the comment into consideration and the definition is amended accordingly.

comment

825

comment by: *IFATCA*

Fragmentation of definition should be limited to the outmost. It creates confusion and chaos in an already difficult rule and policy making process. IFATCA doesn't understand the logic of the definition a few examples are given below where there seems an illogical definition repetition, omission logic by the authors Following the SES process since the late 90s it has occurred to IFATCA that there is a lack of consistent approach to definitions in the field of rulemaking and regulation. Per se all the definition in the various Implementation and Council regulation are most of the time correct and helpful. For a global organisation it is however difficult to follow the process introduced by all the legislation and the sometimes repetitive, double and/or changing definition. As definition are always part of the legislation it is important that the fragmentation at this level is stopped or that a harmonisation is created. Without further in depth research some of the definition are repetition from other legislation, namely EC 923/2012, EC 691/2010 etc. What is strange and bares a risk of confusion is that some of the definitions are slightly changed. IFATCA suggests to EASA to establish a compendium of definition related to the ATM/ANS provision taking into account ICAO definition and all existing EC definition and makes transparent what changes have been introduced in the definitions in the current NPA. Justification for the changes should be given as well. If EASA has the possibility to request the EC to launch a clean up of all the definition pertaining to the SES I and SES II that would reduce the perceived fragmentation and sometimes chaotic approach to this important subject, that would be welcomed by IFATCA

response

*Noted*

The Agency fully agrees with the commentator that definitions indeed are an elementary part of any Regulation and that they are in that sense crucial for the correct implementation of the law. It is also agreed that any fragmentation of definitions should be limited to the utmost. However, the Agency does not see that the current proposal would contain 'illogical definition repetition'. The examples given do not seem to justify such indications either. At this point, it is important to realise that one of the main objectives of the proposed rule is to implement the EASA Basic Regulation and its Essential Requirements; it also has a dual legal basis including the implementation of the relevant SES Regulations. Because of these reasons, specific attention has been paid to the correctness of definitions proposed and their harmonisation whenever feasible. It should also be noted that within the SES2+ initiative proposed by the European Commission the overlaps between EASA and SES regulatory frameworks are to be aligned as far as possible, including their scope and definitions. The Agency will closely follow the ongoing SES2+ process and will again bring this important regulatory aspect to the attention of the Commission.

comment	826	comment by: IFATCA
	<p>EC 923/2012 Art 2. 12. 'aerial work' means an aircraft operation in which an aircraft is used for specialised services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, aerial advertisement, etc.;</p> <p>EC 923/2012 is less stringent in it's definition with regard to aerial work. Why has this changed in the proposed definition? IFATCA suggests becoming consistent at all the Regulatory work carried out around SES.</p>	
response	Accepted	

comment	827	comment by: IFATCA
	<p>EC 923/2012 Art 2 18. 'aircraft' means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;</p> <p>EC 923/2012 is already defining it. Why redo it?</p>	
response	<p>Noted</p> <p>As correctly mentioned by the commentator, the subject definition already exists in European Union law, namely Article 2(18) of Regulation (EU) No 923/2012. However, it should be noted that this Regulation (SERA) and the proposed one are/will become Commission Implementing Regulations on the same hierarchical level. Therefore, for the purpose of this draft rule, the definitions laid down in Regulations (EC) No 549/2004 and No 216/2008 and the additional one introduced for the purpose of this rule apply. Furthermore, the Agency duly takes consideration of the proposed definition to be consistent therewith.</p>	

comment	829	comment by: IFATCA
	<p>Page 9 Article 2 Definition          Para 5, 6, 9, 15, 20,22,43,44,48          Identical as EC 923/2012 art 2 18          WHY DEFINE IT AGAIN?</p>	
response	<p>Noted</p> <p>As correctly mentioned by the commentator, the subject definitions already exist in European Union law, namely Article 2 of Regulation (EU) No 923/2012. However, it should be noted that this Regulation (SERA) and the proposed one are/will become Commission Implementing Regulations on the same hierarchically level. Therefore, for the purpose of this draft rule the definitions laid down in Regulations (EC) No 549/2004 and No 216/2008 and the additional one introduced for the purpose of this rule apply. Furthermore, the Agency duly</p>	

takes consideration of the proposed definitions to be consistent therewith.

comment

831

comment by: IFATCA

Page 10 Article 2 Definition

**Missing**

EC 923/2012 article 2

40. 'approach control service' means air traffic control service for arriving or departing controlled flights;

41. 'approach control unit' means a unit established to provide air traffic control service to controlled flights arriving at, or departing from, one or more aerodromes;

42. 'apron' means a defined area, intended to accommodate aircraft for purposes of loading or unloading passengers, mail or cargo, fuelling, parking or maintenance;

44. 'area control service' means air traffic control service for controlled flights in control areas;

45. 'area navigation (RNAV)' means a method of navigation which permits aircraft operation on any desired flight path within the coverage of ground- or space-based navigation aids or within the limits of the capability of self-contained aids, or a combination of these;

46. 'ATS route' means a specified route designed for channelling the flow of traffic as necessary for the provision of air traffic services;

Why are these not defined and then para 10 defines the area control centre (not consistent with the EC 923/2012. See comment below an area control centre is?

response

*Partially accepted*

The Agency takes the comment into consideration.

It is important to be noted that the purpose of the definitions laid down in Article 2 and Annex I is to define the terms used into the subject Regulation and the associated Annexes. Therefore, the definitions on 'approach control service', 'area control service' and 'area navigation (RNAV)' are amended accordingly.

In reference to the definition of 'Area control centre', the proposal is accepted.

comment

832

comment by: IFATCA

Page 10 Article 2 Definition para 10 10.

'Area control centre' means a unit established to provide air traffic control service to controlled flights in control areas under its jurisdiction;

EC 923/2012

43. 'area control **centre (ACC)**' means a unit established to provide air traffic control service to controlled flights in control areas under its jurisdiction;

Why is it not the exactly the same text?

response *Accepted*

comment

834

comment by: *IFATCA*

Page 10 Article 2 Definition

Missing

IFATCA definition is proposed to be introduced as a new definition  
A critical incident is any situation faced by Air Traffic Controllers that causes them  
to experience unusually strong emotional reactions which have the potential to interfere with their ability to function either at their positions or later.

response

*Not accepted*

The Agency is of the opinion that a definition of 'critical incident' would not represent an added value for this Regulation. The proposed GM1 ATS.OR.310(a) referring to the EUROCONTROL document 'Human Factors - Critical Incident Stress Management: User Implementation Guidelines' provides sufficient information on the subject, including a definition of 'critical incident'.

comment

835

comment by: *IFATCA*

Page 10 Article 2 Definition

Para 16

Critical incident stress' means the manifestation of unusual and/or extreme emotional, physical, and behavioural reactions of an individual air traffic controller following an event or incident;

Or the IFATCA definition if comment 17 is accepted

Critical incident stress (CIS) is the reaction a person or a group has to a critical incident.

Critical Incident Stress Management has been developed and recommended to be introduced in a standardised way. A lot of work by IFATCA and the International Critical Incident Foundation (ICISF) has been carried out in order to avoid proliferation of the program beyond the real needs. By not defining it properly, there is a risk that all sorts of events will be treated by non-Mental health professional such as peers. The CISM concept can only be applied to a very limited group and related to an air traffic control incident.

The introduction of a new definition is not welcomed by IFATCA, as it blurs the line of a well-established and accepted standard.

In building up the CISM standards for Air Traffic Control we faced a lot of opposition from the psychological and psychiatric professionals – as it was not understood that CISM will only be used in very limited scope and it did not interfere with the Mental Health Professionals. It was also build up with Mental Health Professionals as it is limited to incidents in an ATC environment. For all other events in a work environment, a peer based system is inadequate.

response

*Not accepted*

The Agency is of the opinion that the term 'individual' is more appropriate, with the intention to focus on a person rather than on the identification of groups of personnel.

The Agency is not in the position to answer to the part of the comment related to the mentioned 'comment 17' as such comment cannot be identified within the CRT.

comment

836

comment by: *Belgocontrol*

*The term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation.*

response

*Noted*

The text is modified and does no longer include the term 'cognitive judgement'.

comment

837

comment by: *IFATCA*

Page 10 definition para 21

~~'Flight test' means a generic term meaning variously or comprehensively, flights for the development phase of a new design (aircraft, propulsion systems, parts and appliances), flights to demonstrate compliance to certification basis or to type design for aircraft coming from the production line, flights intended to experiment new design concepts, requiring unconventional manoeuvres or profiles for which it could be possible to exit the already approved envelope of the aircraft, or flight test training flights;~~

Why define Flight Test and not Training flight or any other STS of the ICAO FPL. IFATCA fails to understand the logic.

IFATCA is opposed to introduce Flight Test as a third category next to GAT and OAT. No definition please.

response

*Not accepted*

The purpose of the definitions laid down in Article 2 and Annex I is to define the terms used into the subject Regulation and the associated Annexes. As the term 'flight test' is used, the commented definition is introduced.

Furthermore, it should be noted that during the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially carried out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate.

comment 838 comment by: IFATCA

26. 'Hazard' means any means any condition, event, or circumstance which could induce a harmful effect;  
 ICAO definition of a Hazard  
**Hazard – Condition or object with the potential of causing injuries to personnel, damage to equipment or structures, loss of material, or reduction of ability to perform a prescribed function**  
 Why is EASA introducing a different definition for a hazard? Please use the ICAO definition. Avoids confusion

response *Noted*

It should be reminded that the initial definition in Regulation (EC) No 2096/2005 and now in Regulation (EU) No 1035/2011 has been modified in order to be aligned with the definition of 'risk'. The definition of ICAO on hazard is a generic definition which encompasses all the aviation domains. The definition of 'hazard' in the subject NPA 2013-08 adapts the ICAO definition to the ATM/ANS environment.

comment 839 comment by: Belgocontrol

32. Meteorological Station :

1) What does "established by" exactly means? It can be interpreted in different ways; Is a MET SP a competent authority?  
 ICAO Annex 3 uses the term Aeronautical Meteorological Station which seems better; it is true that the context here is aviation but what will happen if the EC will use the term Meteorological station also in other contexts? In a generic MET context "Aeronautical" should be added

response *Accepted*

comment 840 comment by: IFATCA

'Just culture' means a culture in which front line operators or others are not punished for actions, omissions, or decisions taken by them that are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated;  
 It is the same definition as in 691/2010 Article 2k) why define again?

response *Noted*

As correctly mentioned by the commentator, the subject definition already exists in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013. However, it should be noted that the Performance Scheme

Regulation and the draft one under consultation are/will become Commission Implementing Regulations on the same hierarchical level. Therefore, the definitions laid down in Regulations (EC) No 549/2004 and No 216/2008 and the additional one introduced for the purpose of this rule should be consistent. However, the commented definition is removed..

comment 841 comment by: *Belgocontrol*

29. Meteorological observation :  
measurement **and/or evaluation**” to cater for human observations

response *Accepted*

'/or' added.

comment 842 comment by: *IFATCA*

Page 11 definition para 28-32, 51,52,53,54  
Are these definition aligned with the World Meteorological Office (WMO) and in particular their Aeronautical Meteorology Division and Annex 3 of ICAO? Why are they defined here and then in NPA2013-08 E as well? This is rather confusing.

response *Noted*

All the definitions are aligned with ICAO Annex 3 and/or other documents where relevant (e.g. EUR ANP, EUR Doc 018, etc.)

comment 843 comment by: *Belgocontrol*

7. Ashtam :  
Inclusion of ASHTAM noted, however no reference to SNOWTAM exists...

response *Noted*

No definition of SNOWTAM is provided in this NPA as this term is not used in the draft rules for MET provision.

comment 844 comment by: *IFATCA*

37. 'Pan-European ATM/ANS' means an activity which is designed and established for users within most or all Member States and which may also extend beyond the airspace of the territory to which the Treaty applies;

	<p><b>Why define this?</b></p>
response	<p><i>Noted</i></p> <p>As the term is used into the draft rule, it was considered necessary to provide its definition.</p>
comment	<p>845 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>the following terms &amp; related definitions seem to be missing in view of the terminology used in the MET.OR and/or in view of the information in the cross-reference matrix NPA 2013-08 (E):</p> <p>Aerodrome Meteorological Office          BUFR          Flight crew member          Flight information region          Flight level          Height          (International) OPMET databank          TAF          Touchdown zone          Tropical cyclone advisory centre (TCAC)          Volcano observatory          WAFS</p>
response	<p><i>Accepted</i></p> <ul style="list-style-type: none"> <li>– ‘Aerodrome Meteorological Office’ is now defined in accordance with ICAO Annex 3;</li> <li>– ‘BUFR’ will be included in the list of abbreviations and acronyms;</li> <li>– ‘Flight crew member’ is now defined in accordance with ICAO Annex 3;</li> <li>– ‘Flight information region’ is now defined in accordance with ICAO Annex 3;</li> <li>– ‘Flight level’ is now defined in accordance with ICAO Annex 3;</li> <li>– ‘Height’ is now defined in accordance with ICAO Annex 3;</li> <li>– ‘OPMET databank’ is now defined in accordance with EUR Doc 018;</li> <li>– ‘TAF’ will be included in the list of abbreviations and acronyms;</li> <li>– ‘Touchdown zone’ is now defined in accordance with ICAO Annex 3;</li> <li>– ‘TCAC’ is now added in accordance with ICAO Annex 3;</li> <li>– ‘Volcano observatory’ is not defined as the term is not used in the rules; and</li> <li>– ‘WAFS’ is now defined in accordance with ICAO Annex 3.</li> </ul>

comment 846

comment by: IFATCA

~~'Stress' means the outcomes experienced by an individual when faced with a potentially stressful event. The experience of the event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event;~~

IFATCA wonders if this definition is adequate for this regulation. IFATCA talks about occupational stress and it's impact.

See below the IFATCA definition

It is suggest that the definition of stress is adapted to the IFATCA definition.

Occupational stress is now recognised as an increasingly global phenomenon, affecting all categories of workers, all work places and all countries. Several studies have revealed with scientific integrity that considerable levels of occupational stress reactions have been identified among different groups of air traffic controllers.

Occupational stress is the product of complex interaction of the task, the operational environment and the personality characteristics of the individual. Thus it is difficult to generalise to all controllers groups.

Nevertheless, some of the most common stressors have been identified as:

a) Demand

number of aircraft under control - peak traffic hours - extraneous traffic - unforeseeable events - proficiency checks / examinations;

b) Operating procedures

time pressure - having to bend the rules - feeling of loss of control - fear of consequences of errors;

c) Working time

shift and night work - unbroken duty periods;

d) Working tools

limitations and reliability of equipment - VDT, RTF and telephone quality - equipment layout;

e) Work environment

lighting / optical reflections – noise / distractors - microclimate - bad posture - rest and canteen facilities;

f) Working organisation

role ambiguity - relations with supervisors and colleagues - lack of trained staff or staff inadequately trained - lack of control over work process - lack of management support - salary - public opinion;

g) Critical Incident / Accident A critical incident is any situation faced by Air Traffic Controllers that causes them to experience unusually strong emotional reactions which have the potential interfere with their ability to function either at their positions or later. Critical incident stress (CIS) is the reaction a person or a group has to a critical incident.

response *Partially accepted*

The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a

tautology.

GM to ATS.OR.310 to better define sources of occupational stress, taking into account the referenced policies, is provided.

comment

848

comment by: *Belgocontrol*

54 . WAFC

1) it should be "to prepare and issue"

2) What is meant with "Member states"? Is this European Union Member States?

W

W What if there would be no WAFC in Europe?

WAFC Washington currently acts as backup for WAFC London; are the European WAFC regulation also valid for Washington?

response

*Partially accepted*

1) Accepted

2) Yes, EU Member States

Currently there is one WAFC located in London and managed by the UK MET office. In the case WAFC London would cease to exist, the requirements for WAFC under chapter 5 would not be 'used'. They should, however, not be deleted in order to cater for any future development in that context.

European regulations are not applicable outside Europe.

comment

936

comment by: *Federal Office of Civil Aviation FOCA*

The difference between definitions provided at ICAO level and the definitions provided at EU level could result to safety issues. Therefore, differences should be avoided as far as possible.

response

*Accepted*

Most of the definitions from ICAO are literally transposed with no changes in the draft rules. The amendments made are mostly of editorial nature or do not change the objectives set by ICAO.

comment

947

comment by: *EUROCONTROL Safety Team*

Page 9 Article 2 Definitions

Inclusion of a list of definitions is welcomed.

response *Noted*

comment

948

comment by: EUROCONTROL Safety Team

Page 9 Article 2 Definitions

Recommend to add definition of competence (competency) as often this is equated only with training.

*Competence is taken to mean possession of the required level of knowledge, skills, experience and where required, proficiency in English, to permit the safe and efficient provision of ATM services.*

(ESARR 5 ATM Services' Personnel Para 2 Rationale)

response

*Not accepted*

As correctly mentioned by the commentator the term 'competence' is often meant as training. However, this is not the case in the subject draft rule, as 'competence' is used in a different sense as well. Therefore, the Agency does not consider it appropriate to introduce the proposed definition.

comment

949

comment by: EUROCONTROL Safety Team

Article 2 Definitions

According to psychologists most forms of judgement are essentially 'cognitive' since they involve the process or act of knowing (or thinking that one knows). The term 'cognitive judgement' is rarely seen because the 'cognitive' qualifier is not usually necessary. In the case of the regulation, the term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation.

The term 'judgement' would do in the context of this IR (and also EC 1109/2008 where the term first appeared), but better would be 'abilities', since medical fitness would affect more than just judgement (e.g. detection, alertness).

Recommend either adding a definition of 'cognitive judgement' in the IR to avoid ambiguity and misinterpretation or, better still, substituting this term by 'abilities' as mentioned above.

response

*Noted*

The text is modified and does no longer include the term 'cognitive judgement'.

comment

950

comment by: EUROCONTROL Safety Team

Article 2 Definitions

There is no definition of Air Traffic Safety Electronics Personnel in the proposed IR. ATSEP is only described in Annex XII and in EN Para 224. However there is inconsistency between the description of ATSEP in the EN and the one shown in Annex XII of the proposed IR. The description of ATSEP in the Annex XII is

	<p>considered to be better and it is recommended to include this as definition of ATSEP in list of definitions (ART 2) of IR and not left buried in an Annex. The description of ATSEP in Annex XII refers also to safety-related air traffic management and communication, navigation, and surveillance systems . There is also no definition of what are <i>safety related ATM and CNS systems</i>. Recommendation is to include a definition of safety related ATM and CNS systems.</p>
response	<p><i>Accepted</i></p> <p>The definition of ATSEP is now included in Article 2(7).</p> <p>The Agency acknowledges the discrepancy between the EN and the IR with regard to the scope. The scope of Annex XIII is not limited to ATM/CNS, but encompasses more services as specified in the definition. Consequently, the term 'safety-related ATM/CNS system' is no longer kept.</p>

comment	<p>951 <span style="float: right;">comment by: EUROCONTROL Safety Team</span></p> <p>Page 10 Para 16 Propose an alternative definition for 'Critical incident stress': <i>'Critical incident stress' reactions are strong emotional, physical reactions or - in long term - behavioural changes of an individual following an event or incident</i></p>
response	<p><i>Not accepted</i></p> <p>The Agency is of the opinion that the definition proposed in the NPA is more accurate.</p>

comment	<p>952 <span style="float: right;">comment by: EUROCONTROL Safety Team</span></p> <p>Page 12 Para 49 The definition of stress is not of any use as it is circular reasoning i.e. stress is the outcome of a stressful event. Stressful event is however not defined in the regulation. This definition based on the 1984 Model by Lazarus and Folkman cannot be easily tracked back to the demands safety critical personnel experience in their work. Additionally there is no way to extract any scientifically measurable rule from this definition. Moreover the term <i>individual perception</i> seems to push the responsibility of stress management upon the individual instead on the organisation which should be responsible for better work conditions in order to reduce the risks connected to stress and to promote welfare at work. A better definition is needed because this term is very important in view that it reflects one of the major amendments to the regulation. Stress is result of the combination of psychological, physiological, and behavioural reactions that people have in response to events that threaten or challenge them. Three better definitions for stress (and the source) are listed below: • Stress is a bodily response to a stimulus that disturbs or interferes with the</p>
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	<p>"normal" physiological equilibrium of a person and, in the context of aviation, refers to a state of physical, mental or emotional strain due to some external or internal stimulus (SKYbrary – Stress)</p> <ul style="list-style-type: none"> <li>• Stress is a condition or feeling experienced when a person perceives that demands exceed the personal and social resources the individual is able to mobilise. (SKYbrary – Stress in ATC)</li> <li>• The total of all assessable influences impinging on a human being from external sources and affecting it mentally. (ISO10075-1-1995)</li> </ul> <p>The first proposal is considered to be the best of the three above although it still has limitations. Leaving the physiological equilibrium due to a stress reaction is not abnormal. In fact it is just a normal process and should not be seen as an issue. The problem lies in the chronic aspect or in a daily (or acute) stress not allowing proper return to the equilibrium and eventually leading to mental and physical consequences. A good definition should refer to this temporal aspect.</p> <p>The ISO definition is too restrictive referring to "mental stress" and missing physical consequences especially since ATCOs are subject to these physical risks caused by stress.</p>
response	<p><i>Partially accepted</i></p> <p>The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.</p> <p>GM to ATS.OR.310 to better define sources of occupational stress is provided.</p>

comment	<p>973 comment by: <i>European Transport Workers Federation - ETF</i></p> <p>Definition of fatigue (18) :</p> <p>Fatigue does not only affect ATCOs. So at least at definition level, ETF is of the opinion that we should be more generic.</p> <p>We encourage EASA to regulate fatigue for other safety related jobs in the ATM/ANS field. (especially ATSEPs and FISOs)</p> <p>Alternative proposal :</p> <p>'Fatigue' means a physiological state of reduced mental or physical performance capability resulting from sleep loss or extended wakefulness, circadian phase or workload (mental and/or physical activity) that can impair <b>a worker's</b> alertness and ability to safely perform his/her tasks;</p>
response	<p><i>Partially accepted</i></p> <p>The text is modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.</p>

comment	<p>979 comment by: <i>European Transport Workers Federation - ETF</i></p> <p>Definition of flight documentation (19) :</p> <p>Flight documentation is not limited to meteorological documentation.</p>
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	Alternative proposal : 'Flight documentation' means documents, including charts or forms, containing <del>meteorological</del> information for a flight;
response	<p><i>Not accepted</i></p> <p>In order to ensure any overlap in the future, the term 'flight documentation' is moved to Annex IV (Part-MET) where the term is used. It is not used anywhere else in the document.</p>

comment	<p>980 <i>comment by: European Transport Workers Federation - ETF</i></p> <p>Definition of Just Culture (27) : To be in accordance with what has been discussed on the commission regulation on occurrence reporting. ETF objects this definition as it contains the term "gross negligence". There is no common understanding of the term "gross negligence" in the 27 EU MS. This ambiguity and discrepancy will jeopardize the improvement of the Safety level across Europe. We propose to include this definition after the publication of the European Regulation on the occurrence reporting system.</p>
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	<p>Alternative proposal : 'Just culture' means a culture in which front line operators or others, <b>when occurrences are reported</b>, are not punished for actions, omissions, or decisions taken by them that are commensurate with their experience and training, but where <del>gross negligence</del>, wilful violations and destructive acts are not <b>permitted tolerated</b>;</p>
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response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>However, it is important to be noted that there is already a definition of the subject term in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013. The commented definition was consistent therewith, however, is now removed as the term is not used anymore.</p>
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comment	<p>981 <i>comment by: European Transport Workers Federation - ETF</i></p> <p>Definition of 'Problematic use of psychoactive substances' : Why only for ATCOs ? See remark on fatigue. Check for consistency also with ATCO licence NPA IR-AMC and especially part MED.</p> <p>Alternative proposal : 39. 'Problematic use of psychoactive substances' means the use of one or more psychoactive substances <del>by an ATCO</del>, in a way that: (a) constitutes a direct hazard to the user or endangers the lives, health, or welfare of others; and/or (b) causes or worsens an occupational, social, mental or physical problem or</p>
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	disorder;
response	<i>Partially accepted</i>
	The text is modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.

comment	982 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span>
	Definition of visibility (52) : ETF raises concerns with the over use of automated meteorological measurements. Human observation is by far more accurate to describe weather on an aerodrome. We encourage EASA to introduce criteria to describe where human observation is needed.

response	<i>Noted</i>
	The definition of 'visibility' is transposed with no change from ICAO Annex 3. The Agency does not share the view of ETF about the overuse of automatic meteorological measurements. The definition does not make any distinction on the way observations shall be made, but only refers to the distance from which objects and lights can be seen. The Agency would be happy to discuss ETF's concern further if needed.

comment	1009 <span style="float: right;">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></span>
	Definition (16) critical incident stress Definition is not precise enough. Proposal: "Critical incident stress" means the <del>manifestation of unusual and/or extreme</del> <b>strong emotional, and physical, and behavioural reactions or - in long term - behavioural changes</b> of an individual following an event or incident.

response	<i>Not accepted</i>
	The Agency is of the opinion that the definition proposed in the NPA is more accurate.

comment	1040 <span style="float: right;">comment by: <i>UK CAA</i></span>
	<b>Page No:</b> 9 <b>Paragraph No:</b> Article 2, sub-paragraphs 1 and 24 <b>Comment:</b> The terms 'aerial work' and 'general aviation' do not align with the EASA Basic Regulation or the Air Operations Regulation. In terms of aircraft operations, aerial work is replaced by the concept of specialised operations (SPO). These can be either commercial or non-commercial flights. Additionally,

	<p>non-commercial operations with complex motor-powered aircraft are subject to additional rules more closely aligned to those for commercial air transport. Further consideration should be given to the terminology used to describe those sectors of air operations</p> <p><b>Justification:</b> Clarity.</p> <p><b>Proposed Text:</b> Use same definitions as in the Basic Regulation.</p>
response	<p><i>Noted</i></p> <p>The Agency continuously works towards harmonisation of the definitions within the EASA framework. However, it is important to be noted that 'aerial work' and 'general aviation' are used in the rule and as such require definitions. Furthermore, the rule on specialised operations is in progress and will be published at a later stage, therefore, the commented definitions are aligned with the ones in Regulation (EU) No 923/2012.</p>
comment	<p>1046 <span style="float: right;">comment by: <i>Danish Transport Authority</i></span></p> <p>One of the more important obligations for the Agency is to assist member states in fulfilling their obligations, as member states to the Chicago Convention. Hence, it's essential, for transparency reasons, that the definitions proposed are either a) word to word the same as the related ICAO definition, or b) that it's made clear to the user/reader of the IR, where definitions may differ from the related ICAO definition.</p> <p>6. 'Air traffic services unit' means a generic term meaning variously, air traffic control unit, <u>flight information centre</u>, or air traffic services reporting office.</p> <p>We are aware that this is an ICAO definition. However, AFIS-units provide FIS at aerodromes. The definition flight information centre is not used in the regulation and this creates confusion for all concerned. In Appendix I to Annex I (template for certificates) the ATS-services/type of services do not include any centre.</p> <p>We propose that you delete the definition for Air traffic services unit as the following definitions apply.</p> <p>From Regulation (EU) No 1108/2011: "flight information service" shall mean a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights.;</p> <p>From Regulation (EU) No 549/2004: 'air traffic services' means the various flight information services, alerting services, air traffic advisory services and ATC services (area, approach and aerodrome control services);</p> <p>31. Meteorological satellite</p> <p>According to explanatory notes 2013-08 (E) this definition is not transposed as is it common dictionary meaning.</p> <p>Proposed to be deleted.</p> <p>32. Meteorological station</p> <p>The ICAO definition includes "established by a Member State" which is changed to "established by a Competent Authority". To establish different Air Navigation Services are an obligation accepted by ICAO Member States according to the Chicago Convention, this obligation cannot be transferred to a Competent Authority. In the NAP 2013-08 (E) it is noted concerning Contracting State obligation that the text is considered to be covered by SES legislation this is not correct either as explained above.</p> <p>Propose to delete "establish by a Competent Authority" in the definition 32 Meteorological station.</p>

	<p>36. OPMET The proposed definition is limiting OPMET to preparatory or in-flight planning of flight operations, although this information can also be used by other means by e.g. ATS, aerodrome operators, SAR and MET using METAR for preparation or continuous review of TAF. The definition is either in line with the scope in MET.OR.005. Proposed definition – operational meteorological information (according to ICAO EUR Doc 018)</p> <p>40. Psychoactive substances If caffeine as a substance is excluded, the use of caffeine tablets as psychoactive medication will become accepted. Caffeine in tablet form may create tolerance and dependency with a high risk of safety related side effects over dosage and a risk of anxiety at withdrawal. A definition for AFIS is missing. We propose that you include the following definition: "aerodrome flight information service" shall mean a service provided for the purpose of giving advice and information useful for the safe and efficient conduct of flights at an uncontrolled aerodrome.' A definition of accountable manager is missing. A definition of ATSEP is missing. A definition of DAT is missing.</p>
response	<p><i>Partially accepted</i></p> <p>6. The proposal for amendment is accepted.</p> <p>31. Accepted and deleted.</p> <p>32. Accepted and deleted.</p> <p>36. Accepted, the definition is amended in accordance with EUR Doc 018. ATSEP definition is included based on ATSEP.OR.005(b) which is now deleted.</p> <p>40. Based on the comments and responses received to the question posed in NPA 2012-18 on the same subject, the Agency proposed to exclude caffeine from the list of psychoactive substances. For consistency purposes, the same definition is used. The Agency does not agree with the justification that when it comes to the possible tolerance, dependency or side effects, a distinction could be made whether the person has consumed coffee or other beverages containing caffeine or caffeine pills. The Agency is ready to undertake the necessary action towards ICAO to propose an update of the subject definition.</p>
comment	<p>1047 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 10 <b>Paragraph No:</b> 11. <b>Comment:</b> Communications, navigation and surveillance could be provided individually or bundled and should be separated as such. <b>Proposed Text:</b> '... communications <b>services</b> , navigation <b>services</b>, and surveillance services, ...'</p>
response	<p><i>Not accepted</i></p> <p>As correctly stated by the commentator, communications, navigation and</p>

surveillance could be provided individually or bundled. However, it is important to be noted that for the purposes of this (draft) Regulation the definitions in Article 2 of Regulation (EC) No 549/2004 and Article 3 of Regulation (EC) No 216/2008 apply. The Agency takes due consideration to ensure consistency by using the same terms in the same manner. As Article 2(4) of Regulation (EC) No 549/2004 uses 'communication, navigation and surveillance services' when listing the various services, therefore, the Agency does not accept the proposal.

comment

1048

comment by: UK CAA

**Page No:** 12**Paragraph No:** 50 (Definitions)**Comment:** System and Equipment Training is defined but no other training is.**Justification:** UK CAA suggests this is an unnecessary definition and inconsistent as no other ATSEP related training is defined.**Proposed Text:** Remove definition as Annex XII is fully explanatory.

response

*Partially accepted*

The term 'system and equipment training' is now explained in GM in Annex XIII (GM1 ATSEP.OR.200(a)).

comment

1050

comment by: French Civil Aviation Authority (DGAC)

French CAA comment

Definition of "ATM/ANS provider"

The proposed definition, combined with article 8 b) of the BR, implies immediately that the organisation or natural persons providing one of the services or functions mentioned in the definition have to be certified, whereas it does not seem appropriate. This generalisation is particularly inconvenient for ASM, ATFM other than central, ASD and Data provision. Certifying to many activities will induce considerable burden on NSA's.

We question the opportunity to certify central ATFM function or NM function: indeed, how could it be possible to revoke or suspend the certificate of such an organisation, and which is unique, by definition?

In addition, certifying a natural person seems very strange.

When elaborating new requirements in the future, nothing precludes from encompassing new activities or functions in the certification scope, if certification is appropriate and a safety benefit has been clearly identified, based on past incidents or accidents.

This comment is linked with comments 1054 (DAT), 1058 (ASM) and 1084 (ASD).

**Suggestion:** delete "ATM/ANS providers" definition, and define, on a case by case basis, which function or service has to be certified. Or give a definition of

	ATM/ANS provider including less activities.
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. The subject definition is amended.</p>

comment	<p>1091 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment</p> <p>General : Certification versus Oversight</p> <p>Art 2 does not define <i>oversight</i> and <i>certification</i>.</p> <p><i>Certification</i> is specifically mentioned (in addition to <i>oversight</i>) in some provisions (e.g. Art 3 (1), Art 5 (5), ATM/ANS.AR.B.010 (a) and (a.2.b), ATM/ANS.AR.C (title and subsequent provisions)) while being implicitly covered by <i>oversight</i> in others (e.g. Art 5 (title and (1), (3) and (4)), ATM/ANS.AR.A.005, ATM/ANS.AR.A.025, ATM/ANS.AR.B.020).</p> <p><b>It is recommended to clarify this <i>oversight</i> / <i>certification</i> point</b> through ad-hoc definition(s) and consistent wording throughout the NPA.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>It should be noted that the definitions on 'certification' and 'continuing oversight' are provided in Article 3 of Regulation (EC) No 216/2008. Furthermore, for the purposes of this (draft) Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 and Article 3 of Regulation (EC) No 216/2008 apply.</p>

comment	<p>1118 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p>Add a new definition: <b><u>Local Authority: the competent authority nominated by the member State having jurisdiction over an airspace.</u></b></p> <p>Experience gained during the extensive work at FAB level, shows the need to introduce a "Local Authority" in order to identify in short the Authority designated by the State with the responsibility over the airspace where the services are provided.</p> <p>Within the framework of mutual recognition of certification and licencies guaranteed by the SES Framework regulation, the Local Authority will rely on the certification and oversight of the competent authority.</p>
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	<p>Nevertheless the local Authority maintains the responsibility over a big number of items like Performance Plans, Airspace design, FUA, Charges, etc, as far as general obligations regarding the level of safety in its airspace.</p> <p>To correctly exercise its responsibilities, functional links must be established with both the Competent Authority of the ANSP and the ANSP providing the cross-border services.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>However, it is important to be noted that the purpose of the definitions laid down in Article 2 is to define the terms used into the subject Regulation. The proposed term 'local authority' is not used, therefore, the proposal is not accepted.</p> <p>Furthermore, it should be noted that Article 4 (previously Article 3) stipulates who the competent authority is, and paragraph (1)(a) defines the national supervisory authority nominated or established by the Member State, in accordance with Article 4 of Regulation (EC) No 549/2004, based on where the service provider has its principal place of operation or, if any, its registered office. In addition, Article 4 also defines the required action in cases where more than one competent authority would be established or nominated by the State. In such cases, the area of competence of the competent authorities concerned shall be clearly defined in terms of responsibilities and geographical and airspace limitation, and, by coordination based on written arrangements established between them, a proper oversight of the regulated organisations would be ensured.</p>
comment	<p>1123 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p><b>The definition does not work because it uses the term “stressful event” to define the word stress.</b></p> <p>The definition of stress must be independent from the definition of stressful event.</p>
response	<p><i>Accepted</i></p> <p>The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.</p>
comment	<p>1125 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p><b>Move the following from ATSEP.OR.005 Scope into Article 2 of cover regulation:</b></p>

(b) **ATSEP:** Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems ~~shall be considered to be ATSEP; and~~

ATSEP.OR.005 (b) is a definition and it should be moved to the definition section of the regulation, which is Article 2 of cover regulation.

response

*Accepted*

The definition of ATSEP is now moved to Annex I. It is amended to cover more services than ATM/CNS.

comment

1214

comment by: *SINCTA - Portuguese Air Traffic Controllers' Union*

### **(27) Just Culture**

If EASA wants an harmonized approach, the Just Culture definition should have the same meaning in each country. That's not what we have so far. Each country has its own gross negligence definition which results in a different application of Just Culture. The report on the proposal for a regulation of the European Parliament and of the Council on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007(COM(2012)0776 – C7-0418/2012 – 2012/0361(COD)) provided by the Committee on Transport and Tourism already has a some work on this.

### **(39) Problematic use of psychoactive substances**

EASA should be consistent in the management of the 'psychoactive substance' issue.

The CRD 2012-18:

"...under the influence of psychoactive substances..."

The NPA 2013-08:

"...problematic use of psychoactive substances..."

### **(40) Psychoactive substances**

The psychoactive substance is nicotine and not tobacco. This rewording will allow the use of nicotine patches and pills. This change would also need to be applied to ATCO Licensing.

Proposal: Psychoactive substances' means alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, other psychostimulants, hallucinogens, and volatile solvents, whereas caffeine and ~~tobacco~~ nicotine are excluded;

**(49) Stress**

The proposal results from a HF specialist definition (based on the Transitional Model of Stress - Lazarus and Folkman, 1984) and includes part of the EASA definition regarding the positive and negative impact.

Proposal: "Stress" is a transactional process between the individual and the environment. The individual's experience, when faced with potentially stressful stimulus or events (stressors), is mediated by his appraisal of the potential threat associated with that event, and of his coping resources and options to deal with it. The experience of the stimulus or event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event. A stressor can affect the psychological well-being, have negative health effects and lead to a decrease in performance.

response

*Not accepted*

**As regards comment to definition (27):**

The Agency takes note of the comment.

It is important to be noted that there is already a definition of the subject term in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013. The commented definition is removed.

**As regards comment to definition (39):**

The Agency is of the opinion that there is no inconsistency between the two provisions mentioned in the comment. The provision in the 'ATCO licensing CRD' addresses obligations of the competent authority in cases where the abuse of psychoactive substances has been ascertained. The definition of problematic use of psychoactive substances in this NPA is used to define the potentially detrimental effect of misuse or abuse of psychoactive substances and to support the related obligations for the air traffic control service provider.

**As regards comment to definition (40):**

The Agency is of the opinion that replacing tobacco with nicotine would not add clarity with regard to the definition of psychoactive substances, as tobacco does not contain nicotine only.

**As regards comment to definition (49):**

The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.

comment

1220

comment by: *Luca Valerio Falessi***Add the following definition:**

**"aerodrome meteorological office" means an office responsible to provide meteorological service for aerodromes serving international air navigation.**

There are all definitions like "observation station", "Meteorological watch office", etc but it isn't included "aerodrome meteorological office"

response *Accepted*

A definition of 'aerodrome meteorological office' is included as follows:  
*'Aerodrome meteorological office' means an office responsible to provide meteorological service for aerodromes.*

comment 1275 comment by: *Romanian Civil Aviation Authority*

Proposal:

The list of definitions to be complemented with the definition for:

- 
- **safety**
- **security**
- **ATM/ANS functions**
- **ATSEP**

**ATSEP authorized personnel** (e.g. licensed ATSEP personnel by the Competent Authority according to the provisions of ESARR 5).

*Justification:*

In Art. 2 it is said that the definition of 'certificate' in Article 2(15) of Regulation (EC) No 549/2004 does not apply. If a recognized definition of a term is not accepted in the context of this Regulation it is necessary to provide another definition consistent with the objective and the scope of this Regulation. For ATSEP a definition is suggested at point 33.

response *Partially accepted*

The Agency takes the proposals into consideration.

It should be noted that for the purpose of this (draft) Regulation, the definition of the term 'certificate' in Article 3(g) of Regulation (EC) No 216/2008 applies.

Furthermore, as it is stated in Article 2 of the proposed rule, for the purpose of this Regulation, the definitions in Article 3 of Regulation (EC) No 216/2008, where 'ATM/ANS' is defined, apply.

In reference to the definition of ATSEP, the draft rule is amended and a definition is introduced.

In reference to the proposal on 'safety' and 'security', it is considered inappropriate such terms to be defined at Implementing Rule level.

comment 1276 comment by: *Romanian Civil Aviation Authority*

Proposal:

The list of definitions should be complemented with those for all services that are covered by the IR.

Justification:

The IR contains mandatory requirements for all air navigation services considered, but there are not definitions for all of them. The Article does not provide definitions for ASD and DAT. A description for ASD is provided in AMC &GM[1] and in the BR DAT is referred as relevant data, sensitive safety data, and personal data without any definition. In our opinion it is not workable to impose binding requirements for a service which is not clearly defined and its reference to/description in other non-binding materials is not acceptable.

response

*Not accepted*

It is important to be noted that, for the purposes of this Regulation, the definitions in Article 2 of Regulation (EC) No 549/2004 and Article 3 of Regulation (EC) No 216/2008 apply in accordance with the draft rule.

Furthermore, it should be noted that 'ATM/ANS' are defined in Article 3 of the consolidated version<sup>5</sup> of Regulation (EC) No 216/2008. According to the said Article, "ATM/ANS' shall mean the traffic management functions as defined in Article 2(10) of Regulation (EC) No 549/2004, air navigation services defined in Article 2(4) of that Regulation, and services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation." With this proposed draft Implementing Rule which has a dual legal basis, the above provisions are reflected accordingly and it is considered inappropriate to repeat the same definitions in an Implementing Rule to the above-mentioned Regulations.

comment

1302

comment by: ENAV

Art 2.6

It has to be highlighted that the proposed definition of ATS unit, although consistent with the ICAO definition, does not include Aerodrome Flight Information Unit

response

*Noted*

The Agency takes note of the comment.

The Agency organised focussed consultation comprising a series of thematic meetings with the aim to analyse issues commented during the consultation. Based on the advice received, a definition of 'aerodrome flight information services' is introduced, but no need for a definition of 'aerodrome flight information unit' was identified.

<sup>5</sup> <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2008R0216:20091214:EN:PDF>

comment	1307 <span style="float: right;">comment by: ATCEUC</span>
	<p><b>Article 2 - Definitions - 27</b></p> <p>"'Just culture' means a culture in which front line operators or others are not punished for actions, omissions, or decisions taken by them that are commensurate with their experience and training, but where <b><u>gross negligence</u></b>, willful violations and destructive acts are not tolerated;"</p> <p>Just Culture definition is being changed via the working group dealing with occurrence reporting. Their work is mainly directed to the gross negligence definition because that's the way to have a harmonised approach across Europe.</p> <p>ATCEUC thinks that this NPA should be consistent with that approach.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It is important to be noted that there is already a definition of the subject term in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013. The proposed definition was consistent therewith, however, is now removed.</p>

comment	1308 <span style="float: right;">comment by: ATCEUC</span>
	<p><b>Article 2 - Definitions - 39</b></p> <p><b><u>Problematic use of psychoactive substances'</u></b> means the use of one or more psychoactive substances by an ATCO, in a way that:</p> <p>(a) constitutes a direct hazard to the user or endangers the lives, health, or welfare of others; and/or</p> <p>(b) causes or worsens an occupational, social, mental or physical problem or disorder;</p> <p>*****</p> <p>ATCEUC asks EASA to be consistent in dealing with the 'psychoactive substance' issue. The ATCO licensing CRD uses "...under the influence of psychoactive substance..." while this NPA uses "...problematic use of psychoactive substances...".</p>
response	<p><i>Noted</i></p> <p>The Agency is of the opinion that there is no inconsistency between the two provisions mentioned in the comment. The provision in the 'ATCO licensing CRD' addresses obligations of the competent authority in cases where the abuse of psychoactive substances has been ascertained. The definition of problematic use of psychoactive substances in this NPA is used to define the potentially detrimental effect of misuse or abuse of psychoactive substances and to support the related obligations for the air traffic control service provider.</p>

comment 1309

comment by: ATCEUC

'Psychoactive substances' means alcohol, [...] and volatile solvents, whereas caffeine and tobacco are excluded;

\*\*\*\*\*

The psychoactive substance is the nicotine, not the tobacco.  
This rewording permits the use of nicotine patches, and other nicotine's device.  
Therefore ATCEUC proposes to change the text into:

[...] whereas caffeine and ~~tobacco~~ **nicotine** are excluded

response *Not accepted*

The Agency is of the opinion that replacing tobacco with nicotine would not add clarity with regard to the definition of psychoactive substances, as tobacco does not contain nicotine only.

comment 1310

comment by: ATCEUC

#### **Article 2 - Definitions - 49**

**'Stress'** means the outcomes experienced by an individual when faced with a potentially stressful event. The experience of the event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event;

\*\*\*\*\*

ATCEUC's proposal results from a HF specialist definition (based on the Transitional Model of Stress - Lazarus and Folkman, 1984). It includes part of the EASA definition regarding the positive and negative impact of stress. We believe this definition is more accurate

"Stress" is a transactional process between the individual and the environment. The individual's experience, when faced with potentially stressful stimulus or events (stressors), is mediated by his appraisal of the potential threat associated with that event, and of his coping resources and options to deal with it. The experience of the stimulus or event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event. A stressor can affect the psychological well-being, have negative health effects and lead to a decrease in performance

response *Not accepted*

The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.

comment

1329

comment by: USCA

### Article 2 - Definitions - 18 "Fatigue"

A RMG on Human Factors could/should provide a 'Fatigue' definition that does not rely only on ATCOs.  
Some other workers, with safety sensitive missions (for example some ATSEPs) should also be included in the definition.

*"'Fatigue' means a physiological state of reduced mental or physical performance capability resulting from sleep loss or extended wakefulness, circadian phase or workload (mental and/or physical activity) that can impair an ATCO's ATS worker's alertness and ability to safely perform his/her tasks"*

response

Partially accepted

The text is modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.

comment

1331

comment by: USCA

### Article 2 - Definitions - 27 - 'Just culture'

There is already a definition on GN given by the EC and in which worker's representatives are working on together with the commission (via the group dealing with Occurrence Reporting). This NPA should be consistent with that approach.

response

Noted

The Agency takes note of the comment.

It is important to be noted that there is already a definition of the subject term in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013,. The proposed definition was consistent therewith, however, is now removed.

comment

1334

comment by: USCA

### Article 2 - Definitions - 39 'Problematic use of psychoactive substances'

USCA asks the EASA to be consistent between the 'psychoactive substance' definition in «ATCO licensing and certification» (ATCO.A.015 and ATCO.AR.D.010) and «ATM/ANS requirements» documents

response *Noted*

The Agency is of the opinion that there is no inconsistency between the two provisions mentioned in the comment. The provision in the 'ATCO licensing and certification' addresses obligations of the competent authority in cases where the abuse of psychoactive substances has been ascertained. The definition of problematic use of psychoactive substances in this NPA is used to define the potentially detrimental effect of misuse or abuse of psychoactive substances and to support the related obligations for the air traffic control service provider.

comment 1335

comment by: *USCA*

**Article 2 - Definitions - 40 'Psychoactive substances'**

*[...] whereas caffeine and ~~tobacco~~ nicotine are excluded*

The psychoactive substance is the nicotine, not the tobacco. This rewording permits the use of nicotine patches, and other nicotine devices.

response *Not accepted*

The Agency is of the opinion that replacing tobacco with nicotine would not add clarity with regard to the definition of psychoactive substances, as tobacco does not contain nicotine only.

comment 1338

comment by: *USCA*

**Article 2 - Definitions - 49 'Stress'**

~~'Stress' means the outcomes experienced by an individual when faced with a potentially stressful event. The experience of the event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event;~~

"Stress" is a transactional process between the individual and the environment. The individual's experience, when faced with potentially stressful stimulus or events (stressors), is mediated by his appraisal of the potential threat associated with that event, and of his coping resources and options to deal with it. The experience of the stimulus or event as negatively stressful (distress), neutral or positive (eustress) is based on the individual's perception of their ability to manage the event. A stressor can affect the psychological well-being, have negative health effects and lead to a decrease in performance.

The initial definition doesn't mean anything. For example, defining stress as the outcome of a stressful event is not a definition.

USCA provides here a HF specialist definition (based on the Transitional Model of Stress - Lazarus and Folkman, 1984) and includes part of the EASA definition regarding the positive and negative impact of stress.

response

*Not accepted*

The definition of 'stress' is modified to make it more consistent and to eliminate the term 'stressful event', which in this context would represent a tautology.

comment

1353

comment by: *comments provided on behalf of FIT/CISL italian trade union*

Definition 18, proposed amendment:

'Fatigue' means a physiological state of reduced mental or physical performance capability resulting from sleep loss or extended wakefulness, circadian phase or workload (mental and/or physical activity) that can impair **a worker's** alertness and ability to safely perform his/her tasks;

Justification:

Fatigue does not only affect ATCOs. So at least at definition level, FIT CISL is of the opinion that we should be more generic.  
We encourage EASA to regulate fatigue for other safety related jobs in the ATM/ANS field. (especially ATSEPs and FISOs)

Definition 19, proposed amendment:

'Flight documentation' means documents, including charts or forms, containing **meteorological** information for a flight;

Justification:

Flight documentation is not limited to meteorological documentation.

Definition 27, proposed amendment:

'Just culture' means a culture in which front line operators or others, **when occurrences are reported**, are not punished for actions, omissions, or decisions taken by them that are commensurate with their experience and training, but where ~~gross negligence~~, wilful violations and destructive acts are not **permitted tolerated**;

Justification:

To be in accordance with what has been discussed on the commission regulation on occurrence reporting.  
FIT CISL objects this definition as it contains the term "gross negligence". There is no common understanding of the term "gross negligence" in the 27 EU MS. This ambiguity and discrepancy will jeopardize the improvement of the Safety level across Europe. **We propose to include this definition after the publication of the European Regulation on the occurrence reporting system.**

Definition 39, proposed amendment:

39. 'Problematic use of psychoactive substances' means the use of one or more

psychoactive substances ~~by an ATCO~~, in a way that:  
 (a) constitutes a direct hazard to the user or endangers the lives, health, or welfare of others; and/or  
 (b) causes or worsens an occupational, social, mental or physical problem or disorder;

Justification:

Why only for ATCOs ? See remark on fatigue.  
 Check for consistency also with ATCO licence NPA IR-AMC and especially part MED.

Definition 52:

'Visibility' means visibility for aeronautical purposes, which is the greater of:  
 (a) the greatest distance at which a black object of suitable dimensions, situated near the ground, can be seen and recognised when observed against a bright background;  
 (b) the greatest distance at which lights in the vicinity of 1 000 candelas can be seen and identified against an unlit background;

**FIT CISL raises concerns with the over use of automated meteorological measurements. Human observation is by far more accurate to describe weather on an aerodrome. We encourage EASA to introduce criteria to describe where human observation is needed.**

response *Partially accepted*

The text of both definitions No 18 and No 39 are modified, from 'air traffic controller' to 'individual', with the intention to focus on a person rather than on the identification of groups of personnel.

In reference to definition No 27, the Agency takes note of the comment.

However, it is important to be noted that there is already a definition of the subject term in European Union law, namely Article 2(10) of Regulation (EU) No 390/2013. The proposed definition was consistent therewith, however, is now removed.

## COVER REGULATION - Article 3

p. 13-14

comment *1*

comment by: HANSA

*"5. The competent authority(ies) shall be independent of any ATM/ANS providers. This independence shall be achieved through adequate separation, at the functional level at least, between the competent authorities and such ATM/ANS providers. Member States shall ensure that competent authorities exercise their powers impartially and transparently."*

Observation: Practice (including during EASA ATM/ANS inspections) has shown that there is a lack of common and uniform understanding as to the **definition**

	and <b>characteristics</b> of the notion of " <b>functional separation</b> ". It would therefore be highly desirable to include a definition note on this notion.
response	<i>Partially accepted</i>  The Agency takes the comment into consideration.  The notion of 'functional separation' is clarified through the newly developed GM1 and GM2 to Article 4(4) on the subject.

comment	40 <span style="float: right;">comment by: <i>BCAA</i></span>  Article 3 point 2 : "the competent authority responsible for the operation in a given airspace shall be established or nominated by the member State having jurisdiction over that airspace." How is this possible ? The competent authority for air operations is now EASA since Regulation 216/2008. The national civil aviation authority is no longer legally competent for the air operations part of the legal requirements. Why is EASA no longer taking this part on board ?
response	<i>Noted</i>  The Agency takes note of the comment.  The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used in the proposal for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the intent.

comment	86 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>  Article 3, 1. (d) The term " pan-European ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS. Suggest amending the text to read "the Agency for ATM/ANS providers providing pan-European services as well as for the Network Manager"
response	<i>Partially accepted</i>  The Agency takes the comment into consideration and the resulting text is as follows:  '(...) (d) the Agency for organisations providing pan-European services as well

as for the Network Manager.’

comment

177

comment by: AENA-NPA2013-08

**Page 13, Article 3.**

The same term “competent authority” is used in article 3.1 for certification and oversight and in article 3.2 for the operation in a given airspace. Different terms should be used for these different concepts to avoid misunderstandings with regards to responsibility.

response

*Accepted*

The Agency takes the comment into consideration.

Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the intent thereof and in order to avoid any misunderstandings.

comment

215

comment by: AENA-NPA2013-08

**Article 3 - Competent authority**

To ensure principles of common oversight among ATM/ANS providers operating in the same territory, the competent authority for oversight shall be the national supervisory authority nominated or established in that territory (or otherwise the Agency). Consequently it is necessary to modify the provision set out in 1(a) as highlighted in red:

*(a) the national supervisory authority nominated or established by the Member State, in accordance with Article 4 of Regulation (EC) No 549/2004, where the ATM/ANS provider has its ~~principal~~ place of operation ~~and, if any, its registered office~~;*

Regarding provision 2 of Article 3, it is necessary to clarify the meaning of responsible for the operation in the sentence “*the competent authority responsible for the operation in a given airspace*” and its relation with provision 1(a).

It should be explained the compatibility between provision 1(c) of Article 3 and Article 12 (*Acceptance of third-country certification*) of Regulation 216/2008, in particular with its provision 1:

*1. By way of derogation from the provisions of this Regulation and its implementing rules, the Agency or the aviation authorities in the Member State may issue certificates on the basis of certificates issued by aeronautical authorities of a third country, as provided for in recognition agreements between the Community and that third country.*

It should be established the separation between the regulatory authority and the supervisory authority, so it is proposed to modify the provision set out in Article 3.5 as highlighted in red:

*5. The competent authority(ies) **for oversight** shall be independent of **the regulatory authority and** any ATM/ANS providers. This independence shall be achieved through adequate separation, at the functional level at least, between the competent authorities and such ATM/ANS providers. Member States shall ensure that competent authorities exercise their powers impartially and*

response

transparently.

*Partially accepted*

The Agency takes the comments into consideration.

In reference to paragraph (1)(a), the text is amended as follows:

'(...)where the service provider has its principal place of operation or, if any, its registered office; (...)' However, it should be noted that the text could be not modified significantly as it uses the same expression as in Regulation (EC) No 549/2004.

In reference to Article 3(2), having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept thereof and to avoid any misunderstandings.

In reference to the request for clarification, it is important to be noted that Article 3(1)(c) of the draft rule implements Article 22a(b) of the Basic Regulation that defines the Agency as being responsible for issuing certificates to organisations located outside the territory subject to the provisions of the European Union Treaty, but providing services in the airspace of the territory to which the European Union Treaty applies. Additionally, Article 12 defines the criteria on acceptance of third-country certificate as provided for in an agreement between the Community and a third country.

In reference to paragraph (5) of the commented Article, it should be noted that the principle of separation is with regard to the oversight and operational functions (obligation for service providers to be certified and the certificates normally issued by authorities). It was maintained by the European co-legislator in 2009 when adopting the SES II package, and when adopting the extension of the Agency's remit to ATM/ANS. Therefore, the Agency believes that it would not be appropriate to introduce further/additional separation between the regulatory and oversight activities as proposed by the commentator.

comment

304

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Article 3 <b>Competent authority</b>	It has been acknowledged that article 1.3 of regulation (EC) No 216/2008 on services provided by the military to GAT is somehow contradictory with SES regulations. (For further details, pray refer to point 3 of the notes of 3 <sup>rd</sup> ATM/ANS Standardisation Meeting held on the 4 June 2013.)  It is suggested to complete this article to	With this contradiction in terms, this article would remain unclear until the scope of regulation (EC) No 216/2008 is extended to the Aerodromes operated by the military whenever the traffic is primarily civil.

	go forward in such direction.	
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>It should be noted that whilst one of the main objectives of the proposed rule is to implement the EASA Basic Regulation and its Essential Requirements, it has a dual legal basis covering also the implementation of the SES regulations. Hence, under the SES scope, the rule covers also military ATM, insofar as it serves primarily GAT traffic. This situation is expected to continue until the SES2+ proposal has aligned the scopes of EASA and SES Regulations.</p>	
comment	339	comment by: <i>skyguide Corporate Regulation Management</i>
response	<p>"For the purpose of this Regulation, the competent authority responsible for the operation <b>in a given airspace</b>, shall be the authority established or nominated by the Member State having jurisdiction over that airspace." "responsible for the operation in a given airspace" is unclear.</p> <p><u>Justification:</u></p> <p>The phrase "responsible for the operation in a given airspace" is unclear. As per the ICAO definition, the ANSP is the ATS authority, responsible for prescribing technical standards and procedures in the airspace delegated to it by the State. In our understanding this makes the ANSP the equivalent of the Comptent Authority "responsible for the operation in a given airspace". However, Art. 3 (5) mandates that "The competent authority(ies) shall be independent of any ATM/ANS providers. This independence shall be achieved through adequate separation, at the functional level at least, between the competent authorities and such ATM/ANS providers. (...)." Therefore, clearer identification of the entity which is to perform the prescription of technical standards and procedures is needed.</p> <p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.</p>	

comment	<p>386</p> <p style="text-align: right;">comment by: <i>EUROCONTROL</i></p> <p><b>Page 13 - Article 3.2</b>                  "2. For the purpose of this Regulation, the competent authority responsible for the operation in a given airspace, shall be the authority established or nominated by the Member State having jurisdiction over that airspace."                  Clarification is required whether the CA responsible for the operation in a given airspace is meant to be the ANSP (similar to the ICAO ATS Authority) and how this is de-conflicted in the case of certification/designation.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration.</p> <p>The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.</p>

comment	<p>409</p> <p style="text-align: right;">comment by: <i>Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; padding: 5px;">Article 3(2)</td> <td style="width: 5%; padding: 5px;">13</td> <td style="padding: 5px;">                     What is the purpose of this paragraph?                      The meaning of the paragraph has to be clarified since it was stated at the EASA NPA workshop 2<sup>nd</sup> of July that it only applies to MET.                 </td> </tr> </table>	Article 3(2)	13	What is the purpose of this paragraph? The meaning of the paragraph has to be clarified since it was stated at the EASA NPA workshop 2 <sup>nd</sup> of July that it only applies to MET.
Article 3(2)	13	What is the purpose of this paragraph? The meaning of the paragraph has to be clarified since it was stated at the EASA NPA workshop 2 <sup>nd</sup> of July that it only applies to MET.		
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration.</p> <p>The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is</p>			

proposed to better define the concept and to avoid any misunderstandings.

comment 517 comment by: HungaroControl

Agreed.

response Noted

comment 557 comment by: *military safety expert/ safety management systeme inspector*

**Introduce an authority different from the “competent authority” designated for certification and oversight is confusing. Most readers do not clearly understand what it means.**

**It should be important to clarify this point.**

**Proposals :**

- **removed Article 3.2 or**
- **rewrite this article in another way to be understandable**

response Accepted

The Agency takes the comment into consideration.

The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment 601 comment by: *CANSO Civil Air Navigation Services Organization*

**Article 3  
Competent  
authority  
(2)**

For the purpose of this Regulation, the competent authority responsible accountable for the operations in a given airspace, shall be the

A CA is responsible for certification and oversight under 3(1) and a CA is responsible for the airspace under 3(2). These CAs may be the same or different (in the case of cross-

	authority established or nominated by the Member State having jurisdiction over that airspace	border services, for example). The designated ANSP is responsible for the operations.
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response *Not accepted*

The Agency takes note of the comment.

Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to any avoid misunderstandings.

comment 661

comment by: PANSA

2. For the purpose of this Regulation, the competent authority ~~responsible~~ **accountable** for the ~~operations~~ in a given airspace, shall be the authority established or nominated by the Member State having jurisdiction over that airspace.

**Justification:**

*A modified text is being proposed in order to avoid misunderstanding of responsibilities. The ANSP designated by the Member State is responsible for the operations. A CA is responsible for certification and oversight under 3(1) and a CA is responsible for the airspace under 3(2). These CAs may be the same or different (e.g. in the case of cross-border services).*

response *Not accepted*

The Agency takes note of the comment.

Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment 733

comment by: AvinorANSP

For the purpose of this Regulation, the competent authority ~~responsible~~ **accountable** for the ~~operations~~ in a given airspace, shall be the authority established or nominated by the Member State having jurisdiction over that airspace

A CA is responsible for certification and oversight under 3(1) and a CA is responsible for the airspace under 3(2). These CAs may be the same or different (in the case of cross-border services, for example). The designated ANSP is responsible for the operations.k

response *Not accepted*

The Agency takes note of the comment.

Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment 767

comment by: *ROMATSA*

Comment:  
Art 3 (2)  
This para should be deleted.

Justification:  
The text is in contradiction with some provision in para 1. According to para 1 (b) the competent authority responsible for a given airspace in FAB or in cross-border activities is nominated under the agreement concluded between Member States. In this case this competent authority thus nominated might be different from the competent authority nominated by the Member State responsible for that airspace.

response *Accepted*

The Agency takes the comment into consideration.

The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment 801

comment by: *EUROCONTROL*

**Page 13 - Article 3.2**

The concept of competent authority responsible for the operation in a given airspace is not clear and should be better explained.

response *Accepted*

The Agency takes the comment into consideration.

The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment 850

comment by: *Belgocontrol*

5.

In some States, the authoritative role (for MET) has been delegated to the providers, to ensure the correct level of expertise. We note that this will no longer be possible and that therefore alternate means of expertise will need to be defined.

response *Noted*

The Agency takes note of the comment.

It is important to be mentioned that the principle of separation of the oversight from operational functions (obligation for service providers to be certified and the certificates normally issued by authorities) was maintained by the European co-legislator in 2009 when adopting the SES II package, and when adopting the extension of the Agency's remit to ATM/ANS.

comment 938

comment by: *Federal Office of Civil Aviation FOCA*

sdArt. 3 par. 1 letter c and d:

o When mentioning "the Treaty" (of Lisbon), even though it is obvious, it would be useful for Third States to know to which treaty it is referred to. The same comment applies to "the Agency".

o Furthermore, the formulation of letter c is problematic for Switzerland: According to SES Regulation, we are considered as a Member State, but with the text proposed here, the Agency (EASA) will be considered as the competent authority for certification and oversight. This not acceptable for Switzerland.

response *Noted*

The Agency takes note of the comments.

It needs to be highlighted that the subject draft rule implementing the objectives of the Basic Regulation would be an EU law having regard to the Treaty on the Functioning of the European Union. Furthermore, the recitals/preambles that will be introduced with the Opinion issued to the Commission will explain this fact including that the European Aviation Safety

Agency hereinafter is referred to as the Agency.

In reference to the comment to Article 3(1)(c), it is important to be noted that its purpose is to implement Article 22a(b) of the Basic Regulation that defines the Agency to be responsible for issuing certificates to organisations located outside the territory subject to the provisions of the European Union Treaty, but providing services in the airspace of the territory to which the European Union Treaty applies. It is modified to take into account the amalgamation of the two Regulations, namely Regulations (EU) Nos 1034/2011 and 1035/2011, and it considers the competent authority responsible for certification and oversight as in the current Regulations. So far the Agency is not aware of the difficulties expressed by the commentator, therefore, the commentator is kindly invited to provide further details on the issue.

comment

983

comment by: *European Transport Workers Federation - ETF*

This is a complex matter. Having two operators overseen by different NSA in the same country can be a cause of discrepancies in the safety chain. ETF is of the opinion that each member state should have a say in the oversight of ATM/ANS providers providing their services in their airspace, yet we understand the difficulty of having different competent authorities for one cross-border provider.

Therefore, we encourage EASA to reconsider this provision to take the airspace sovereignty issue.

We also invite EASA to provide evidence of consistency with other current and future regulation (in ATM, aerodrome fields especially).

ETF is also concerned with the risk of introducing flag of convenience for ANSPs. We ask EASA to provide proof of elimination of that risk.

response

*Noted*

The Agency will duly take into account the comment and wishes to reinforce that maintaining a high level of safety is, indeed, the main objective of this proposal.

The European ATM network is developing more and more towards cross-border service provision, e.g. through the FABs and various centralised services. Additionally, as the commentator suggests, such developments shall not become a cause of discrepancies in the safety chain. This Article aims at addressing the competent authority responsible for certification and oversight in cases where there are more than one competent authorities in a Member State. Such principles are already covered in the current applicable regulation as far as what concerns FABs. The Agency does not believe that these provisions would in any way question the airspace sovereignty aspects or the State powers to designate the ATS provider in its airspace.

As a necessary safety enhancement, these provisions provide that the competent authority's management system establishes procedures for participation in a mutual exchange of all necessary information and assistance with other competent authorities concerned, including all findings raised and follow-up actions taken as a result of oversight of service providers exercising activities in the territory of a Member State, but certified by the competent authority of another Member State or the Agency. This is clearly based on and aligned with the similar provisions related to the competent authorities in other aviation domains (e.g. aircrew and air operations, aerodromes and ATCO

licensing).

comment

1033

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment (NSA and rulemaking directorate)  
 We understand the need to introduce an authority different from the “competent authority” designated for certification and oversight, however we think the terms used in article 3.2 may induce confusion. In fact, during DGAC internal consultation, many readers did not clearly understand what was meant. There is no need for EASA to identify a new authority inside each member’s State DGAC. The authority could simply be “the member State”.  
Related paragraph: article 2.3  
Suggestion: article 2.3 should be removed, and the future occurrences of this authority (in Part MET for example) could be replaced by the “Member State”.

response

*Accepted*

The Agency takes the comment into consideration.

The aim of paragraph (2) was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment

1049

comment by: *UK CAA*

**Page No:** 13

**Paragraph No:** 2

**Comment:** UK CAA suggests this paragraph should be deleted.

**Justification:** The rationale for the addition of this new sentence to the competent authority Article is not understood. There is no requirement for a CA to be nominated as ‘responsible for the operation in a given airspace’. The text appears to be:

- a. Superfluous
- b. Outside the scope of this ATM/ANS Regulation
- c. Risks contradicting the principle of separation between operating organisation and regulator.
- d. Would require some Member States to pass new national legislation nominating a CA for this additional purpose (so would therefore require an additional transition period for implementation)

**Proposed Text:** Delete paragraph.

response

*Accepted*

The Agency takes note of the comment.

Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept.

comment 1056 comment by: *Danish Transport Authority*

Art. 3(2) The meaning of this paragraph should be clarified.

response *Partially accepted*

The Agency takes note of the comment.

Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better clarify the concept.

comment 1100 comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

Article 3 – Competent authority - §1 (p13) :

The draft article does not cover the case where an ATM/ANS provider has its principal place of operation different from any registered office.

Particularly, who is the competent authority for certification and oversight if:

- The principal place of operation is in one Member State's territory, and the registered office in another Member State;
- The principal place of operation is in one Member State's territory, and the registered office outside the territory subject to the provisions of the Treaty.

It is recommended to clarify this point.

response *Not accepted*

The Agency takes note of the comment.

However, it should be noted that the commented Article has been modified to take into account the amalgamation of the two Regulations, namely Regulations (EU) Nos 1034/2011 and 1035/2011, especially the specific requirements for the competent authorities. It addresses the competent authorities responsible for certification and oversight as in the current regulations. Therefore, the Agency does not consider necessary to further amend the commented article.

comment 1127 comment by: *Luca Valerio Falessi*

**Change para (a) as follows:**

	<p>(a) the national supervisory authority nominated or established by the Member State, in accordance with Article 4 of Regulation (EC) No 549/2004, where the ATM/ANS provider has its principal place of operation and, <u>or</u>, if any, its registered office;</p> <p>The requirement as it stands in the proposal becomes un-applicable when the two locations are in different countries. The principal place of operation should prevail among the two.</p>
response	<i>Accepted</i>

comment	<p>1131 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p>Delete para 2 and replace it as follows</p> <p><del>2. For the purpose of this Regulation, the competent authority responsible for the operation in a given airspace, shall be the authority established or nominated by the Member State having jurisdiction over that airspace.</del></p> <p><b><u>2 In case of cross-border operations, the competent authority shall arrange an agreement with the local authority. The agreement shall contain:</u></b></p> <ul style="list-style-type: none"> <li><b><u>- mutual recognition of certification, licences, and oversight tasks;</u></b></li> <li><b><u>- delegation of certification and oversight tasks</u></b></li> <li><b><u>- allocation of responsibilities and communication in those tasks related to the airspace where the services are provided.</u></b></li> </ul> <p><b><u>The local Authority shall have access to the result of oversight task related to the part of services provided in its airspace.</u></b></p> <p>One of the pillars of certification is that a certificate can be issued and managed by one competent authority only at a time.</p> <p>This does not mean that oversight tasks cannot be delegated to another competent authority, but that the ultimate decision on an ANSP or a part of it (i.e. an ATSU) must be left to the competent authority which issued the certificate itself.</p> <p>The proposed text seems to establish two competent authorities for the same certificate.</p> <p>Therefore ENAC asks to delete art. 3 para 2, or to clarify the sense of the expression "Operation in a given airspace" so to avoid any possibility that , in cross border operations, the authority responsible for the airspace has any direct responsibility or authority over certification.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p>

Having considered the comments received on Article 3(2), the commented paragraph is removed and a new article on 'provision of services' is proposed to better clarify the concept.

Furthermore, it should be noted that the issue of conclusion of agreement between the competent authorities concerned is addressed in Annex II, ATM/ANS.AR.010 Oversight function (b).

comment

1134

comment by: *Luca Valerio Falessi*

**An AMC should (or a further requirement) be prepared to qualify the meaning of "functional separation".**

**At least the following should be included when NSA and ANSP functions are located in the same entity:**

- **the ultimate responsible for service provision and the ultimate responsible for the oversight shall be separate persons, and the former shall not have any functional or hierarchical authority over the latter;**
- **responsibility of any action over certification shall be allocated over the ultimate responsible for oversight;**
- **no action can be taken against the oversight staff, at any level, as a consequence of its oversight actions;**

response

*Partially accepted*

The Agency takes the comment into consideration.

Based on the proposal received, a GM to Article 4(4) competent authority on 'Functional level separation' is introduced.

comment

1222

comment by: *SINCTA - Portuguese Air Traffic Controllers' Union*

### **Article 3 - Competent Authority**

AS an example we could have two different ANSPs working on a country and being oversighted by two different NSAs from two different countries and having diverging human and financial resources. This could result in very different oversight programs and even in additional costs because the NSA from the first country would need to pay for their people's expenses.

SINCTA believes the paragraph (1) is not clear.

The SES2 regulation (Reg. 550/2004 amended by the Reg 1070/2009 article 2 (3) to (6)) states that situations such as FABs, cross border services, regional cooperation and ANSPs certified by one Member State (MS) and providing the service to an airspace falling under the responsibility of another MS, shall be solved by an agreement between MSs or NSAs. This was detailed on the Regulation 1035/2011 (certification of ANSPs) and on the Regulation 1034/2011 (competent authorities for oversight).

The text does not seem to reflect the idea that **certification** is to be held by the Competent Authority (nominated or established) of the MS where the

	<p>ATM/ANS has its Principal place of operations (PPO) or Registered Office (RO) and <b>oversight</b> is to be carried out by the Competent Authority (nominated or established) of the MS where the service is provided or by other CA agreed between the MSs (where the ATM/ANS has its PPO or RO and where it is providing the service).</p> <p>Paragraph (2) is about the competent authority responsible for the operation in a given airspace. We would appreciate some explanation about the wording "operation" regarding to certification and oversight.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into considerations.</p> <p>However, it should be noted that the commented Article has been modified to take into account the amalgamation of the two Regulations, namely Regulations (EU) Nos 1034/2011 and No 1035/2011, especially the specific requirements for the competent authorities. This article considers the competent authority responsible for certification and oversight as well, as in the current Regulations. Furthermore, it needs not be pointed out that one of the essential requirements of the competent authority's management system is the establishment of procedures for participation in a mutual exchange of all necessary information and assistance with other competent authorities concerned, including all findings raised and follow-up actions taken as a result of oversight of service providers exercising activities in the territory of a Member State, but certified by the competent authority of another Member State or the Agency.</p> <p>In reference to paragraph (2), the aim was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the questioned paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.</p>
comment	<p>1243 <span style="float: right;">comment by: ENAV</span></p> <p>Proposal for rewording</p> <p>For the purpose of this Regulation, the competent authority <del>responsible</del><b>accountable</b> for <del>the</del><b>operations</b> in a given airspace, shall be the authority established or nominated by the Member State having jurisdiction over that airspace</p> <p>Rationale</p> <p>A CA is responsible for certification and oversight under 3(1) and a CA is responsible for the airspace under 3(2). These CAs may be the same or different (in the case of cross-border services, for example). The designated ANSP is responsible for the operations</p>

response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the intent and to avoid misunderstandings.</p>
comment	<p>1277 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Comment on art.3(2)</p> <p>This para should be deleted.</p> <p>Justification:</p> <p>The text is in contradiction with some provision in para 1. According to para 1 (b) the competent authority responsible for a given airspace in FAB or in cross-border activities is nominated under the agreement concluded between Member States. In this case this competent authority thus nominated might be different from the competent authority nominated by the Member State responsible for that airspace.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment.</p> <p>Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the intent.</p>
comment	<p>1311 <span style="float: right;">comment by: <i>ATCEUC</i></span></p> <p><b>Article 3 - Competent authority</b></p> <p>ATCEUC believes the paragraph (1) is not clear.</p> <p>The SES2 regulation (Reg. 550/2004 amended by the Reg 1070/2009 article 2 (3) to (6)) states that situations such as FABs, cross border services, regional cooperation and ANSPs certified by one MS and providing the service to an airspace falling under the responsibility of another MS shall be solved by an agreement between MS or NSA. This was detailed on the Reg 1035/2011 (certification of ANSPs) and on the Regulation 1034/2011 (competent authorities for oversight).</p> <p>Our concerns are not about the <b>certification</b> which is to be done by the Competent Authority nominated or established by the Member State (MS) where the ATM/ANS provider has its principal place of operation (PPO) and registered office (RO), but about the responsibility for the <b>oversight</b> which should be agreed between the MS where the ATM/ANS provider has its PPO and RO and the MS where the service is provided.</p> <p>The text does not seem to reflect this idea.</p> <p>Paragraph (2) is about the competent authority responsible for the operation in</p>

response

a given airspace. We would appreciate some explanation about the wording "**operation**" regarding to certification and oversight

*Not accepted*

The Agency takes the comments into consideration.

However, it should be noted that the commented Article has been modified to take into account the amalgamation of the two Regulations, namely Regulations (EU) Nos 1034/2011 and 1035/2011, especially the specific requirements for the competent authorities. This article considers the competent authority responsible for certification and oversight as well as in the current Regulations. Furthermore, it needs not be pointed out that one of the essential requirements of the competent authority's management system is the establishment of procedures for participation in a mutual exchange of all necessary information and assistance with other competent authorities concerned, including all findings raised and follow-up actions taken as a result of oversight of service providers exercising activities in the territory of a Member State, but certified by the competent authority of another Member State or the Agency.

In reference to paragraph (2), the aim was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.

comment

1342

comment by: USCA

### **Article 3 - Competent authority**

*~~1.(a) the national supervisory authority nominated or established by the Member State, in accordance with Article 4 of Regulation (EC) No 549/2004, where the ATM/ANS provider has its principal place of operation and, if any, its registered office; the authority established or nominated by the Member State having jurisdiction over the operated airspace;~~*

USCA believes that paragraph (1) is not clear.

The SES2 regulation (Reg. 550/2004 amended by the Reg 1070/2009 article 2 (3) to (6)) states that situations such as FABs, cross border services, regional cooperation and ANSPs certified by one MS and providing the service to an airspace falling under the responsibility of another MS shall be solved by an agreement between MS or NSA. This was detailed on the Reg 1035/2011 (certification of ANSPs) and on the Regulation 1034/2011 (competent authorities for oversight).

Our concerns are not about the **certification** which is to be done by the Competent Authority nominated or established by the Member State (MS) where the ATM/ANS provider has its principal place of operation (PPO) and registered office (RO), but about the responsibility for the **oversight** which should be agreed between the MS where the ATM/ANS provider has its PPO and

	<p>RO and the MS where the service is provided, but EASA's text does not reflect this idea. *****</p> <p>Paragraph (2) is about "<i>the competent authority responsible for the operation in a given airspace</i>". We would appreciate some explanation about the wording "operation" regarding to certification and oversight.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comments into consideration.</p> <p>However, it should be noted that the commented Article has been modified to take into account the amalgamation of the two Regulations, namely Regulations (EU) Nos 1034/2011 and 1035/2011, especially the specific requirements for the competent authorities. This article considers the competent authority responsible for certification and oversight as well as in the current Regulations. Furthermore, it needs not be pointed out that one of the essential requirements of the competent authority's management system is the establishment of procedures for participation in a mutual exchange of all necessary information and assistance with other competent authorities concerned, including all findings raised and follow-up actions taken as a result of oversight of service providers exercising activities in the territory of a Member State, but certified by the competent authority of another Member State or the Agency.</p> <p>In reference to paragraph (2), the aim was to add the concept of competent authority established or nominated by the Member State as the authority responsible for the operation in a given airspace which is essential for establishing conditions or specifications for the provision of services. With the subject NPA, this concept is only used for the provision of meteorological services, while it may be used for introducing the technical requirements for other services too. Having considered the comments received on the subject provision, the commented paragraph is removed and a new article on 'provision of services' is proposed to better define the concept and to avoid any misunderstandings.</p>
comment	<p>1354      comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></p> <p>This is a complex matter. Having two operators overseen by different NSA in the same country can be a cause of discrepancies in the safety chain. FIT CISL is of the opinion that each member state should have a say in the oversight of ATM/ANS providers providing their services in their airspace, yet we understand the difficulty of having different competent authorities for one cross-border provider.</p> <p>Therefore, we encourage EASA to reconsider this provision to take the airspace sovereignty issue.</p> <p>We also invite EASA to provide evidence of consistency with other current and future regulation (in ATM, aerodrome fields especially).</p> <p>FIT CISL is also concerned with the risk of introducing flag of convenience for ANSPs. We ask EASA to provide proves of elimination of that risk.</p>
response	<p><i>Noted</i></p>

The Agency takes note of the comments.

This Article considers the competent authority responsible for certification and oversight and addresses the cases in FAB, cross-border service provisions, where more than one competent authorities in (a) Member State(s) exist. Furthermore, it needs not be pointed out that one of the essential requirements of the competent authority's management system is the establishment of procedures for participation in a mutual exchange of all necessary information and assistance with other competent authorities concerned, including all findings raised and follow-up actions taken as a result of oversight of service providers exercising activities in the territory of a Member State, but certified by the competent authority of another Member State or the Agency.

Based on stakeholders' requests, the Agency follows the principle to align as much as possible the provisions related to the competent authorities with the existing ones relevant to other aviation domains (e.g. aircrew and air operations, aerodromes and the proposed ones with Opinion No 11/2013 on ATCO licensing) unless there is a sector-specific reason.

Furthermore, this NPA addresses safety, proportionality and regulatory coordination issues related to provision of services by providers and to the safety oversight by competent authorities thereof. The main objectives are to maintain a high level of safety and to mitigate the risks linked to the increase of air traffic.

#### COVER REGULATION - Article 4

p. 14

comment 41 comment by: BCAA

Article 4 point 1 : "ATM/ANS providers shall be certified except ... Article 6 ..."  
Which article 6 is meant ? The one in this IR about "declaration by flight information service providers" or the one in the Basic Regulation ? Please add reference.

response *Noted*

The Agency takes note of the comment.  
It refers to Article 6 of this Regulation.

comment 42 comment by: BCAA

Article 4 point 1 : "ATM/ANS providers shall be certified ... "  
The certification requirement goes far beyond the scope of the Single European Sky Regulations. Because of the too wide definition of ATM/ANS in this proposed IR you end up in a certification requirement even for data originators, airspace designers and ATM network functions. This is too much !

response *Noted*

The Agency takes note of the comment.  
It is important to be noted that the proposed rule implements the objectives of the EASA Basic Regulation.

comment 60 comment by: ATC the Netherlands

Complex cross referencing

response *Noted*

The Agency takes note of the comment.

comment 87 comment by: NATS National Air Traffic Services Limited

Article 4 12.

As the definition of ATM/ANS providers includes Network Manager should the requirement be "in addition to 1 to 11" rather than "in addition to 1 to 10"?  
Suggest amending the text to read "in addition to 1 to 11"

response *Accepted*

comment 178 comment by: AENA-NPA2013-08

**Page 14, Article 4.**

The regulation would be improved with regards to readability and usability if service specific requirements were included in the Annexes II to XI while keeping the annex II only for the general requirements applicable to all services.

response *Noted*

The Agency takes the comment into consideration.

comment 216 comment by: AENA-NPA2013-08

**Article 4 - ATM/ANS providers**

It should be previously defined the concept "certified" so it can be used without ambiguity in provision 1 of Article 4.

response *Noted*

The Agency takes note of the comment.

It is important to be noted that the proposed rule implements the objectives of

Regulation (EC) No 216/2008 which clearly defines the concept in question.

comment

410

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 4 (11)	14	The agency is responsible for the oversight of NM. Will the audit reports and description of non conformities be presented to each member state?
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response

*Noted*

The Agency takes note of the comment.

The issue addressed in the comment is not part of the subject rulemaking deliverable. However, it should be noted that Article 21 of Regulation (EU) No 677/2011 states that a report of the oversight activities shall be given to the Single Sky Committee 'annually or when so specifically requested'.

comment

477

comment by: *DSNA***Article 4.7**

Complex cross referencing. The requirements in the annexes are not self-sufficient, but require further cross referencing to other annexes. If this is the only place where such complex cross-referencing exists: suggest to add all the references to the sentence so as not to have to further reference once in the annexe.

7. Communication navigation and surveillance service (CNS) providers shall comply, in addition to 1 and 2, with the requirements in Annex VII (Part-CNS, as well as the requirements in annex III ATS.OR.205 and ATS.OR.225.

response

*Not accepted*

The proposed amendment is laid down in the subject Annex (Part-CNS). Therefore, the Agency doesn't consider appropriate to amend the text as it would result in overlapping.

comment

518

comment by: *HungaroControl*

Agreed.

response *Noted*

comment

631

comment by: *EUROCONTROL*

**Page 14 - Article 4, item 6**

Item 6 describes that Data providers shall "also comply, in addition to 1, with the requirements in Annex VI (Part-DAT)".

Whilst Annex VI may be very specific to Data Providers, the definition of "ATM/ANS" as contained in the EASA BR Art 3 (q) "added" more actors into the scope of Regulation 1035/2011 when comparing it with the source definition under SES. Using this regulation as a "general vehicle" to cover all data supply chain parties, hence also commercial data providers, this approach may expand (initial ANSP) requirements to additional parties which are beyond the scope of ANSP. These actors operate in a global context and over demanding provisions may cause competitive disadvantage for this European industry sector.

Suggestion: These aspects require careful consideration. Applying the principle of better regulation concerning proportionality shall avoid over-regulating appropriate parties of European industry.

response *Noted*

The Agency takes note of the comment.

However, it needs to be pointed out that the Basic Regulation defines the scope of ATM/ANS and the related safety objectives to be complied with through the appropriate implementing measures which shall be developed. 'ATM/ANS' are also defined in Article 3 of the said Regulation, and the related safety objectives are laid down in the essential requirements of Annex Vb thereto. This scope definition is similar to the SES service provision Regulation, but with some explicit differences which are to be included in the implementing measures and are proposed in NPA 2013-08. The Basic Regulation's definition of ATM/ANS consists of the SES service provision Regulation's definitions for ATM and ANS complemented with the services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation.

Moreover, the ToR for RMT.0593, dealing with the subject, further elaborate the necessity of such implementing measures to be developed. Please refer to <https://easa.europa.eu/rulemaking/docs/tor/RMT/ToR%20RMT.0593%20&%20RMT.0594%20Issue%201.pdf>.

Furthermore, it should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3<sup>rd</sup> quarter of 2014.

comment

824

comment by: *AvinorANSP*

We would appreciate to have this list more complete. In Annex VII , CNS.OR.115 includes requirements to other Annexes, not visible in Article 4.

response	<p><i>Not accepted</i></p> <p>The specific requirements for the different providers are laid down in the respective Annexes. Therefore, the Agency doesn't consider appropriate to amend the text as it would result in overlapping.</p>
comment	<p>853 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>10 ASD</p> <p>New service. difficult to assess the roles and responsibilities in this condition. There is a need to define the contents, the scope and conditions before including this specific requirement. The condition set out here goes beyond regulation 1108/2009.</p>
response	<p><i>Accepted</i></p> <p>The Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in Regulation (EC) No 216/2008 nor in Regulation (EC) No 549/2004, thus, it may appear excessive to regulate it as an ATM/ANS service according to Article 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements included in Paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation of the Agency to ensure safe airspace structure and flight procedures designs, and, hence, the legal basis for its regulation. The concern that a certification process for ASD providers may be too cumbersome in certain situations (e.g. airspace structures) is acknowledged; moreover, any implementing rule, in accordance with Article 8b(7)(b) of Regulation (EC) No 216/2008 should be 'proportionate to the type and complexity of the services provided.' Therefore, it could be reasonable in the case of ASD to envisage a leaner certification process, if any.</p> <p>However, it is obvious that Airspace Design has a direct effect on the trajectory followed by aircraft; poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should, therefore, contribute to ensure safe operations within European airspace. Furthermore, the ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as Performance-Based Navigation (PBN).</p> <p>Since the Agency is launching a Rulemaking task (RMT.0445) with the aim of proposing Implementing Rules and AMC/GM on airspace design including procedure design, aiming at ensuring the airspace structures and flight procedures are appropriately surveyed, designed, and validated, it seems appropriate that this RMT analyses and decides the most appropriate way to regulate the organisations that design these elements. It is, therefore, proposed that the decision about the need of certification will be addressed by that rulemaking task without prejudging the approach in this NPA. The commented provision will, therefore, be amended. The comment will be duly considered during the work of the above-mentioned rulemaking task.</p>

comment	855	comment by: <i>Belgocontrol</i>
	<p>Proposal to extend the providers function with:  13. Deployment Manager shall comply, in addition to x and y, with the requirements in Annex XI (Part-DM). Proposal to consider the creation of the Safety Cases related to DM activities at Deployment level.</p>	
response	<i>Not accepted</i>	
	<p>The Agency takes due consideration of the comment. The outcome of the ongoing SESII+ initiative will most likely impact certain implementing regulations, including probably the one subject to this consultation. This is one of the reasons why the Agency should continue to offer an active and close support to the Commission in this important initiative. However, taking into account the difficulty in envisaging this outcome, the Agency believes that it would not be appropriate to include the proposal.</p>	

comment	1063	comment by: <i>Danish Transport Authority</i>
	<p>Art. 4(11) The Agency is responsible for the oversight of NM. Will the audit reports and description of non conformities be presented to each member state?</p>	
response	<i>Noted</i>	
	<p>The Agency takes note of the comment.</p> <p>The issue addressed in the comment is not part of the subject rulemaking deliverable. However, it should be noted that Article 21 of Regulation (EU) No 677/2011 states that a report of the oversight activities shall be given to the Single Sky Committee 'annually or when so specifically requested'.</p>	

<b>COVER REGULATION - Article 5</b>
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p. 14-15
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comment	59	comment by: <i>ATC the Netherlands</i>
	<p>f) Changes subject to approval by the NSA comes with a plan to prove compliance: extra tests and exercises must be motivated otherwise a "carte blanche" is given It will aslo lead to interpretation issues . Delete f)</p>	
response	<i>Accepted</i>	
	<p>The Agency takes the proposal into consideration and the provision is removed.</p>	

comment	88	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p>Article 5 5.</p> <p>The notion of authorised personnel may conflict with business interests should this personnel not be employed by the CA itself, but belong to a qualified entity. Provisions should be included to mitigate a possible conflict of interests.</p>	
response	<i>Accepted</i>	
	<p>The Agency takes the comment into consideration and the Article is amended accordingly with a newly introduced paragraph (4) to address the issue on avoidance of conflict of interest.</p>	

comment	89	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p>Article 5 3.</p> <p>The sentence has incorrect punctuation. The sentence requires a comma after "produce".</p> <p>Add comma as follows, "Competent authorities shall produce, and update every two years, an assessment..."</p>	
response	<i>Accepted</i>	

comment	90	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p>Article 5 5. (f)</p> <p>The intent of this requirement is not clear. As this is follow on text then it reads in full as "...shall be empowered to request test and exercises". We request clarification in this area, in particular; tests of what, exercises of what?</p>	
response	<i>Noted</i>	
	<p>Based on the outcome of the consultation, the subject provision is removed.</p>	

comment	112	comment by: <i>LFV</i>
	<p>Suggest changes below as clarification:</p> <p>5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered</p> <p>...</p> <p>(g) to take or initiate enforcement measures, <i>as required by an immediate reaction to a safety problem within the context of an oversight activity.</i></p>	
response	<i>Not accepted</i>	
	<p>A significant number of commentators requested the Agency to align as much</p>	

as possible the provisions related to the competent authorities with the existing ones relevant to other aviation domains (e.g. aircrew and air operations, aerodromes and the proposed ones with Opinion No 11/2013 on ATCO licensing) unless there is a sector-specific reason. Therefore, the Agency does not see a reason to limit the empowerment of the personnel authorised by the competent authority to carry out certification and/or oversight tasks.

comment

127

comment by: EUROCONTROL

**Page 14 & 15 - Article 5: Oversight capabilities**

We support that competent authorities need a management system to ensure the effective and timely execution of their oversight duties.

response

Noted

comment

128

comment by: EUROCONTROL

**Page 14 - Article 5: Oversight Capabilities - Para 1**

It is good to note that Member States and the Commission are required to ensure that the CAs have the necessary capability to ensure the oversight of the providers operating under their supervision and subject to their oversight programme.

response

Noted

comment

218

comment by: AENA-NPA2013-08

**Article 5 - Oversight capabilities**

The competent authority should not assess personnel of the ATM/ANS provider, so provision 5(f) should be reworded to avoid this misunderstanding. It is suggested the following wording highlighted in red:

5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered:  
(f) to ~~request~~ **examine** test and exercises **results regarding requisites laid down in this regulation**;

response

Noted

Based on the outcome of the consultation, the subject provision is removed.

comment

265

comment by: AENA-NPA2013-08

**Article 5 Oversight Capabilities.**

Further explanation is needed about what is understood by 'qualified entity' in

	AMC.1 Art. 5(4).
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. It is important to be noted that 'qualified entity' is defined in Article 3(f) of Regulation (EC) No 216/2008.</p>
comment	<p>350 <span style="float: right;">comment by: <i>HungaroControl</i></span></p>
	<p><b>5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered</b>  To guarantee there is no vested interest, the requirements of annex I to 549/2004 need to be compliant with as well as annex V of the BR216/2008.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. It should be noted that the aspect raised in the comment is addressed in ATM/ANS.AR.B.010 regulating the allocation of certification and oversight tasks by the competent authority to qualified entities and focusing on the criteria to be met by such entities. This provision is tailored to fully implement Article 13 of the Basic Regulation and having taken into consideration Article 3 of Regulation (EC) No 550/2004.</p>
comment	<p>369 <span style="float: right;">comment by: <i>Prospect ATCOs' Branch UK</i></span></p>
	<p>Article 5 (3)</p> <p>We fully support this provision, to ensure that competent authorities are properly resourced in order to accomplish their tasks.</p>
response	<p><i>Noted</i></p>
comment	<p>370 <span style="float: right;">comment by: <i>Prospect ATCOs' Branch UK</i></span></p>
	<p>Article 5 (4)</p> <p>We fully endorse this provision, but would wish to see in the future Annex XII renamed and amended to include requirements for a 'competent authority' training and competence assessment requirement, in addition to those for ATM/ANS providers. This could then replace the AMC 1 Article 5(4) to make it more consistent with procedures for assuring competence along the lines of those required by ATM/ANS providers.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration. However, it should be noted that Annex XIII addresses the specific requirements for service providers</p>

regarding their personnel training and competence assessment. At the moment, the subject Annex contains only one section related to ATSEPs, but the intent of the Agency is to assess if there is a need to complement the Annex with other specific requirements for the training of other personnel of service providers (e.g. meteorological officers or engineers, flight information services officers). Furthermore, the requirements for the training programme and recurrent training of the competent authorities' personnel are covered in AMC1 ATM/ANS.AR.B.001(a)(2).

comment

408

comment by: CAA-NL

**Article 5.3 and 4**

First these are requirements related to the competent authority and not the Member State and as such they should be placed in Part AR. However when looking in Part AR item 4 is already covered in ATM/ANS.AR.B.005(a)(2). It is therefore proposed to delete this point altogether.

To include item 3 in ATM/ANS.AR.B.005(a)(2) an addition as in ARA.GEN could be considered.

ARA.GEN.200 (a)(2)....."A system shall be in place to plan the availability of personnel, in order to ensure the proper completion of all tasks;"

Further with these requirements for OPS and FCL, EASA standardization department has the proper instruments to ask for this items, see attached presentation page 25 and further.

response

*Partially accepted*

The Agency takes the proposals into consideration.

The commented paragraph (4), already covered in ATM/ANS.AR.B.001(a)(2), is removed.

It should be noted that ATM/ANS.AR.A.001(a)(2) is fully consistent and aligned with ARA.GEN(a)(2). Furthermore, Article 6(3) is amended to link with the subject provision.

comment

479

comment by: DSNA

Article 5 (f) not specific enough as tests and exercises are subject to procedures and plans already subject to approval by the CA. Tests and exercises fall under the management of a system and not the oversight of a system. Tests and exercises need to have objectives. Requesting tests and exercises could be considered an enforcement measure.

As this provision currently stands, it leads to many different kinds of interpretation and should either be deleted (preferred option, see below) or more explanation and clarification should be provided.

Proposal:

5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered

...

~~(f) to request tests and exercises; and~~

response *Accepted*

The Agency takes the proposal into consideration and the provision is removed.

comment 480 comment by: *DSNA*

(g) needs more clarification. Suggest adding the proposed wording.

5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered

...

(g) to take or initiate enforcement measures, **as required by an immediate reaction to a safety problem within the context of an oversight activity.**

response *Not accepted*

A significant number of commentators requested the Agency to align as much as possible the provisions related to the competent authorities with the existing ones relevant to other aviation domains (e.g. aircrew and air operations, aerodromes and the proposed ones with Opinion No 11/2013 on ATCO licensing) unless there is a sector-specific reason. Therefore, the Agency does not see a reason to limit the empowerment of the personnel authorised by the competent authority to carry out certification and/or oversight tasks.

comment 520 comment by: *HungaroControl*

"5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered:

~~(f) to request test and exercises;"~~

*It is proposed to remove paragraph "(f) to request test and exercises;", since tests and exercises fall not under the oversight of a system and it can also be interpreted ambiguously.*

response *Accepted*

The Agency takes the proposal into consideration and the provision is removed.

comment 544 comment by: *CANSO Civil Air Navigation Services Organization*

<b>Article 5 Oversight capabilities</b>	5. Personnel authorised by the competent authority to carry out	(f) is not specific enough as tests and exercises are subject to procedures and plans are already subject to
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	certification and/or oversight tasks shall be empowered ... <del>(f) to request tests and exercises; and</del>	approval by the CA. Tests and exercises fall under the management of a system and not the oversight of a system. Tests and exercises need to have objectives. Extra tests and exercises must be motivated otherwise "a carte blanche "is given to ask for more beyond reasonable requirements. As this paragraph (f) currently stands, it leads to many different kinds of interpretation and should be deleted.
<b>Article 5 Oversight capabilities</b>	<b>5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered</b>	To ensure there is no vested interest, the requirements of annex I to 550/2004 need to be complied with as well as annex V of the BR216/2008.

response *Partially accepted*

In reference to the comment on Article 5(5)(f), the Agency takes the proposal into consideration and the provision is removed.

In reference to the comment related to qualified entities, the Agency takes the comment into consideration. It should be noted that the aspect raised in the comment is addressed in ATM/ANS.AR.B.005 regulating the allocation of certification and oversight tasks by the competent authority to qualified entities and focusing on the criteria to be met by such entities. This provision is tailored to fully implement Article 13 of the Basic Regulation and considering Article 3 of Regulation (EC) No 550/2004.

comment 651

comment by: PANSA

**5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered: ...**

**Comment:**

*There is a need to ensure there is no conflict of interest, therefore requirements of annex I to 550/2004 need to be complied with as well as annex V of the BR216/2008.*

response *Partially accepted*

The Agency takes the comment into consideration. It should be noted that the aspect raised in the comment is addressed in ATM/ANS.AR.B.005 regulating the allocation of certification and oversight tasks by the competent authority to

qualified entities and focusing on the criteria to be met by such entities. This provision is tailored to fully implement Article 13 of the Basic Regulation and considering Article 3 of Regulation (EC) No 550/2004.

comment

735

comment by: *AvinorANSP*

5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered

...

~~(f) to request tests and exercises; and~~

(f) is not specific enough as tests and exercises are subject to procedures and plans are already subject to approval by the CA. Tests and exercises fall under the management of a system and not the oversight of a system. Tests and exercises need to have objectives. Extra tests and exercises must be motivated otherwise "a carte blanche " is given to ask for more beyond reasonable requirements.

As this paragraph (f) currently stands, it leads to many different kinds of interpretation and should be deleted.

response

*Accepted*

The Agency takes the proposal into consideration and the provision is removed.

comment

737

comment by: *AvinorANSP*

5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered

To ensure there is no vested interest, the requirements of annex I to 550/2004 need to be complied with as well as annex V of the BR216/2008.

response

*Partially accepted*

The Agency takes the comment into consideration. It should be noted that the aspect raised in the comment is addressed in ATM/ANS.AR.B.005 regulating the allocation of certification and oversight tasks by the competent authority to qualified entities and focusing on the criteria to be met by such entities. This

provision is tailored to fully implement Article 13 of the Basic Regulation and considering Article 3 of Regulation (EC) No 550/2004.

comment

769

comment by: *ROMATSA*

Comment:

5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered

...

~~(f) to request tests and exercises; and~~

Justification:

(f) is not specific enough as tests and exercises are subject to procedures and plans are already subject to approval by the CA. Tests and exercises fall under the management of a system and not the oversight of a system. Tests and exercises need to have objectives. Extra tests and exercises must be motivated otherwise "a carte blanche" is given to ask for more beyond reasonable requirements.

As this paragraph (f) currently stands, it leads to many different kinds of interpretation and should be deleted.

response

*Accepted*

The Agency takes the proposal into consideration and the provision is removed.

comment

809

comment by: *D Winship*

The requirement that CA staff are empowered to "request test and exercises" requires further elaboration. There is a risk that such a provision could lead to 'ownership' of certain problems and issues becoming transferred to the CA itself rather than the provider. It may be more appropriate that CA staff are empowered to "request the results and reports arising from testing activities and safety assurance related exercises" rather than that they are empowered to actually specify the tests/exercises themselves.

response

*Noted*

Based on the outcome of the consultation, the subject provision is removed.

comment

856

comment by: *Belgocontrol*

5. (f)

	Unclear formulation – gives a "carte blanche" to the competent authority. Needs further clarification of intent. Conditions for additional testing and exercising should be outlined. (f) to request test and exercise information; and
response	<i>Noted</i>  Based on the outcome of the consultation, the subject provision is removed.

comment	953 <span style="float: right;">comment by: EUROCONTROL Safety Team</span>
	Page 14 Article 5 Oversight Capabilities Para 1 It is good to note that Member States and the Commission are required to ensure that the Competent Authorities have the necessary capability to ensure the oversight of the providers operating under their supervision and subject to the their oversight programme.
response	<i>Noted</i>

comment	984 <span style="float: right;">comment by: European Transport Workers Federation - ETF</span>
	Article 5 3. ETF supports this provision.
response	<i>Noted</i>

comment	985 <span style="float: right;">comment by: European Transport Workers Federation - ETF</span>
	Article 5 4. ETF is of the opinion that the oversight of competence of staff whose job is safety-related should be based on the respect of an approved competence scheme, that's why we strongly encourage EASA to develop the content of annex XII.  Alternative proposal : 4.Competent authorities shall ensure that all persons involved in oversight activities are <b>competent-fulfilling the applicable requirements</b> to perform the required function.
response	<i>Noted</i>  The Agency takes note of the comment. Based on the consultation outcome, the provision is removed as it is addressed in ATM/ANS.AR.A.005(a)(2).

comment	1003	comment by: EUROCONTROL Safety Team
	Page 14 Article 5 Oversight Capabilities Para 4 It is good to note that competent authorities need to ensure that they have competent staff.	
response	Noted	

comment	1010	comment by: DFS Deutsche Flugsicherung GmbH
	Point 5. (f) and (g): "NSA personnel is authorized and empowered (during oversight) to ....request test and exercises; and to take or initiate enforcement measures." This is not included in former Article 7 1035/2011 but a copy/paste from the identic paragraph on the Aerodromes and Air Operations and there is no justification why these new requirements are necessary while <ul style="list-style-type: none"> <li>• the execution of tests and exercise is subject to procedures and plans already subject to the adoption of the NSA</li> <li>• the taking or initiative of enforcement measures is already regulated by ATM/ANS.AR.C.025.</li> </ul> Not talking about the cost and resources at ANSP. We suggest to delete point (f). We suggest that (g) should be linked only to ATM/ANS.AR.C.025 "reaction to safety directives".	
response	Partially accepted	
	A significant number of commentators requested the Agency to align as much as possible the provisions related to the competent authorities with the existing ones relevant to other aviation domains (e.g. aircrew and air operations, aerodromes and the proposed ones with Opinion No 11/2013 on ATCO licensing) unless there is a sector-specific reason. Therefore, the Agency does not see a reason to limit the empowerment of the personnel authorised by the competent authority to carry out certification and/or oversight tasks. Paragraph (f) is removed from the commented provision.	

comment	1061	comment by: ENAV
	Proposal for rewording: 5. Personnel authorised by the competent authority to carry out certification and/or oversight tasks shall be empowered ... <del>(f) to request tests and exercises; and</del> Rationale f) is not specific enough as tests and exercises are subject to procedures and plans are already subject to approval by the CA. Tests and exercises fall under the management of a system and not the oversight of a system. Tests and exercises need to have objectives. Extra tests and exercises must be motivated otherwise "a carte blanche "is given to ask for more beyond reasonable	

	requirements. As this paragraph (f) currently stands, it leads to many different kinds of interpretation and should be deleted.
response	<i>Noted</i>
	The Agency takes the proposal into consideration and the provision is removed.

comment	1071 <span style="float: right;">comment by: ENAV</span>
	To ensure there is no vested interest, the requirements of annex I to 550/2004 need to be complied with as well as annex V of the BR216/2008.
response	<i>Partially accepted</i>
	The Agency takes the comment into consideration. It should be noted that the aspect raised in the comment is addressed in ATM/ANS.AR.B.005 regulating the allocation of certification and oversight tasks by the competent authority to qualified entities and focusing on the criteria to be met by such entities. This provision is tailored to fully implement Article 13 of the Basic Regulation and considering Article 3 of Regulation (EC) No 550/2004.

comment	1278 <span style="float: right;">comment by: Romanian Civil Aviation Authority</span>
	Comment on art. 5 (5) (e): There is need for a definition of <b>investigation</b> and procedure to specify how it conducted.
response	<i>Not accepted</i>
	The investigation is one of the means to perform oversight. The Agency considers that the term is self-evident to require further clarification.

comment	1355 <span style="float: right;">comment by: comments provided on behalf of FIT/CISL italian trade union</span>
	PARAGRAPH 3: FIT CISL supports this provision.
	PARAGRAPH 4: PROPOSED AMENDMENT: Competent authorities shall ensure that all persons involved in oversight activities are <b>competent-fulfilling the applicable requirements</b> to perform the required function.

## JUSTIFICATION:

FIT CISL is of the opinion that the oversight of competence of staff whose job is safety-related should be based on the respect of an approved competence scheme, that's why we strongly encourage EASA to develop the content of annex XII.

response

*Noted*

The commented paragraph is already covered in ATM/ANS.AR.B.001(a)(2). Therefore, based on a proposal, the provision is removed.

**COVER REGULATION – Article 6**

p. 15

comment

91

comment by: *NATS National Air Traffic Services Limited*

## Article 6

There is possible confusion between these provisions and those in ATM/ANS.OR.A.025. It is thought that Article 6 applies to aerodrome flight information services (see Article 6 1 (a)). Given the previous comment on Article title then, if accepted, add "aerodrome" for each instance of flight information services.

**Suggested resolution**

Amend title of Article 6 to "Declaration by aerodrome flight information service providers"

Amend Article 6 to read "When Member States decide that aerodrome flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:

(a) aerodrome flight information services are provided by operating regularly at not more than one working position at any aerodrome;

(b) the aerodrome flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and (b)(1); and

(c) aerodrome flight information services are provided on a temporary basis and for no longer than 30 consecutive days.

response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to

declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.020 details the requirements to be met if declaring.

comment 92 comment by: *NATS National Air Traffic Services Limited*

Article 6 1. (c)

As written a temporary basis could be for 30 days then stop for day and then start again and claim a temporary basis. Should there be a period of cessation (say 6 months) before a temporary basis recommences?

Recommend amending (c) to read:

"(c) flight information services are provided on a temporary basis and for no longer than 30 consecutive days within a six month period."

response *Partially accepted*

Based on the comments received, Article 7(1)(c) (former Article 6) is deleted and new text is introduced in ATM/ANS.OR.A.015 (former ATM/ANS.A.025) which addresses the comment whereby the nature of the temporary basis is required to be agreed with the competent authority.

comment 271 comment by: *HungaroControl*

(c) flight information services are provided on a temporary basis ~~and for no longer than 30 consecutive days.~~

The duration should be regulated in AMC/GM.

response *Partially accepted*

Based on the comments received, Article 7(1)(c) (former Article 6) is deleted and new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) which addresses the comment whereby the nature of the temporary basis is required to be agreed with the competent authority.

comment 371 comment by: *Prospect ATCOs' Branch UK*

It is our interpretation that this article is referring to flight information services provided at aerodromes. In order to remove ambiguity, throughout this article the word 'aerodrome' should prefix any reference to flight information service.

response *Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that

providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.020 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment

412

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 6	15	It is difficult to interpret the text if AFIS can declare their activities according to the paragraph. This specifically applies to the form in Appendix I in Annex II. There should be a possibility to deregister, limit or suspend a declaration as it is regulated in the aerodrome part. If we do not have any tools for enforcement measures we cannot allow declarations for providers. AMC and GM are needed.
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response

*Accepted*

Article 7 (former Article 7) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

Furthermore, a new provision (ATM/ANS.OR.A.030) on continued validity of a

declaration of a FIS provider is introduced in order to address the issues to the comment.

comment

413

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 6 (1)	15
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Change the last sentence to "... can be subject to declaration shall be at least <u>one of</u> the following:" The intention cannot be that all three bullets shall be fulfilled.
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response

*Accepted*

Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025), whereby the criteria are reduced and only one is required to be met.

comment

415

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 6 (1)	15
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Change the last sentence to "... can be subject to declaration shall be at least <u>one of</u> the following:" The intention cannot be that all three bullets shall be fulfilled.
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response

*Accepted*

Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) whereby the criteria are reduced and only one is required to be met.

comment

416

comment by: *Swedish Transport Agency, Civil Aviation Department*

(Transportstyrelsen, Luftfartsavdelningen)

Article 6 (1) (b)	15	Change the last part of the sentence to "... ATM/ANS.OR.A.015(a) and (b)(1); and/or" The intention cannot be that all three bullets shall be fulfilled.
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response *Accepted*

Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) whereby the criteria are reduced and only one is required to be met.

comment 494

comment by: *Federal Office of Civil Aviation FOCA*

Art. 6 par. 1 (a): "...operating regularly at not more than": FOCA suggests to delete the preposition "at" (see ATM/ANS.OR.A.015 (b) (2))

response *Accepted*

Based on the comments received, Article 7 (former Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (former ATM/ANS.A.025) whereby 'at' is deleted.

comment 521

comment by: *HungaroControl*

*Since it is not clear from the text of Article 6 and its references, whether it relates to FIS or AFIS service, the text is to be amended in order to be unambiguous.*

response *Accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (former

ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring. Furthermore, a new provision ATM/ANS.OR.A.030 on 'continued validity of a declaration of a FIS provider' is introduced in order to address the issues to the comment.

comment

535

comment by: *CANSO Civil Air Navigation Services Organization*

<p><b>FIS</b>  <b>Article 6;</b>  <b>ATM/ANS.OR.A.025</b>  <b>Article 6</b>  <b>Declaration by flight information service providers</b>  <b>Article 6</b>  <b>Declaration by flight information service providers</b>  <b>Article 6</b>  <b>Declaration by flight information services providers</b>  <b>APPENDIX I TO ANNEX II (Part</b>  <b>-</b>  <b>ATM/ANS)</b>  <b>ATM/ANS.OR.A.025</b>  <b>Declaration by flight information services providers</b>  <b>Appendix I to ANNEX II</b>  <b>41. Addition of a declaration scheme for flight information services (FIS) providers</b></p>	<p>Declaration by <b>aerodrome</b> flight information service providers  1. When Member States decide that <b>aerodrome</b> flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:  (b) the flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and <b>(b)(1)</b>; and  (c) flight information services are provided on a temporary basis and for no longer than 30 consecutive days.</p> <p>Indeed, the ATM/ANS.OR.A.015(b) refers to AFIS and is redundant with art 6.1a</p>	<p>There should be a distinction between FIS and Aerodrome Flight Information services (AFIS). These articles should be related only to AFIS services. It is understood that this was the initial intention by those who developed the rule. All related articles should reflect this. The appendix should be accordingly amended.</p>
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response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that

providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (formerly ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

Furthermore, a new provision ATM/ANS.OR.A.030 on 'continued validity of a declaration of a FIS provider' is introduced in order to address the issues to the comment.

comment 536 comment by: *CANSO Civil Air Navigation Services Organization*

<p>Article 6 Declaration by flight information service providers</p>	<p>(c) flight information services are provided on a temporary basis <del>and for no longer than 30 consecutive days.</del> Move "not more than 30 days" to AMC or GM</p>	<p>For example, a world cup would require more than 30 days and the traffic at small aerodromes may warrant AFIS where there was ground-air service previously, and only for that time.</p>
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response *Partially accepted*

Based on the comments received, Article 7 (former Article 6)(1)(c) is deleted and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) which addresses the comment whereby the nature of the temporary basis is required to be agreed with the competent authority.

comment 646 comment by: *PANSA*

Declaration by **aerodrome** flight information service providers (AFIS)  
1. When Member States decide that **aerodrome** flight information service (AFIS) providers are allowed to declare their capability and means of

discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:  
 (b) the flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and **(b)(1)**; and  
 (c) flight information services are provided on a temporary basis and for no longer than 30 consecutive days.  
**Justification:**  
*These articles should be related only to AFIS. Area type FIS shall not be declared. The Appendix I to Annex II should be accordingly amended.*

response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (formerly ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (former Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment

738

comment by: AvinorANSP

Declaration by **aerodrome** flight information service providers  
 There should be a distinction between FIS and Aerodrome Flight Information services (AFIS). These articles should be related only to AFIS services. It is understood that this was the initial intention by those who developed the rule. All related articles should reflect this  
 The appendix should be accordingly amended.

response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their

capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 (formerly ATM/ANS.OR.A.015) on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (former Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.020 details the requirements to be met if declaring.

comment 740

comment by: AvinorANSP

(c) flight information services are provided on a temporary basis ~~and for no longer than 30 consecutive days.~~

Move "not more than 30 days" to AMC or GM  
For example, a world cup would require more than 30 days and the traffic at small aerodromes may warrant AFIS where there was ground-air service

response *Partially accepted*

Based on the comments received, Article 7 (former Article 6)(1)(c) is deleted and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) which addresses the comment whereby the nature of the temporary basis is required to be agreed with the competent authority.

comment 770

comment by: ROMATSA

Comment:

(c) flight information services are provided on a temporary basis ~~and for no longer than 30 consecutive days.~~

Justification:

For example, a World Cup would require more than 30 days and the traffic at small aerodromes may warrant AFIS where there was ground-air service previously, and only for that time.

response	<p><i>Partially accepted</i></p> <p>Based on the comments received, Article 7 (former Article 6)(1)(c) is deleted and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) which addresses the comment whereby the nature of the temporary basis is required to be agreed with the competent authority.</p>
comment	<p>847 <span style="float: right;">comment by: <i>IFATCA</i></span></p> <p>(c) flight information services are provided on a temporary basis and for no longer than 30 consecutive days. Why is it limited to 30 days?</p>
response	<p><i>Noted</i></p> <p>Based on the comments received, Article 7 (former Article 6)(1)(c) is deleted and a new text is introduced in ATM/ANS.OR.A.015 (formerly ATM/ANS.A.025) whereby the nature of the temporary basis is required to be agreed with the competent authority.</p>
comment	<p>986 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>Limit the use of limited certificates to aerodrome FIS because it is the intent and ETF is of the opinion that other kind of flight information providers should not be granted access to limited certification.</p> <p>Alternative proposal : Declaration by <b>aerodrome</b> flight information service providers</p> <p>1. When Member States decide that <b>aerodrome</b> flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:</p> <p>(a) <b>aerodrome</b> flight information services are provided by operating regularly at not more than one working position at any aerodrome;</p> <p>(b) the <b>aerodrome</b> flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and (b)(1); and</p> <p>(c) <b>aerodrome</b> flight information services are provided on a temporary basis and for no longer than 30 consecutive days.</p>
response	<p><i>Not accepted</i></p> <p>Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the</p>

criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (was Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment

1014

comment by: ENAV

Proposal for rewording

Declaration by **aerodrome** flight information service providers  
 1. When Member States decide that **aerodrome** flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:  
 (b) the flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and **(b)(1)**; and  
 (c) flight information services are provided on a temporary basis and for no longer than 30 consecutive days.

Rationale

There should be a distinction between FIS and Aerodrome Flight Information services (AFIS). These articles should be related only to AFIS services. It is understood that this was the initial intention by those who developed the rule.

All related articles should reflect this

The appendix should be accordingly amended

Indeed, the ATM/ANS.OR.A.015(b) refers to AFIS and is redundant with art 6.1a

response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (was Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment 1023 comment by: ENAV

**Proposal for rewording**

(c) flight information services are provided on a temporary basis ~~and for no longer than 30 consecutive days.~~

**Rationale**

For example, a world cup would require more than 30 days and the traffic at small aerodromes may warrant AFIS where there was ground-air service previously, and only for that time.

**Proposal**

Move "not more than 30 days" to AMC or GM

response *Partially accepted*

Based on the comments received, Article 7 (was Article 6)(1)(c) is deleted and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) which addresses the comment whereby the nature of the temporary basis is required to be agreed with the competent authority.

comment 1064 comment by: Danish Transport Authority

Art. 6 (1)

Change the last sentence to "... can be subject to declaration shall be at least one of the following:"

The intension cannot be that all three bullets shall be fulfilled.

Art. 6 (1) b

Change the last part of the sentence to "... ATM/ANS.OR.A.015(a) and (b)(1); and/or"

The intension cannot be that all three bullets shall be fulfilled.

response *Partially accepted*

Based on the comments received, Article 7 (was Article 6) is amended and a new text is introduced in ATM/ANS.OR.A.015 (was ATM/ANS.A.025) whereby the criteria are reduced and only one is required to be met.

comment 1104 comment by: French Civil Aviation Authority (DGAC)

French CAA comment

Article 6 – Declaration for AFIS - §1 (p15) :

The current writing may lead to some understanding or misinterpretation due to the difference between AFIS and FIS. It may be a good thing to clarify that the use of declaration instead of certification for FIS provider can occur only for aerodrome FIS providers (although we know that the BR only mentions FIS providers, and not aerodrome FIS providers). It is suggested to modify the

sentence as follows:

"Declaration by **aerodrome** flight information service providers

1. When Member States decide that **aerodrome** flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following: [..]

What's more, for better clarity, the conditions may be rewritten as follows (Art6.1(a) is redundant with ATM/ANS.OR.A.015(b) ; b) contains a)):

~~(a) flight information services are provided by operating regularly at not more than one working position at any aerodrome~~

(b) the flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and (b) ~~(1)~~ ; and

(c) flight information services are provided on a temporary basis and for no longer than 30 consecutive days."

response

Not accepted

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (former Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment

1226

comment by: SINCTA - Portuguese Air Traffic Controllers' Union

### **Article 6 - Declaration by flight information service providers**

We believe that FIS should be replaced by the more appropriate Aerodrome-FIS wording.

#### **Proposal: Article 6 - Declaration by Aerodrome flight information service providers**

1. When Member States decide that aerodrome flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:

(a) aerodrome flight information services are provided by operating regularly at not more than one working position at any aerodrome;

(b) the aerodrome flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and (b)(1); and



**Declaration by flight information service providers**

We believe that FIS should be replaced by the more appropriate Aerodrome-FIS wording

*Article 6***Declaration by Aerodrome flight information service providers**

1. When Member States decide that aerodrome flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:

- (a) aerodrome flight information services are provided by operating regularly at not more than one working position at any aerodrome;
- (b) the aerodrome flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and (b)(1); and
- (c) aerodrome flight information services are provided on a temporary basis and for no longer than 30 consecutive days.

response

*Not accepted*

Article 7 (was Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (was Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment

1356

comment by: *comments provided on behalf of FIT/CISL italian trade union***PROPOSED AMENDMENT:****Declaration by aerodrome flight information service providers**

1. When Member States decide that **aerodrome** flight information service providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008, the conditions under which these providers can be subject to declaration shall be at least the following:

- (a) **aerodrome** flight information services are provided by operating regularly at not more than one working position at any aerodrome;
- (b) the **aerodrome** flight information service provider fulfils all the criteria of ATM/ANS.OR.A.015(a) and (b)(1); and
- (c) **aerodrome** flight information services are provided on a temporary basis

and for no longer than 30 consecutive days.

JUSTIFICATION:

Limit the use of limited certificates to aerodrome FIS because it is the intent and FIT CISL is of the opinion that other kind of flight information providers should not be able to go

response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 (was Article 6) 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

**COVER REGULATION - Article 7**

p. 15-16

comment

61

comment by: *ATC the Netherlands*

5a) it is not clear why the certificate should be amended.

Remove 5c)

6c) As this will be the case for ATM/ANS providers we propose this will also be the case for CA

response

*Not accepted*

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency is divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

The Agency takes note of the comment related to paragraph (5)(a). It is important to note that the approval for AltMOC will be granted on an individual basis. And as the service provider's certificate is mutually recognised, the competent authority for certification of the subject service provider may decide to indicate it in the certificate (e.g. as condition), if applicable.

The Agency does not accept the comment related to paragraph (5)(c). To support Member States in the uniform application of the provision in question,

the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

However, the responsibility for informing other Member States about Alternative Means of Compliance remains within the Member State's remit.

The Agency takes the comment related to paragraph (6)(c) into consideration. When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

comment	<p>93</p> <p style="text-align: right;">comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;">Article 7 1. It is not necessary to have AMC in full as the abbreviation is already given in Article 2. Suggest deleting "Acceptable Means of Compliance" or delete "AMC" from Article 2 2.</p>
response	<p><i>Accepted</i></p> <p>The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions place in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively. When doing so, the comment is accepted.</p>

comment	<p>94</p> <p style="text-align: right;">comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;">Article 7 6. It would appear necessary to include a similar requirement as in 5. (c) i.e. "inform other Member States about alternative means of compliance that were accepted" as it should make no difference as to where the alternative means of compliance originated for it to be informed to other Member States. Add to Article 7 6. "(c) inform other Member States about alternative means of compliance that have been used."</p>
response	<p><i>Not accepted</i></p> <p>The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.</p> <p>When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no</p>

need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

comment

113

comment by: LfV

Can other providers apply the alternative accepted means of compliance adopted by one provider without applying for approval from their competent authority?

If not, would not then the situation be contrary to the spirit of certification where the certificate issued by a competent authority is valid in all member states (except for limited certificates)

response

*Noted*

It is important to note that this approval of AltMOC will be granted on an individual basis. Other applicants wishing to make use of the same AltMOC must obtain individual approval from their competent authority. The Agency is the only body that is entitled to issue AMCs that may be used by all regulated organisations and all competent authorities and that provide for a presumption of compliance with the rules.

To support Member States in the uniform application of the provision in question the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment

220

comment by: AENA-NPA2013-08

### **Article 7 - Means of compliance**

To ensure principles of common oversight across Europe, it shall be clearly reflected in regulation that the national competent authority should not establish means of compliance applicable to ATM/ANS providers (beyond the ones established by the Agency), so it is proposed to modify the provision set out in Article 7.3 as highlighted in red:

*3. The competent authority shall establish a system to consistently evaluate that all alternative means of compliance used by itself **for complying with its own obligations**, or by ATM/ANS providers under its oversight allow the establishment of compliance with Regulation (EC) No 216/2008 and its Implementing Rules.*

For the same reason, it is suggested the following new sentence at the end of Article 7.5:

*To ensure common criteria regarding NSAs supervision across Member States, the competent authority shall not develop alternative means of compliance regarding ATM/ANS provider requirements.*

response

*Not accepted*

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed

in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

The subject definition is laid down in Article 2 which clearly defines that 'Acceptable Means of Compliance (AMC)' are non-binding standards adopted by the Agency to illustrate means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules.

AltMOC are defined as 'those that propose an alternative to an existing AMC or those that propose new means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules for which no associated AMC have been adopted by the Agency;".

Under ATM/ANS.AR.A.015, the competent authority must establish a system to assess the AltMOC used by itself or by the service provider under its oversight. In addition, when the competent authority develops AltMoC itself it shall make them available to all organisations and persons under its oversight. The intention of the rule is not to prevent AltMOC being developed by the competent authority for use by the organisation under its oversight. However, it should be noted that these, like the ones proposed by the organisation, remain alternatives, which must be assessed in accordance with ATM/ANS.AR.A.015 and which the organisation may decide to use or not. These AltMOC issued by the competent authority are not to be seen as 'mandatory' in any way and should be clearly identified as being alternatives ways to comply with the rules. For further details on AMCs and AltMOCs, please refer to <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment 277 comment by: *skyguide Corporate Regulation Management*

The concept of publishing AMC for specific regulations is supported. However, the described procedure which a certified ATM/ANS provider needs to follow when it wishes to develop alternative means of compliance is very heavy and resource intensive. Smaller ATM/ANS providers will not be able to go through this procedure and will be forced to use AMC, which practically turns AMC into IR for them. A side effect of this is that smaller ATM/ANS providers will tend to prefer having more GM instead of AMC.

response *Noted*

The Agency takes note of the comment.

comment 299 comment by: *skyguide Corporate Regulation Management*

6. When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall:

- (a) make them available to all ATM/ANS providers under its oversight; and
- (b) without undue delay notify the Agency.

The competent authority shall provide the Agency with a full description of the alternative means of compliance, including any revisions to procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.

	<p>(c) inform other Member States about alternative means of compliance that were accepted.</p> <p>Comment: As the provision (c) exists for the ATM/ANS providers, we suggest that this provision exist also for the CAs</p>
response	<p><i>Not accepted</i></p> <p>The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.</p> <p>When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.</p>
comment	<p>387 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 16 - Article 7.4</b> This article allows only a certified ATM/ANS provider to apply alternate means of compliance. The application of alternate AMCs should be open to all providers, be they certified or not certified yet.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It should be noted that this possibility is already addressed in the provision related to declaration by flight information services providers (please refer to ATM/ANS.OR.A.015 rev. (b)(2), NPA 2013-08 provision number ATM/ANS.OR.A.025 (a)(2).</p> <p>The mentioned provision requires the FIS provider to declare its activities to provide the competent authority with a list of the alternative means of compliance used.</p>
comment	<p>411 <span style="float: right;">comment by: CAA-NL</span></p> <p><b>Article7</b> It is proposed to move this requirement to Annex I, subpart B. This would be consistent with the other domains where it is also located in Part AR.</p>
response	<p><i>Accepted</i></p> <p>The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.</p>

comment

417

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 7 (3)

16

Information and knowledge about systems to evaluate alternative AMCs used is very important for member states. This will ensure transparency, and it will ensure that confidence in each other is maintained and may be even enhanced. This is also important in order to obtain and share knowledge about even better practices and procedures. However, in order to fulfil this requirement in a administrative efficient way, this information is best shared by using some kind of centralised alternative AMC database. We suggest that the text in one way or another should be accompanied with some GM on “what is an acceptable way of informing”.

response

*Accepted*

To support Member States in the uniform application of the provision in question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment

418

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 7 (5) (c)

16

Information and knowledge about alternative AMCs used is very important for member states. This will ensure transparency, and it will ensure that confidence in each other is maintained and may be even enhanced. This is also important in order to obtain and share knowledge about even better practices and procedures. However, in order to fulfil this requirement in a administrative efficient way, this information is best shared by using some kind of centralised alternative AMC database. We suggest that the text in one way or another should be accompanied with some GM on “what is an acceptable way of informing”.

response

*Accepted*

To support Member States in the uniform application of the provision in question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment 510

comment by: *Federal Office of Civil Aviation FOCA*

Art. 7 par. 5: Please delete the requirement of notification to other Member States. Notification to other Member States would create an administrative burden, without any obvious benefit. EASA has confirmed at the occasion of a presentation on AltMoCs at the RAG meeting on 3 July 2013 that the notification via EASA resp. the publication on the dedicated website of EASA is considered to be sufficient.

response *Not accepted*

To support Member States in the uniform application of the provision in question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

However, the responsibility for informing other Member States about Alternative Means of Compliance remains within the Member State's remit.

comment 522

comment by: *HungaroControl*

Agreed.

response *Noted*

comment 574

comment by: *CANSO Civil Air Navigation Services Organization*

**Article 7  
Means of  
compliance**

6. When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall:  
(a) make them available to all ATM/ANS providers under its oversight; and

As the provision (c) exists for the ATM/ANS providers, we suggest that this provision exist also for the CAs. We would appreciate the reason for this not being provided otherwise.

	<p>(b) without undue delay notify the Agency. The competent authority shall provide the Agency with a full description of the alternative means of compliance, including any revisions to procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.</p> <p>(c) inform other Member States about alternative means of compliance that were accepted.</p>	
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response *Not accepted*

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

comment 743

comment by: *AvinorANSP*

6. When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall:

- (a) make them available to all ATM/ANS providers under its oversight; and
- (b) without undue delay notify the Agency.

The competent authority shall provide the Agency with a full description of the alternative means of compliance, including any revisions to procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.

**(c) inform other Member States about alternative means of compliance that were accepted.**

Add (c).

As the provision (c) exists for the ATM/ANS providers, we suggest that this provision exist also for the CAs. We would appreciate the reason for this not being provided otherwise.

response *Not accepted*

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

comment 771

comment by: ROMATSA

Comment: To add as follows:

6. When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall:

- (a) make them available to all ATM/ANS providers under its oversight; and
- (b) without undue delay notify the Agency.

The competent authority shall provide the Agency with a full description of the alternative means of compliance, including any revisions to procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.

(c) inform other Member States about alternative means of compliance that were accepted.

Justification:

As the provision (c) exists for the ATM/ANS providers, we suggest that this provision exist also for the CAs. We would appreciate the reason for this not being provided otherwise.

response *Not accepted*

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

comment	<p data-bbox="351 212 406 246">849</p> <p data-bbox="1149 212 1444 246">comment by: <i>IFATCA</i></p> <p data-bbox="351 302 1444 369">2. Alternative means of compliance may be used to establish compliance with the Implementing Rules</p> <p data-bbox="351 369 1444 459">From experience IFATCA is opposed to alternative means of compliance. Alternative means of compliance have already been used by one European member states.</p> <p data-bbox="351 459 1444 784">This recent experience has shown that this is being used for commercial reasons to significantly downgrade service provision and quality of service including the licensing. E.g. Not capabilities are checked, but the financial possibilities for a candidate to pay its training. Air navigation law changes permits in some countries to train within 90 days and self-assess itself in order to provide a low cost ATM service. Institutionalising such non ICAO/SES compliant behaviour will bring inevitably a lowering of service and endangering to aim for the highest possible safety standards. A passengers deserves the right to be controlled by a well selected, well trained and capable air traffic controller and not somebody who is financial capable of buying a license.</p>
response	<p data-bbox="351 806 438 840"><i>Noted</i></p>
comment	<p data-bbox="351 963 406 996">858</p> <p data-bbox="1077 963 1444 996">comment by: <i>Belgocontrol</i></p> <p data-bbox="351 1041 1444 1176">how will alternative MCs be handled that are already implemented for many years? Are these to be assessed in the early stages of the transitional period by the competent authority in order to give sufficient time to the ATM/ANS provider to implement changes if required.</p>
response	<p data-bbox="351 1198 438 1232"><i>Noted</i></p> <p data-bbox="351 1288 1444 1478">To support Member States in the uniform application of the provision in question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <a href="https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php">https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php</a>.</p>
comment	<p data-bbox="351 1568 422 1601">1055</p> <p data-bbox="1141 1568 1444 1601">comment by: <i>UK CAA</i></p> <p data-bbox="351 1657 534 1691"><b>Page No:</b> 16</p> <p data-bbox="351 1691 869 1724"><b>Paragraph No:</b> Article 7 paragraph 3</p> <p data-bbox="351 1724 1444 1792"><b>Comment:</b> UK CAA suggests the text could be amended to improve the grammar and clarity of intent.</p> <p data-bbox="351 1792 1444 1859"><b>Justification:</b> The text includes a split infinitive and the article should require more than just an evaluation.</p> <p data-bbox="351 1859 1444 1915"><b>Proposed Text:</b> "...shall establish a system to consistently evaluate <b>assure</b> that all alternative means of compliance..."</p>
response	<p data-bbox="351 1937 534 1971"><i>Not accepted</i></p>

The commented provision already applies in the other aviation domains. A significant number of stakeholders requested the Agency to align as much as possible the provisions related to the competent authorities with the existing ones relevant to other aviation domains (e.g. aircrew and air operations, aerodromes and the proposed ones with Opinion No 11/2013) unless there is a sector-specific reason.

comment

1060

comment by: UK CAA

**Page No:** 16**Paragraph No:** Article 7 paragraph 4**Comment:** Generation/Use of Alternative Means of Compliance is limited here to certified ATM/ANS providers. UK CAA suggests this should also include those who 'declare'.**Justification:** A provider of FIS who declared (rather than is certified) should be able to propose Alternate Means of Compliance as is provided for at paragraph (c) of ORO.GEN.120.**Proposed Text:** Insert an additional paragraph:

'An operator required to declare its activity shall notify to the competent authority a list of any alternative means of compliance it uses to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules.'

response

*Accepted*

It should be noted that the issue is already addressed in the provision related to declaration by flight information services providers (please refer to ATM/ANS.OR.A.015 rev. (b)(2), NPA 2013-08 provision number ATM/ANS.OR.A.025 (a)(2).

comment

1069

comment by: Danish Transport Authority

Art. 7 (5) (c)

Information and knowledge about alternative AMCs used is very important for member states. This will ensure transparency, and it will ensure that confidence in each other is maintained and may be even enhanced. This is also important in order to obtain and share knowledge about even better practices and procedures. However, in order to fulfil this requirement in a administrative efficient way, this information is best shared by using some kind of centralised alternative AMC database. We suggest that the text in one way or another should be accompanied with some GM on "what is an acceptable way of informing".

[The comments/suggestion also relates to Article 7\(3\) "...shall establish a system to consistently...etc."](#)

response

*Partially accepted*

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency is divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

To support Member States in the uniform application of the provision in

question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment 1107 comment by: French Civil Aviation Authority (DGAC)

-  
French CAA comment

Article 7 – Means of Compliance - §6 (p16):

*“When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall (...)”*

There is no clarity about the fact that a competent authority can define an alternative means of compliance for ATM/ANS providers under its supervision.

This is the reason why it is suggested to complete the sentence:

*“When the competent authority itself uses alternative means of compliance **or defines alternative means of compliance for the ATM/ANS providers under its supervision** to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall (...)”*

response Partially accepted

The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.

The subject definition is laid down in Article 2 which clearly defines that ‘Acceptable Means of Compliance (AMC)’ are non-binding standards adopted by the Agency to illustrate means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules.

AltMOC are defined as ‘those that propose an alternative to an existing AMC or those that propose new means to establish compliance with Regulation (EC) No 216/2008 and its Implementing Rules for which no associated AMC have been adopted by the Agency;’.

Under ATM/ANS.AR.015, the competent authority must establish a system to assess the AltMOC used by itself or by the service provider under its oversight. In addition, when the competent authority develops AltMoC itself, it shall make them available to all organisations and persons under its oversight. The intention of the rule is not to prevent AltMOC being developed by the competent authority for use by the organisation under its oversight. However, it should be noted that these, like the ones proposed by the organisation, remain alternatives, which must be assessed in accordance with ATM/ANS.AR.A.015 and which the organisation may decide to use or not. These AltMOC issued by the competent authority are not to be seen as ‘mandatory’ in any way and should be clearly identified as being alternatives ways to comply with the rules. For further details on AMCs and AltMOCs, please refer to <https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php>.

comment	<p data-bbox="351 277 427 313">1138</p> <p data-bbox="986 277 1449 313" style="text-align: right;">comment by: <i>Luca Valerio Falessi</i></p> <p data-bbox="351 365 1449 432"><b>The Agency shall</b> inform other Member States about alternative means of compliance that were accepted.</p> <p data-bbox="351 461 1449 528">The role of Agency as repository of all AMOC should avoid each member state to inform the other member states.</p> <p data-bbox="351 528 1449 595">Better having a central repository where the AMOC are stored and available to all Member States by default.</p>
response	<p data-bbox="351 607 536 642"><i>Not accepted</i></p> <p data-bbox="351 696 898 732">The Agency takes note of the comment.</p> <p data-bbox="351 745 1449 943">To support Member States in the uniform application of the provision in question, the Agency has created a new webpage on its website to include information for NAAs and other stakeholders on AMC and Alternative Means of Compliance, including a form to be used to notify the Agency. The information is available under <a href="https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php">https://easa.europa.eu/rulemaking/acceptable-and-alternative-means-of-compliance-AMCs-and-AltMOCs.php</a>.</p> <p data-bbox="351 956 1449 1023">However, the responsibility for informing other Member States about Alternative Means of Compliance remains within the Member State's remit.</p>

comment	<p data-bbox="351 1108 427 1144">1169</p> <p data-bbox="1177 1108 1449 1144" style="text-align: right;">comment by: <i>ENAV</i></p> <p data-bbox="351 1198 663 1234">Proposal for rewording</p> <p data-bbox="351 1234 1449 1328">6. When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall:</p> <p data-bbox="351 1328 1372 1364">(a) make them available to all ATM/ANS providers under its oversight; and</p> <p data-bbox="351 1364 938 1400">(b) without undue delay notify the Agency.</p> <p data-bbox="351 1400 1449 1525">The competent authority shall provide the Agency with a full description of the alternative means of compliance, including any revisions to procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.</p> <p data-bbox="351 1525 1449 1588">(c) inform other Member States about alternative means of compliance that were accepted.</p> <p data-bbox="351 1588 485 1624">Rationale</p> <p data-bbox="351 1624 1449 1686">As the provision (c) exists for the ATM/ANS providers, we suggest that this provision exist also for the CAs.</p>
response	<p data-bbox="351 1702 536 1738"><i>Not accepted</i></p> <p data-bbox="351 1792 1449 1886">The Implementing Rule dealing with the means of compliance alternative to the AMC issued by the Agency has been divided into two separate provisions placed in Part-ATM/ANS.AR and Part-ATM/ANS.OR respectively.</p> <p data-bbox="351 1899 1449 2002">When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no</p>

need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

**COVER REGULATION - Article 8**

p. 16-17

comment

295

comment by: *HungaroControl*

6. When the competent authority itself uses alternative means of compliance to achieve compliance with Regulation (EC) No 216/2008 and its Implementing Rules it shall:

- (a) make them available to all ATM/ANS providers under its oversight; and
- (b) without undue delay notify the Agency.

The competent authority shall provide the Agency with a full description of the alternative means of compliance, including any revisions to procedures that may be relevant, as well as an assessment demonstrating that the Implementing Rules are met.

- (c) inform other Member States about alternative means of compliance that were accepted.

As the provision (c) is applicable for the ATM/ANS providers, it should be applicable also for the CAs.

response

*Not accepted*

When the competent authority decides to use Alternative Means of Compliance itself, it shall make them available to all organisations under its oversight, meaning to make them public. Therefore, the Agency considers that there is no need for an additional obligation for the competent authorities to inform other Member States about Alternative Means of Compliance that are in use by them.

comment

388

comment by: *EUROCONTROL*

**Page 16 - Article 8**

The title of Article 8 is Flexibility provision, but in reality the article describes the exemptions. It is suggested to change title into Exemptions.

response

*Noted*

The Agency takes note of the comment. The subject article is deleted.

comment

1062

comment by: *UK CAA*

**Page No:** 16-17

**Paragraph No:** Article 8

**Comment:** UK CAA suggests this Article should be deleted. A similar article was deleted from the proposed aircrew regulation by the EASA Committee on

the grounds that it was not an appropriate provision for the regulation which became Commission Regulation (EU) No 1178/2011, as amended by Commission Regulation (EU) No. 290/2012. It was not included in either Commission Regulation (EU) No 965/2012 on Operations nor the regulation on aerodromes as voted positively on by the EASA Committee.

**Justification:** Legal consistency.

**Proposed Text:** Delete Article 8 in its entirety.

response *Accepted*

## COVER REGULATION – Article 9

p. 17

comment 63 comment by: *ATC the Netherlands*

### Grandfather rights

Holders of an existing certificate under 1035/2011 for service provision shall be deemed to hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal of the following NPA resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will include also the technical requirements for the provision of meteorological services and could contain also other proposals such as DAT, when the deliverables are being consulted.

comment 95 comment by: *NATS National Air Traffic Services Limited*

### Article 9

Appropriate transitional provisions should be provided for ATSEPs where grandfather rights should be recognised (as well as/instead of Annex XII).

response *Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the

requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal of the following NPA (resulting from the work of RMT.0469) after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and introduced towards the Opinion publication.

comment

114

comment by: LfV

There need to be transitional provisions and the grandfathering rights for ATSEP: (ATS.OR.225 Safety requirements for engineering and technical personnel undertaking operational safety-related tasks)

response

*Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal of the following NPA (resulting from the work of RMT.0469) after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and introduced towards the Opinion publication.

It is important to be noted that the commented provision on 'safety requirements for engineering and technical personnel undertaking operational safety-related tasks' is a direct transposition of point 3.3 of Annex II to Regulation (EU) No 1035/2011.

comment

115

comment by: LfV

Propose that the option of a maximum opt out by Member States for one additional year (resulting in a total in 3 years transition) is made available also for the implementation of  
ATCO rostering system,  
fatigue and stress management,  
ATSEP-requirements.

response

*Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal of the following NPA (resulting from the work of RMT.0469) after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the subject provision will developed and introduced towards the Opinion publication.

comment	<p data-bbox="352 215 408 241">221</p> <p data-bbox="995 215 1445 241">comment by: AENA-NPA2013-08</p> <p data-bbox="352 300 858 327"><b>Article 9 - Transitional provisions</b></p> <p data-bbox="352 331 1445 456">The transitional provisions shall be aligned with the finalisation of the on-going rulemaking tasks, delaying entry into force of articles and provisions which are currently reserved, while establishing an earlier deadline for the parts that are already in Regulation 1035/2011.</p>
response	<p data-bbox="352 483 480 510"><i>Accepted</i></p> <p data-bbox="352 568 1445 891">Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will include also the technical requirements for the provision of meteorological services and could contain also other proposals such as DAT, when the deliverables are being consulted.</p>
comment	<p data-bbox="352 983 408 1010">228</p> <p data-bbox="940 983 1445 1010">comment by: Irish Aviation Authority</p> <p data-bbox="352 1068 887 1095"><b>Paragraph No:</b> Transitional provisions</p> <p data-bbox="352 1099 1445 1162"><b>Comment:</b> No detail provided for ATSEPs arrangements, in particular 'grandfather rights' for existing ATSEPs</p> <p data-bbox="352 1167 1445 1229"><b>Justification:</b> Existing ATSEPs and Providers need to know requirements for training/competence of existing ATSEPs as soon as possible.</p> <p data-bbox="352 1234 1054 1261"><b>Proposed Text:</b> Provide ATSEP transitional details.</p>
response	<p data-bbox="352 1285 437 1312"><i>Noted</i></p> <p data-bbox="352 1370 1445 1626">Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469, after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.</p>
comment	<p data-bbox="352 1722 408 1749">267</p> <p data-bbox="995 1722 1445 1749">comment by: AENA-NPA2013-08</p> <p data-bbox="352 1807 847 1834"><b>Article 9 Transitional provisions.</b></p> <p data-bbox="352 1839 1445 1964">Explanatory material to Art.9: taking into account that the Competence Authority has 18 months to ensure compliance and adapt to the new requirements, 24 months for the ANSP could not be sufficient, depending on the regulation changed by the CA.</p>

response *Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469, after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.

comment

420

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Article 9	17	We support the proposed 18 months adaption time to allow the competent authority to ensure compliance. However for ANSPs that have already been certified in accordance with Regulation (EU) No 1035/2011 and for ATM/ANS providers which were not in the scope of Regulation (EU) No 1035/2011 we think a transition period of three years is needed for all instead of your proposed two years and two years with an opt out for an additional year. Three years are needed for the competent authority to fulfil their requirements regarding ensuring compliance and certification as ATM/ANS providers have to be compliant with the new regulation before a certificate can be issued.
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response *Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication. This Opinion will include also the technical requirements for the provision of meteorological services and could contain also other proposals such as DAT, when the deliverables are being consulted.

comment 652

comment by: *PANSA*

*Holders of certificates issued under Regulation 1035/2011 for service provision shall be deemed to hold a certificate under the new regulation without any*

*further administrative procedures or actions. Any possible differences between the regulatory requirements under Regulation 1035/2011 and the new regulation shall be subject to the continuous oversight programme, resulting in a subsequent amendment of the certificate, within the transition period.*

**Justification:**

*Service continuity ensured.*

response

*Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.

comment

744

comment by: *AvinorANSP*

Stakeholders are invited to comment on the Agency's proposal for transitional provisions.

The CANSO proposals are as follows:

Line up with RP3 (2020) to avoid additional implementation costs.

Or to review the performance indicators in RP2 as we are subject to both the performance regulation and this regulation.

However, if this is not feasible, then we would appreciate the following being taken into consideration as options:

Align on the finalisation of the on-going rulemaking tasks, the ICAO TF on fatigue and the safety risk assessment RMT, as well as other annexes, such as MET, which are currently reserved. Or,

Delay the new parts and implement the parts that are already in the 1034/2011 and 1035/2011. Or,

Have an implementation period with a deadline and the possibility for earlier implementation where and when the ANSP is ready.

response

*Noted*

The Agency will duly consider the proposed various transitional provisions and will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning safety assessment of changes to the functional systems and the MET Annex. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency will issue dedicated NPAs on the provisions related to the assessment of changes to the functional systems and has

already published a NPA on MET services. The final outcome of the consultation of NPA 2013-08 and of these mentioned NPAs will be issued in a single EASA Opinion. The time-schedule of the ATC fatigue risk management task does not seem to be relevant in this sense, while it is dependent on the ICAO FRMS TF progress which still contains quite significant uncertainties.

Apart from this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC/GM for SKPI for RP2. When considering the alignment of the AMC/GM for SKPIs, the Agency will make any necessary effort and perform any necessary consultation in order to avoid any additional burden and at the same time to keep the agreed targets. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.

comment 745

comment by: *AvinorANSP*

Holders of an existing certificate under 1035/2011 or 2096/2005 for service provision shall be deemed to hold a certificate under the new regulation without any further administrative procedures or actions. Any differences between the regulatory requirements under 1035/2011 and the new regulation shall be subject to the continuous oversight program, resulting in a subsequent amendment of the certificate, within the transition period.

response *Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the subject provision will be developed and introduced towards the Opinion publication.

comment 860

comment by: *Belgocontrol*

Needs clarification

Alignment of these transitional provisions and the requirements related to them should possibly be aligned with the same periodicity of the Reporting Periods of the Performance Scheme. The impact of the transition of these provisions will impact the Performance planning with the related costs. For this reason, it is proposed to enact this regulation at the latest stage of the Reporting Period. How are already Certified ATM/ANS providers handled in the context here? This is in regards to the already previously certified providers.

	<p>How are the extensions to the Certificate handled in regards to the already existing certified elements?</p>
response	<p><i>Noted</i></p> <p>The Agency will duly consider the various transitional provisions and will aim at proposing a solution which will provide a clear consultation arrangement for the proposed Regulation. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome of the consultation of NPA 2013-08 and of other NPAs (resulting from the work of RMT.0469 and NPA on MET services) will be issued in a single EASA Opinion by the end of 2014. Moreover, as explained in paragraph 73 of the Explanatory Note to this NPA, the subject article 'Transitional provisions' can only be proposed after the consultation and evaluation of the comments. Therefore, the transitional provisions will only be proposed as an element of the final rule as part of the Agency Opinion to the European Commission. In relation to this, the Agency agrees with the rationale to consider the applicability of this Regulation in relation to the ATM performance scheme. The outcome of the rule development in progress will most likely impact certain related implementing measures, such as the AMC for SKPI for RP2. However, taking into account the difficulty in envisaging the outcome at this stage, the Agency believes that it could be necessary to reconsider the transitional provisions later on during the adoption process as proposed by the commentator.</p> <p>It could be noted that the proposal by the Agency in reference to the providers that have already been certified in accordance with Regulation (EU) No 1035/2011, is two years of transition from the date of entry into force of the new proposed Regulation (which may happen the earliest in 2015 taking into account normal rulemaking processes). This means that the expected applicability or implementation date would not be earlier than 2017. (please refer to paragraph 73 of the Explanatory Note to NPA 2013-08).</p>
comment	<p>929 <span style="float: right;">comment by: Kerry Airport</span></p> <p><b>Document:</b> B – Implementing Rule  <b>Page No:</b> 17  <b>Paragraph No:</b> Transitional provisions  <b>Comment:</b> No detail provided for ATSEPs arrangements, in particular 'grandfather rights' for existing ATSEPs  <b>Justification:</b> Existing ATSEPs and Providers need to know requirements for training/competence of existing ATSEPs as soon as possible.  <b>Proposed Text:</b> Provide ATSEP transitional details.</p>
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the subject</p>

provision will be developed and introduced towards the Opinion publication.

comment	1011	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	We placed our proposal for transitional provisions in the comment on A EN 73.	
response	<i>Noted</i>	

comment	1068	comment by: <i>UK CAA</i>
	<p><b>Page No:</b> 17  <b>Paragraph No:</b> Transitional provisions  <b>Comment:</b> There are no details provided for ATSEPs arrangements, in particular provisions for existing ATSEPs. Proposals in Explanatory Note lack detail.  <b>Justification:</b> Existing ATSEPs and Providers need to know the requirements for training/competence of existing ATSEPs as soon as possible.  <b>Proposed Text:</b> Provide ATSEP transitional details.</p>	
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue an Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal on the following one resulting from the work of RMT.0469 and on meteorological requirements after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.</p>	

comment	1078	comment by: <i>Danish Transport Authority</i>
	<p>We support the proposed 18 months adaption time to allow the competent authority to ensure compliance. However for ANSPs that have already been certified in accordance with Regulation (EU) No 1035/2011 and for ATM/ANS providers which were not in the scope of Regulation (EU) No 1035/2011 we think a transition period of three years is needed for all instead of your proposed two years and two years with an opt out for an additional year. Three years are needed for the competent authority to fulfil their requirements regarding ensuring compliance and certification as ATM/ANS providers have to be compliant with the new regulation before a certificate can be issued.  <a href="#">Suggest that a reference is made also to the comments made to A (Explanatory Notes) for the very reason that an adopted text is not available.</a></p>	
response	<i>Noted</i>	

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.

comment

1143

comment by: *Luca Valerio Falessi*

**A window of time of 4 years should be provided for the transition.**

**New applications should refer to the new regulation.**

**There should be a clear procedure to allow presently certified AFIS to move to "self-declaration" status**

response

Noted

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is developed and will be introduced towards the Opinion publication.

In reference to the last part of your comment, it is important to be noted that the possibility for a certified FIS provider to use the flexibility of self-declaration of verification could be given only if a Member State decides that FIS providers are allowed to declare their capability and means of discharging the responsibilities associated with the services provided, in accordance with Article 8b.3 of Regulation (EC) No 216/2008 under certain criteria laid down in the proposed rule. The procedure as such should be established by the competent authority of a Member State itself.

comment

1343

comment by: *USCA*

**Article 9 - transitional provisions**

**[Left Blank]**

USCA would wish to state that when a set of rule is proposed, the transitional provision should also have been written.

Putting the NPA under consultation without having the entire document available is not, in our opinion, the best way to proceed.

response

Noted

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion within the 4<sup>th</sup> quarter of 2014 on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency will introduce the commented provision towards the Opinion publication.

Furthermore, it is important to be noted that paragraph 73 of the Explanatory Note clearly explained that the subject article 'Transitional provisions' can only be proposed after the consultation on the relevant proposals, the evaluation of the comments and the finalisation of the proposed rule text, and, therefore, it will be proposed in the Agency Opinion to the European Commission. Furthermore, in the same paragraph 73 of the Explanatory Note, a proposal on the subject provision is presented and the stakeholders are invited to comment on it.

**COVER REGULATION – Article 10**

p. 17

comment 96

comment by: *NATS National Air Traffic Services Limited***Article 10**

As 1035/2011 is to be repealed then the Amendments to other Rules that are currently in 1035/2011 Article 13 need to be considered. Article 10 2. addresses where references to 1035/2011 shall be construed as being to this regulation. However, in Article 13 (1) of 1035/2011, reference is made to Article 4(5) of 482/2008 and its reference to 2096/2005. As 482/2008 is not being repealed but 1035/2011 is being repealed then similar text needs to be included in this regulation.

**Suggested resolution**

Add additional text to Article 10

"Regulation (EC) No 482/2008 is amended as follows:

in Article 4(5), the reference to "Regulation (EC) No 2096/2005" is replaced by a reference to "Commission Implementing Regulation (EU) No xxxx/xxxx"

response *Noted*

Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion on the requirements for the service providers (resulting from NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is reworked towards the Opinion publication.

comment 223

comment by: *AENA-NPA2013-08***Article 10 - Repeal**

	<p>It is not understood the reference made to "Annex in 3" included in Article 10.4. Please, clarify:  <i>4. References made to the Annex in 3 shall be construed as being made to this regulation.</i></p>
response	<p><i>Noted</i></p> <p>Paragraph (3) of the commented provision defines Annex VI to Regulation (EU) No 677/2011 to be repealed. The purpose of paragraph (4) is to define further the references made to Annex VI to Regulation (EU) No 677/2011 to be construed as being made to this Regulation.</p> <p>The Agency plans to issue the subject Opinion in the 4<sup>th</sup> quarter of 2014. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is reworked towards the Opinion publication.</p>
comment	<p>523 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p><i>"Article 10</i>  <b>Repeal</b>  1. Commission Implementing Regulation (EU) No 1034/2011 and Commission Implementing Regulation (EU) No 1035/2011 are repealed.  2. References made to the repealed regulations shall be construed as being made to this regulation."</p> <p><i>The new regulation will repeal Regulations 1034/2011/EU and 1035/2011/EU, but if it will not contain the developed parts "Changes to the functional system", "Safety requirements for risk assessment and mitigation with regard to changes" and "Software safety assurance system": then in this case these requirements will not be contained in any regulations. Therefore entry into force of the new regulation and repealing the two others shall be harmonized with the availability of RMT.0469 and RMT.0470 planned to be contained those requirements.</i></p>
response	<p><i>Accepted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion on the requirements for the service providers (resulting from NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment and will duly consider it when the commented provision is reworked towards the Opinion publication.</p>
comment	<p>1012 <span style="float: right;">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></span></p> <p>For the prevention of regulatory gaps the repeal provisions should not enter into force as long as not all elements thereof, that were intended to be part of this Regulation, are fully transposed. This is especially the case w.r.t. ATS.OR.210 and 215.  We therefore recommend publishing the Opinion to this NPA only when the</p>

	rulemaking tasks relating to the above mentioned points is done and consulted as well.
response	<p><i>Accepted</i></p> <p>Based on the outcome of the NPA consultation and the stakeholder advice received during the focussed consultation organised after its closure, the Agency plans to issue a single Opinion on the requirements for the service providers (resulting from the commented NPA 2013-08) and the proposal resulting from the work of RMT.0469 after being consulted. Therefore, the Agency takes note of the comment.</p>

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART A – GENERAL REQUIREMENTS –  
ATM/ANS.AR.A.001 Scope**

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comment	<p>97 <i>comment by: NATS National Air Traffic Services Limited</i></p> <p>We believe that the wording used in Annex I is less than ideal and could, as currently drafted lead to a risk of confusion and/or misinterpretation. This Annex requires substantial redrafting (In some cases the OR equivalents are much better.)</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p>
comment	<p>150 <i>comment by: NATS National Air Traffic Services Limited</i></p> <p>The title of Annex I "REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR)" limits the scope to ATM/ANS which therefore excludes the Network Manager. Is this the intent?</p>
response	<p><i>Accepted</i></p> <p>The Agency takes note of the comment and the title is amended accordingly.</p>
comment	<p>151 <i>comment by: NATS National Air Traffic Services Limited</i></p> <ul style="list-style-type: none"> <li>• The introductory text refers to "This Part establishes...", however the Scope is in Subpart A.</li> <li>• There is text that refers to "Annexes II to XI", however the regulation contains twelve Annexes.</li> <li>• The numbering convention appears to be quite different amongst the</li> </ul>

	<p>Annexes. Here ATM/ANS.AR.A.001 is followed by ATM/ANS.AR.A.005. Annex II and IV start at 005, Annex III starts at 105 as do Annexes V, VII, VIII and XI with XII starting at 005.</p> <ol style="list-style-type: none"> <li>1. Move ATM/ANS.AR.A.001 to be physically above "SUBPART A – GENERAL REQUIREMENTS" and below "ANNEX I REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR)"</li> <li>2. Amend "Annexes II to XI" to read "Annexes II to XII".</li> <li>3. Align Annexes to a common numbering scheme.</li> </ol>
response	<p><i>Accepted</i></p> <p>In reference to the 1<sup>st</sup> comment, the Agency takes the comment into consideration and the text is amended.</p> <p>In reference to the 2<sup>nd</sup> comment, the proposal is accepted.</p> <p>In reference to the 3<sup>rd</sup> comment the Agency takes due consideration and a common numbering conversion is applied.</p>

comment	<p>389 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 19 - Annex I, Subpart A, ATM/ANS.AR.A.001</b>                  This subpart is about ..."the enforcement of Annexes II to XI".                  Why is Annex XII excluded?</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment and the text is amended.</p>

comment	<p>602 <span style="float: right;">comment by: CANSO Civil Air Navigation Services Organization</span></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; padding: 5px;">ATM/ANS.AR.A.001 Scope</td> <td style="width: 50%; padding: 5px;">This Part establishes the requirements for the administration, and management system to be complied with by the competent authorities responsible for the application and the enforcement of Annexes II to XI to this Regulation, <del>except for those established or nominated under Article 3 (2).</del></td> <td style="width: 30%; padding: 5px;">ATM/ANS.AR.A.015 and 020 are functions of both CAs (where there are 2) designated by the member state having jurisdiction over that airspace (not only the certifying and overseeing CA)</td> </tr> </table>	ATM/ANS.AR.A.001 Scope	This Part establishes the requirements for the administration, and management system to be complied with by the competent authorities responsible for the application and the enforcement of Annexes II to XI to this Regulation, <del>except for those established or nominated under Article 3 (2).</del>	ATM/ANS.AR.A.015 and 020 are functions of both CAs (where there are 2) designated by the member state having jurisdiction over that airspace (not only the certifying and overseeing CA)
ATM/ANS.AR.A.001 Scope	This Part establishes the requirements for the administration, and management system to be complied with by the competent authorities responsible for the application and the enforcement of Annexes II to XI to this Regulation, <del>except for those established or nominated under Article 3 (2).</del>	ATM/ANS.AR.A.015 and 020 are functions of both CAs (where there are 2) designated by the member state having jurisdiction over that airspace (not only the certifying and overseeing CA)		

response *Accepted*

The provision is amended accordingly.

comment 972

comment by: *Météo-France*

**ICAO annex 3 requirements on “contracting states”**

Some requirements on contracting state of ICAO annex 3 do not appear in the proposed text. These provisions could be considered as “authority requirements” but it is clear that they do not concern the competent authority for certification and oversight (NSA), but the Member State itself. Therefore we understand that these provisions cannot be inserted in the AR part.

Is it considered by EASA that there is no need to transpose these provisions?

response *Noted*

The Agency takes note of the comment. An article on 'provision of services' is introduced.

comment 1110

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.AR.A.001 – Scope (p19):

« *This Part establishes the requirements for the administration and management system to be complied with by the competent authorities responsible for the application and the enforcement of Annexes II to XI to this Regulation, except for those established or nominated under Article 3 (2).*”

The competent authorities are responsible for the certification and oversight of ATM/ANS providers who are responsible to apply Annexes II to XI, but the competent authorities are not responsible to apply Annexes II to XI themselves.

This is the reason why it is suggested to modify the sentence:

« *This Part establishes the requirements for the administration and management system to be complied with by the competent authorities responsible for **the supervision of the application by ATM/ANS providers** and the enforcement of Annexes II to XI to this Regulation, except for those established or nominated under Article 3 (2).*”

response *Partially accepted*

The Agency takes the comment into consideration. The commented provision is amended.

comment	1244	comment by: ENAV
	<p>Proposal for rewording</p> <p>This Part establishes the requirements for the administration, and management system to be complied with by the competent authorities responsible for the application and the enforcement of Annexes II to XI to this Regulation, <del>except for those established or nominated under Article 3 (2).</del></p> <p>Rationale</p> <p>ATM/ANS.AR.A.015 and 020 are functions of both CAs (where there are 2) designated by the member state having jurisdiction over that airspace (not only the certifying and overseeing CA)</p>	
response	<p><i>Accepted</i></p> <p>The proposal is accepted.</p>	

comment	1266	comment by: CAA CZ
	<p><b>General comment</b></p> <p>Introduction of some requirements for Competent Authorities, such as Management systems, justify some of the NSA actions that have already been initiated.</p>	
response	<p><i>Noted</i></p>	

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART A – GENERAL REQUIREMENTS –  
ATM/ANS.AR.A.005 Oversight function**

p. 19

comment	11	comment by: Jan Loncke
	<p>Propose the change the wording in; <b>ATM/ANS.AR.A.005 Oversight function (b)(2)</b> suggest to replace "visibility of" by "a view on" : (2) the competent authorities concerned have <del>visibility of</del> <b>a view on</b> the safety oversight mechanisms and their results; and</p>	
response	<p><i>Not accepted</i></p> <p>The Agency considers that the proposal would limit the scope and the details over the oversight mechanisms and their results when the competent authority identifies and allocates responsibilities. Therefore, the proposal is not accepted.</p>	

comment 98 comment by: *NATS National Air Traffic Services Limited*

ATM/ANS.AR.A.005 - Para B

Whilst recognising that an ANSP should not be subjected to double supervision for activity within a FAB the sub points 1 2 and 3 do not add up to an assurance that there would not be duplicate regulation and cost, that a single reliable overview of safety of the ANSP activity is maintained, it does not seem to cover activity across a FAB boundary into other FABs.

Suggest amending the last sentence and adding "... *achieved safety performance*, cost of oversight and overall effectiveness of supervision."

response *Not accepted*

The Agency takes note of the comment. However, the proposal is considered as a performance issue which is already regulated. The Agency considers that the modification would over-regulate the subject and, therefore, disagrees with the proposal. The Agency received the same advice by experts during the focussed consultation when the comments were analysed.

Furthermore, for better understanding, a GM is proposed clarifying that during the review of the agreement, the competent authorities should address the practical implementation considering the results of the assessment performed in accordance with ATM/ANS.AR.C.005.

comment 116 comment by: *LFV*

In Annex I Safety Oversight, requirements ATM/ANS.AR.A.005 (a) ATM/ANS.AR.A.015 (a) and ATM/ANS.AR.C.005 the scope of the regulations has extended from "safety oversight" to "oversight" and from "safety regulation" to "regulation". This may have a large impact on the cost of oversight (for both NSAs and ANSPs) and may not necessarily be safety driven.

response *Noted*

This NPA proposes the amalgamation of two Implementing Regulations into one single Regulation. The main purpose is to align the scope and applicability of the requirements for the providers and the requirements for competent authorities on their oversight. This approach has been supported by the European Commission enabling easier implementation and would facilitate the work of competent authorities especially when the same authority has oversight responsibilities in different aviation domains. Despite of the fact the 'safety' has been detached, the scope of this proposed Implementing Rule is the same as in the higher ranking Regulation. The Basic Regulation defines the scope of ATM/ANS provision and the related safety objectives to be complied with through the appropriate implementing measures which shall be developed.

comment 152 comment by: *NATS National Air Traffic Services Limited*

	<p style="text-align: center;">ATM/ANS.AR.A.005 (a)</p> <p>The term "...applicable to ATM/ANS and other network functions..." is potentially misleading as network functions is include in the definition of ATM/ANS providers.</p> <p>Amend (a) to read:  "...requirements applicable to ATM/ANS providers to monitor..."</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the provision is amended.</p>
comment	<p>372 <span style="float: right;">comment by: <i>Prospect ATCOs' Branch UK</i></span></p> <p>We welcome this provision, particularly in respect of the airspace sharing trials of the UK/Ireland FAB.</p>
response	<p><i>Noted</i></p>
comment	<p>390 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 19 - Annex I, Subpart A, ATM/ANS.AR.A.005</b>  Paragraph (b) mentions the "competent authorities" whereas EC-1035/2011 was referring to "Members States". This could have an impact on local legislation.  We therefore propose for (b): In addition to Article 3(4) of this Regulation, Member States shall conclude an agreement on the supervision of ATM/ANS providers...</p>
response	<p><i>Not accepted</i></p> <p>The obligations of the Member States concerned in cases of FAB or in cross-border service provision are laid down in the Cover Regulation, especially in the Article on competent authority. Based on the concept established in Article 4 of Regulation (EU) No 1034/2011 in the mentioned cases, FAB or cross-border service provision, the commented provision is tailored being applied by the competent authorities.</p> <p>The Agency does not consider appropriate the responsibilities of Member States to be specified within the Annex establishing the requirements for the administration and management system to be complied with by the authorities.</p>
comment	<p>772 <span style="float: right;">comment by: <i>ROMATSA</i></span></p> <p style="text-align: center;"><b>Annex I</b></p> <p><b>ATM/ANS.AR.A.005</b></p> <p>Comment:</p>

To make the following deletion: „In addition to Article 3(4) of this Regulation, competent authorities shall conclude an agreement on the supervision of ATM/ANS providers active in functional airspace blocks (FABs) ~~which extend across the airspace falling under the responsibility of more than one Member State or in cases of cross-border provision.~~”

Justification:

The text proposed to be deleted is redundant as by the definition FABs (see Art. 2 of the Reg (EC) 549/2004 as amended) extends over the airspace of more than one Member States.

response *Accepted*

comment *810*

comment by: *D Winship*

The requirement states that competent authorities must “regularly review the agreement and its practical implementation...”. However, in the absence of guidance material for this requirement, what is considered to constitute “regular” could be open to very different interpretations.

Suggested amendment:

Provide AMC/ guidance material to assist NSAs in ensuring compliance. Alternatively provide within the requirement some minimum criteria {e.g. “regularly review, on at least an *TBDannual* basis, the agreement and its practical implementation.”}

response *Accepted*

The Agency takes the comment into consideration and an AMC is developed. It specifies that the agreement on the supervision in a functional airspace block (FAB) or in cases of cross-border provision should include the frequency of the review. It provides flexibility to the competent authorities concerned to specify it.

comment *812*

comment by: *D Winship*

As currently written sub-part (a) could be open to a wide range of interpretations regarding what is considered to constitute “safety information”.

Suggested text;

“...and disseminate safety information arising from a safety problem involving ATM/ANS providers subject to Regulation (EC) No 216/2008 and its Implementing Rules.”

response *Noted*

The Agency understands that this is a comment on point (a) of ATM/ANS.AR.A.020 ‘Immediate reaction to safety problem’ (former ATM/ANS.AR.A.015). On this basis, the Agency believes that the defined scope of this draft Regulation which is included in Article 1, clarifies the area of applicability and, therefore, the type of safety information that needs to be disseminated.

comment	851	comment by: IFATCA
	As SES II+ introduces a new notion of FAB which could be enlarged to industry. How would this work if e.g. a car, radar or aircraft manufacturer would form an FAB with an ANSP (not necessarily cross border).	
response	<i>Noted</i>	
	The Agency takes note of the comment. It does not address the subject NPA, but the separate SES2+ proposal, which has been introduced by the Commission.	

comment	987	comment by: European Transport Workers Federation - ETF
	ATM/ANS.AR.A.005 (b) ETF welcomes this new provision !	
response	<i>Noted</i>	

comment	1072	comment by: UK CAA
	<p><b>Page No:</b> 19  <b>Paragraph No:</b> ATM/ANS.AR.A.005 (a)  <b>Comment:</b> UK CAA suggests 'other network functions' should be deleted or defined more fully.  <b>Justification:</b> This term is undefined in scope and its use is no longer necessary given the new definition used for ATM/ANS provider.</p>	
response	<i>Accepted</i>	

comment	1074	comment by: UK CAA
	<p><b>Page No:</b> 19  <b>Paragraph No:</b> ATM/ANS.AR.A.005 (b)  <b>Comment:</b> UK CAA suggests this paragraph is amended as agreement on supervision of ATM/ANS providers needs to be made by Member States not Competent Authorities.  <b>Justification:</b> This is a sovereign, Member State responsibility and not the responsibility of Competent Authorities. Consistency with higher regulations (Article 2 of the Service Provision Regulation).  <b>Proposed Text:</b> '...of this regulation, <del>competent authorities</del> <b>Member States</b> shall conclude an agreement...'</p>	
response	<i>Not accepted</i>	

The obligations of the Member States concerned in cases of FABs or in cross-border service provision are laid down in the Cover Regulation, especially in the Article on competent authority. Based on the concept established in Article 4 of Regulation (EU) No 1034/2011 in the mentioned cases, FAB or cross-border service provision, the commented provision is tailored being applied by the competent authorities.

The Agency does not consider appropriate the responsibilities of Member States to be specified within the Annex establishing the requirements for the administration and management system to be complied with by the authorities.

comment

1124

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.AR.A.005 – Oversight function (p19):

« *The competent authorities concerned shall regularly review the agreement and its practical implementation in particular in the light of achieved safety performance.* »

The underlined words are unclear and may lead to confusion and different implementation from one Member State to another. This is the reason why it is suggested to add AMC or GM to this part: “regularly” may be defined as “every five years as a minimum”, and “safety performance” may be linked to the results of the assessment led under the requirement of ATM/ANS.AR.C.005.

*“In addition to Art 3 (4) of this regulation (...)”*

**Reference to Art 3 (1)(b) should be added** since Art 3(4) only addresses situations where *the Agency is the competent authority for at least one of the organisations.*

response

Accepted

The Agency takes the comment into consideration and an AMC is developed. It specifies that the agreement on the supervision in a FAB or in cases of cross-border provision should include the frequency of the review. It provides flexibility to the competent authorities concerned to specify it.

The proposal for amendment in the commented provision is accepted.

comment

1152

comment by: *Luca Valerio Falessi*

**Modify (b) as follows:**

(b) In addition to Article 3(4) of this Regulation, competent authorities shall ~~conclude an agreement on the supervision of ATM/ANS providers active in functional airspace blocks (FABs) which extend across the airspace falling under the responsibility of more than one Member State or in cases of cross-border provision~~ **shall conclude an agreement on the supervision**

The agreement on the supervision in a FAB should be done among three categories of competent authorities:

a) the CA of the Member States participating to the FAB;

	<p>b) The authorities of those ANSPs which provide services in the FAB (different from the previous one in case of X border services);</p> <p>c) EASA if applicable.</p> <p>The proposed version simplifies the very geeneral requirement in SES regulation, and contestualise it into the 216/2008 framework, as well as removing any further uncertainty in the identification of the partner of the agreement.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the proposal into consideration.</p> <p>Point (b) of the provision is amended.</p> <p>Based on the proposal, a GM on the subject is developed.</p>
comment	<p>1279 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Proposal:</p> <p>To make the following deletion: „In addition to Article 3(4) of this Regulation, competent authorities shall conclude an agreement on the supervision of ATM/ANS providers active in functional airspace blocks (FABs) <del>which extend across the airspace falling under the responsibility of more than one Member State or in cases of cross-border provision.</del>”</p> <p>Justification:</p> <p>The text proposed to be deleted is redundant as by the definition FABs (see Art. 2 of the Reg (EC) 549/2004 as amended) extends over the airspace of more than one Member States.</p>
response	<p><i>Accepted</i></p>
comment	<p>1321 <span style="float: right;">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></span></p> <p>ATM/ANS.AR.A.005 Oversight function</p> <p>(b) In addition to Article 3(4) of this Regulation, competent authorities shall conclude an agreement on the supervision of ATM/ANS providers active in functional airspace blocks (FABs) which extend across the airspace falling under the responsibility of more than one Member State or in cases of cross-border provision. The competent authorities concerned shall identify and allocate the responsibilities for safety oversight in a manner which ensures that:</p> <p>(1) specific points of responsibility exist to implement each provision of this Regulation;</p> <p>(2) the competent authorities concerned have visibility of the safety oversight mechanisms and their results; and</p>

(3) relevant information exchange is ensured between competent authorities. The competent authorities concerned shall regularly review the agreement and its practical implementation in particular in the light of achieved safety performance.

FIT CISL appreciates this new provision

response *Noted*

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) – SUBPART A – GENERAL REQUIREMENTS – ATM/ANS.AR.A.010 Information to the Agency** p. 19

comment 421 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.A.010 b)	19	Is it enough with the data provided in ECCAIRS database or is this referring to some other kind of reporting? Clarify this in the GM.
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response *Accepted*

The Agency takes the comment into consideration. The proposed GM is further amended.

comment 525 comment by: *Federal Office of Civil Aviation FOCA*  
Need for harmonisation with ADR.AR.A.25 (horizontal task)

response *Accepted*

The Agency agrees with this comment, however, the reference to the SES rules should remain due to the dual legal basis used.

comment 1081 comment by: *Danish Transport Authority*

ATM/ANS.AR.A.010 b)

	Is it enough with the data provided in ECCAIRS database or is this referring to some other kind of reporting? Clarify this in the GM.
response	<i>Noted</i>
	The Agency takes the comment into consideration. The proposed GM is further amended.

comment	1268	comment by: CAA CZ
	The extent of requirement and level of details is too generic and might lead to standardization issues.	
response	<i>Noted</i>	
	The Agency takes the comment into consideration. The proposed GM is amended to provide further details.	

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART A – GENERAL REQUIREMENTS –  
ATM/ANS.AR.A.015 Immediate reaction to safety problem**

p. 20

comment	43	comment by: BCAA
	ATM/ANS.AR.A.015 point (a) : Why is there a reference to the old Regulation 2003/42/EC for occurrence reporting ? There is in the mean-time already the transposition of Annex 13 of ICAO into EU law available by Regulation 996/2010/EC. Proposal to change EC reference and to skip point (a) in this proposed IR, because ends up in double use of the same requirements.	
response	<i>Not accepted</i>	
	Directive 2003/42/EC is replaced by Regulation (EU) No 376/2014. It should be noted that Regulation (EU) No 996/2010 deals with different matters. In addition, point (a) is without prejudice to the provisions of Regulation (EU) No 376/2014.	

comment	153	comment by: NATS National Air Traffic Services Limited
	<p style="text-align: center;">ATM/ANS.AR.A.015 (c)</p> <p>This requirement requires the CA to act upon receiving information as a result of (a) and (b) including issuing safety directives (in accordance with ATM/ANS.AR.A.020). However ATM/ANS.AR.A.020 only relates to safety</p>	

directives when the CA has determined the existence of an unsafe condition in a **functional system**. This limitation does not appear to reflect the needs of ATM/ANS.AR.A.015 (a) and (b) insofar as safety directives do not necessarily apply to the information generated by (a) and (b).

**Suggested resolution**

Amend (c) to read:

“Upon receiving the information referred to in (a) and (b), the competent authority shall take adequate measures to address the safety problem, including the issuing of safety directives in accordance with ATM/ANS.AR.A.020 **with regard to unsafe conditions in a functional system.**”

Or amend ATM/ANS.AR.A.020 (a) to read:

“The competent authority shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system requiring immediate action **or when information referred to in ATM/ANS.AR.A.015 (a) and (b) requires the CA to take measures to address the safety problem.**”

Depending upon the original intent of the requirement.

response

*Not accepted*

The Agency has the view that the commented provisions are clear enough, while the proposed amendment does not provide further clarification.

comment

201

comment by: *Icelandic Transport Authority*

The Agency shall implement a system to appropriately analyse any safety information received from the competent authorities and without undue delay provide to Member States and the Commission, as appropriate, with any information, including recommendations or corrective actions to be taken, necessary for them to react in a timely manner to a safety problem involving ATM/ANS providers subject to Regulation (EC) No 216/2008 and its Implementing Rules.

response

*Accepted*

The text is amended.

comment

217

comment by: *AIRBUS*

**ATM/ANS.AR.A.015**

Airbus suggests to change the title of this item “*Immediate reaction to safety problem*” by:

**“Collection, analysis and dissemination of safety information”.**

response

*Not accepted*

The Agency takes the comment into consideration. However, it should be noted that this is a horizontal requirement for all aviation domains addressing a requirement of paragraph 7(e) of Article 8b. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions

related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domains. Following this principle, the proposal is not accepted.

comment

305

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.A.015 <b>Immediate reaction to safety problem</b> ATM/ANS.OR.A.060 <b>Safety reporting</b>	The proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007, which is now under discussion, should be taken into account.	It is important to ensure consistency between the different regulations regarding occurrence reporting.

response

*Noted*

Point (a) foresees that the provision of this requirement is without prejudice to Directive 2003/42/EC. The Agency follows the ongoing work regarding the proposed Regulation on occurrence reporting.

comment

527

comment by: Federal Office of Civil Aviation FOCA

ATM/ANS.AR.A.015 (d):  
 Notification to the Agency and other Member States seems to create an administrative burden, without any obvious benefit. What is EASA's intent and handling with such notification? If Member States have to notify to the Agency, the aim and the further proceeding with this information should be transparent to the national authorities. Furthermore, it is not clear what kind of safety concerns will fall under the scope of this article.

response

*Not accepted*

This is a horizontal requirement which has been implemented in all other

aviation domains. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domain. Following this principle, the proposal is not accepted.

comment 532 comment by: EUROCONTROL

**Page 20 - ATM/ANS.AR.A.015 Immediate reaction to safety problem**

We think that a better delineation between safety problem and safety directives, including a clarification of the relations between the two, is necessary.

response *Not accepted*

A safety directive is one of the means to be used by a competent authority in order to address an unsafe condition which requires immediate action. As such, the Agency believes that there is no need to define further these terms.

comment 852 comment by: IFATCA

(a) Without prejudice to **EC 996/2010 and Directive** 2003/42/EC, the competent authority shall implement a system to appropriately collect, analyse, and disseminate safety information.  
Avoid fragmentation due to inconsistency in the proposed text.

response *Noted*

The Agency takes the comment into consideration.

comment 1126 comment by: French Civil Aviation Authority (DGAC)

French CAA comment

ATM/ANS.AR.A.015 – Immediate reaction to safety problem :

In order to clarify *safety information / safety problem* concepts and subsequent actions, **it is proposed to amend (c) :**

" (c) Upon receiving the information referred to in (a) and (b), the competent authority shall **take due consideration of the information and, when appropriate, take adequate measures to address the safety problem, if any, including the issuing of safety directives (...)**"

The "adequate measures" referred in (c) may be very various and numerous, specifically when referring through safety occurrences reporting under (a). Only significant measures, such as safety directives, should then be notified to the

Agency, in order to focus on significant safety problems, and not for all safety occurrences.

This is the reason why it is suggested to modify the sentence:

« (d) Measures taken under (c) shall immediately be notified to the ATM/ANS providers which need to comply with them under Regulation (EC) No 216/2008 and its Implementing Rules. **When appropriate, the competent authority shall also notify those measures to the Agency and, when combined action is required, the other competent authorities concerned.**”

response *Not accepted*

This is a horizontal requirement which has been implemented in all other aviation domains. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domain. Following this principle, the proposal is not accepted.

comment 1158

comment by: *Luca Valerio Falessi*

Modify as per the following:

(a) Without prejudice to Directive 2003/42/EC the competent authority shall implement a system to appropriately collect, analyse, and disseminate **communicate to the Agency** safety information.

(b) The Agency shall implement a system to appropriately analyse any safety information received from the competent authorities and without undue delay **disseminate it and** provide to Member States and the Commission, as appropriate, with any information, including recommendations or corrective actions to be taken, necessary for them to react in a timely manner to a safety problem involving ATM/ANS providers subject to Regulation (EC) No 216/2008 and its Implementing Rules.

The central role of the Agency can better provide a dissemination function than any single Member State.

response *Not accepted*

This is a horizontal requirement which has been implemented in all other aviation domains. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domain. Following this principle, the proposal is not accepted.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART A – GENERAL REQUIREMENTS –  
ATM/ANS.AR.A.020 Safety directives**

p. 20

comment 44 comment by: BCAA

ATM/ANS.AR.A.020 point (a) : speaks about issuing safety directives.  
Is the competent authority the NSA or the Regulator itself ?  
The competent authority shall send the issued safety directives to who ? Who will read these safety directives ? Who has to be informed ? Who shall take action ? Who is accountable for doing the actions required in the safety directive ? What is the difference with NOTAM ?

response *Noted*

The issue of the competent authority is adequately addressed in Article 4 of the draft Regulation. Moreover, all other issues related to the implementation of the provision on safety directives are defined in the commented provision, while ATM/ANS.OR.A.060 defines relevant responsibilities of the service providers. A NOTAM is a notice to airmen, (a notice distributed by means of telecommunication containing information concerning the establishment, condition or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations), which may be initiated by a service provider, as opposed to the safety directive which is an administrative act initiated and issued by the competent authority, mandating actions to be performed by a service provider.

comment 99 comment by: NATS National Air Traffic Services Limited

ATM/ANS.AR.A.020 - Para (b) (3)  
We have doubts concerning the actions required and their rationale insofar as one would have to question whether the regulator is really competent enough to identify the actions required. NATS believes that under an SMS the ANSP can identify the action to meet the desired outcome.  
Recommend changing "*action required*" to "*required outcome*"

response *Not accepted*

The Agency has the view that a competent authority should always be in the position to perform such oversight tasks.

comment 154 comment by: NATS National Air Traffic Services Limited

ATM/ANS.AR.A.020 (a)  
As the competent authority is singular then the use of the plural "they" should be "it" and the past tense should be "has" rather than "have".

response	<p>Amend (a) to read:          "The competent authority shall issue a safety directive when <b>it has</b> determined the existence of an unsafe condition in a functional system requiring immediate action.</p> <p><i>Accepted</i></p>
comment	<p>155 comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;">ATM/ANS.AR.A.020 (c)</p> <p>In ATM/ANS.AR.A.020 (a) CA is singular, whereas it is plural in (c); for consistency amend to singular.          Amend (c) to read:          "The competent authority shall...."</p>
response	<p><i>Accepted</i></p>
comment	<p>156 comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;">ATM/ANS.AR.A.020 (d)</p> <p>In ATM/ANS.AR.A.020 (a) CA is singular, whereas it is plural in (d); for consistency amend to singular.          Amend (d) to read:          "The competent authority shall...."</p>
response	<p><i>Accepted</i></p>
comment	<p>224 comment by: <i>AENA-NPA2013-08</i></p> <p><b>Page 20, ATM/ANS.AR.A.020 Safety directives</b>          To ensure principles of common oversight across Europe, it is proposed to modify the provision set out in ATM/ANS.AR.A.020 (a) as highlighted in red:  <i>(a) The competent authority shall issue a safety directive <b>only</b> when they have determined the existence of an unsafe condition in a functional system requiring immediate action.</i>  <i>Safety directives shall not be used to regulate ATM/ANS providers' activities.</i></p>
response	<p><i>Not accepted</i></p> <p>This is a horizontal requirement which has been implemented in all other aviation domains. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domain. Following this principle, the</p>

proposal is not accepted.

comment

306

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.A.020 <b>Safety directives</b> ATM/ANS.AR.C.005 <b>Monitoring of safety performance</b> ATM/ANS.OR.A.060 <b>Safety reporting</b>	AESA proposes to include " <i>national supervisory</i> " in these three sections as follows: <u><i>national supervisory</i></u> authority.	In order to clarify to which authority reference is being made.

response

*Not accepted*

The issue of the competent authority is adequately addressed in Article 4 of the draft Regulation.

comment

307

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.A.020 <b>Safety directives</b>	<p><i>"The competent authorities shall forward a copy of the safety directive to the Agency and any other competent authorities concerned"</i>.</p> <p>It is not clear when the authority shall forward a copy.</p> <p>Further to this, a period of</p>	This would set a level playing field and would harmonise/standardise the way to proceed with the handling of safety directives vis-à-vis the Agency and other NSAs.

	time should be specified.	
response	<p><i>Not accepted</i></p> <p>The Agency takes note of this comment. However, given the fact that safety directives are meant to be issued in cases of unsafe conditions requiring immediate action, the Agency expects the forwarding of these directives in a timely manner. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domain. Following this principle, the proposal is not accepted.</p>	

comment	308	comment by: AESA / DSANA						
	<table border="1"> <thead> <tr> <th>PART</th> <th>COMMENT</th> <th>JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td>Annex I ATM/ANS.AR.A.020 <b>Safety directives</b></td> <td> <p><i>“The competent authorities shall verify the compliance of ATM/ANS providers with the applicable safety directives”.</i></p> <p>Acceptable means of compliance (AMC) should be defined for this requirement.</p> </td> <td> <p>These AMC are requested in order to clarify when is it considered that the competent authority has verified the compliance with a safety directive.</p> </td> </tr> </tbody> </table>		PART	COMMENT	JUSTIFICATION	Annex I ATM/ANS.AR.A.020 <b>Safety directives</b>	<p><i>“The competent authorities shall verify the compliance of ATM/ANS providers with the applicable safety directives”.</i></p> <p>Acceptable means of compliance (AMC) should be defined for this requirement.</p>	<p>These AMC are requested in order to clarify when is it considered that the competent authority has verified the compliance with a safety directive.</p>
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response	<p><i>Not accepted</i></p> <p>The draft provision requires the verification of compliance of the service providers with the safety directives. However, the actions that need to be taken depend on the content of the safety directive and the nature of the unsafe condition. Moreover, ATM/ANS.AR.C.005(a)(6) requires the competent authority to establish a process to verify the implementation of safety directives.</p>							

comment 423 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.A.020	20	We need clarification on the status compared with the new Level 1 finding. Is a Safety Directive ranked higher (more severe)? Is the Safety Directive necessary if the findings are graded? Clarify when a safety directive versus a Level 1 finding shall be issued e.g. in case of significant non compliance with operational procedures. GM is needed.
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response *Noted*

A safety directive is an administrative act initiated and issued by the competent authority, mandating actions to be performed by a service provider. As such, a safety directive is not a synonym to a level 1 or 2 finding. The latter is meant to be issued in the course of oversight activities (audits/inspections), while a safety directive may be simply the result of a safety study, or accident report, which led to the identification of an unsafe condition.

comment 529 comment by: *Federal Office of Civil Aviation FOCA*

ATM/ANS.AR.A.020 (c): Need for harmonisation with ADR.AR.A.40 Notification to Agency and other Member States seems to create an administrative burden, without any obvious benefit. How does EASA proceed with such notifications? If Member States have to notify to the Agency, the aim and the further proceeding with this information should be transparent to the national authorities.

response *Noted*

The Agency takes consideration of this comment. Furthermore, it should be noted that this provision applies today, in accordance with Article 13 of Regulation (EU) No 1034/2011. Moreover, the Agency believes that the exchange of safety information of this nature is a *sine-qua-non* condition for the development and smooth functioning of a European aviation system (ICAO Annex 19 chapter 5).

comment 533 comment by: *EUROCONTROL*

**Page 20 - ATM/ANS.AR.A.020 Safety directives**

We think that a better delineation between safety problem and safety directives, including a clarification of the relations between the two, is necessary.

response *Not accepted*

A safety directive is one of the means to be used by a competent authority in order to address an unsafe condition which requires immediate action. As such, the Agency believes that there is no need to define further these terms.

comment

1077

comment by: UK CAA

**Page No:** 20

**Paragraph No:** ATM/ANS.AR.A.20 (a)

**Comment:** The term '*unsafe condition*' is not defined.

**Justification:** To assist in standardisation between competent authorities such terms need to be defined as clearly as possible.

response *Noted*

comment

1129

comment by: French Civil Aviation Authority (DGAC)

French CAA comment

ATM/ANS.AR.A.020 – Safety directives (p20):

« (a) *The competent authority shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system requiring immediate action.*”

Under regulation (EU) n°1034/2011, it appears that the wording “unsafe condition” could be understood in very various way, as a conclusion of intense discussions during the NSA Coordination Platform (NCP) Working Group on Safety Oversight and On-going Compliance (NCP WG SOC).

This is the reason why it is suggested to add GM in order to help competent authority to apply this requirement in a harmonised way. The work led by the NCP WG SOC may be used fruitfully in that respect.

ATM/ANS.AR.A.020 – Safety directives (p20):

« (b) *Safety directive shall be forwarded to the ATM/ANS providers concerned and contain, as a minimum, the following information: (...)*”

Under regulation (EU) n°1034/2011, as a conclusion of intense discussions during the NSA Coordination Platform (NCP) Working Group on Safety Oversight and On-going Compliance (NCP WG SOC), it appears that a template for safety directives would be useful.

This is the reason why it is suggested to add GM in order to help competent authority to apply this requirement in a harmonised way. The work led by the NCP WG SOC may be used fruitfully in that respect.

response *Partially accepted*

The Agency takes the proposals into consideration.  
Three new GM are developed, including a safety directive template.

comment

1160

comment by: *Luca Valerio Falessi***Modify (a) and (c) as per the following:**

(a) The competent authority shall issue a safety directive when they have determined the existence of an unsafe condition in a functional system, **not promptly rectified by the concerned ANSPs and** requiring immediate action.

(b)

(c) The competent authorities shall forward a copy of the safety directive to the Agency ~~and~~ **which will distribute it to** any other competent authorities concerned

Safety directives should be issued only if there's no action from the concerned ANSP or the functional system is in use by other ANSPs.

Central Role of EASA should be enhanced.

response

*Not accepted*

This is a horizontal requirement which has been implemented in all other aviation domains. Moreover, the Agency has been requested by the stakeholders to align as much as possible the provisions related to competent authorities with the existing ones relevant to other aviation domains, unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domain. Following this principle, the proposal is not accepted.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART A – GENERAL REQUIREMENTS –  
ATM/ANS.AR.A.025 Oversight reporting**

p. 20

comment

531

comment by: *Federal Office of Civil Aviation FOCA*

FOCA fully supports that an Annual Safety Oversight Report is no longer requested.

response

*Noted*

comment	1198	comment by: <i>Luca Valerio Falessi</i>
	<p><b>Modify as per following</b></p> <p>The competent authority shall contribute to the annual reports by the Member States, <del>as required by Article 12 of Regulation (EC) No 549/2004</del>, on oversight actions pursuant to this <b>SES</b> Regulation.</p> <p>In view of SES II+ changes, better limit referencies to Framework regulation</p>	
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>This NPA proposes Implementing Rule to the Basic Regulation and the 'high level' SES Regulations. The Agency follows the ongoing work on the updates of SES rules and would make the necessary adjustments to the references with the publication of the subject Opinion or support the Commission during the Comitology on the subject once the SES2+ proposal is adopted.</p>	

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART B – MANAGEMENT (ATM/ANS.AR.B) –  
ATM/ANS.AR.B.005 Management system**

p. 21

comment	64	comment by: <i>ATC the Netherlands</i>
	<p>The wish for standarisation of the management system is contradictory to the need to be innovative to meet the challenging performance targets</p>	
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. However, it should be noted that the introduction of the management system for competent authorities is in line with the SSP as required by ICAO Annex 19. Building a robust management system will guarantee that meeting the performance targets will not influence the levels of safety.</p>	
comment	100	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p>ATM.ANS.AR.B.005(a) A management system is the framework of processes and procedures used to ensure that an organisation can fulfil its tasks. We are doubtful that people and office space form part of the “management system”.</p>	
response	<p><i>Noted</i></p>	

The Agency takes note of the comment. It should be noted that ATM/ANS.AR.B.005(a) addresses a requirement on documented policies and procedures that describe the competent authority's organisation, means and methods to achieve compliance with the applicable requirements. The procedures shall be kept up to date and serve as the basic working documents within that competent authority for all related tasks.

comment 143 comment by: *NATS National Air Traffic Services Limited*

OR Management System requirements seem much better than AR. Suggest redrafting using OR.B.015 as the basis.

response *Not accepted*

It should be noted that the purpose of the management system related to the competent authorities is to facilitate the implementation of the SSP as required by ICAO Annex 19. As part of the SSP, it is required that certain service providers under its supervision implement an SMS.

ATM/ANS.OR.B.005 addresses the management system requirements for providers, while ATM/ANS.AR.B.001 defines the requirements for authorities to ensure effective monitoring of the eight critical elements of the safety oversight function. The different set-up of the management system requirements related to competent authorities and providers are due to the different nature of activities of the regulated organisation.

Furthermore, it needs to be pointed out that the Agency follows the ICAO Annex 19 rationale, in which approach the level of details and nature of requirements for authorities and providers are not of the same nature.

comment 157 comment by: *NATS National Air Traffic Services Limited*

#### ATM/ANS.AR.B.005

There is no rationale for this text to be significantly different for the competent authority as opposed to ATM/ANS providers. The text of ATM/ANS.AR.B.005 should be modified as proposed and ATM/ANS.AR.B.015 deleted as the proposed text incorporates the intent of that section.

On the assumption that the proposed comment and suggested text is accepted requirements for Human Resources, Facilities Requirements and Security Management should be extracted into a new rule:

#### **"Human resources**

The competent authority shall employ appropriately skilled personnel to perform its tasks and discharge its responsibilities as defined in Regulation (EC) No 216/2008 and its Implementing Rules in a safe, efficient, continuous and sustainable manner. In this context, it shall establish policies for the recruitment and training of personnel in accordance with ATM/ANS.AR.B.005(a)(6)."

#### **"Facilities requirements**

The competent authority shall ensure that there are adequate and appropriate facilities to perform and manage all tasks and activities in accordance with the applicable requirements."

On the assumption that the proposed comment and suggested text is accepted

security requirements should be extracted in a new rule:

**"Security management**

(a) The competent authority shall, as an integral part of the management system required in ATM/ANS.AR.B.005, establish a security management system to ensure:

- (1) the security of their facilities and personnel so as to prevent unlawful interference with the provision of services; and
- (2) the security of data they receive, or produce, or otherwise employ, so that access to it is restricted only to those authorised.

(b) The security management system shall define:

- (1) the procedures relating to security risk assessment and mitigation, security monitoring and improvement, security reviews, and lesson dissemination;
- (2) the means designed to detect security breaches and to alert personnel with appropriate security warnings; and
- (3) the means of containing the effects of security breaches and to identify recovery action and mitigation procedures to prevent re-occurrence.

(c) The competent authority shall ensure the security clearance of their personnel, if appropriate, and coordinate with the relevant civil and military authorities to ensure the security of their facilities, personnel and data."

If the proposed comment on MS is not accepted by EASA then the inclusion of requirements for human resources, facilities and security should still be considered.

**Suggested resolution**

Amend ATM/ANS.AR.B.005 to better align with the equivalent OR:

"Management system

(a) The competent authority shall implement and maintain a management system that includes:

- (1) clearly defined lines of responsibility and accountability throughout the competent authority, including a direct accountability of the senior manager;
- (2) a description of the overall philosophies and principles of the competent authority with regard to safety, quality, and security of its services, as applicable, referred to as the policy, signed by the senior manager;
- (3) the means to verify the performance of the competent authority's organisation in reference to the performance indicators and performance targets of the management system in relation to the achievement of compliance with Regulation (EC) No 216/2008 and its Implementing Rules;
- (4) a formal process to identify changes that affect its capability to perform its tasks and discharge its responsibilities as defined in Regulation (EC) No 216/2008 and its Implementing Rules;
- (5) A formal processes to review the management system, identify the causes of substandard performance of the management system, determine the implications of such substandard performance, and eliminate or mitigate such causes;
- (6) a training programme that ensures that personnel are trained and competent to perform their duties; and
- (7) formal means for communication that ensure that all personnel are fully aware of the management system, to convey critical information, and explain why particular actions are taken and why procedures are introduced or changed.

(b) The competent authority shall document all management system key processes, including a process for making personnel aware of their responsibilities, and its amendment procedure.

(c) The competent authority shall establish a function to monitor compliance of the organisation with the relevant requirements and the adequacy of the procedures. Compliance monitoring shall include a feedback system of findings to the senior manager to ensure effective implementation of corrective actions

as necessary.  
 (d) The management system shall be proportionate to the size of the organisation and its activities, taking into account the hazards and associated risks inherent in those activities.  
 (e) Within the management system, the competent authority shall establish formal interfaces with the relevant stakeholders to:  
 (1) identify the aviation safety hazards entailed by its activities, to evaluate them, and to manage the associated risks as appropriate; and  
 (2) perform its tasks and discharge its responsibilities in accordance with the requirements of this regulation.  
 (f) The competent authority shall update its management system to reflect any change to Regulation (EC) No 216/2008 and its Implementing Rules in a timely manner, so as to ensure effective implementation.  
 (g) The competent authority shall notify the Agency of changes affecting its capability to perform its tasks and discharge its responsibilities as defined in Regulation (EC) No 216/2008 and its Implementing Rules.

response

*Not accepted*

It should be noted that the purpose of the management system related to the competent authorities is to facilitate the implementation of the SSP as required by ICAO. As part of the SSP, it is required that certain service providers under its supervision implement an SMS.

ATM/ANS.OR.B.005 addresses the management system requirements for providers, while ATM/ANS.AR.B.001 defines the requirements for authorities to ensure effective monitoring of the eight critical elements of the safety oversight function. The different set-up of the management system requirements related to competent authorities and providers are due to the different nature of activities of the regulated organisation.

Furthermore, it should be pointed out that the Agency follows the Annex 19 rationale, in which approach the level of details and nature of requirements for authorities and providers are not of the same nature.

comment

158

comment by: *NATS National Air Traffic Services Limited*

ATM/ANS.AR.B.005 (4)

This requirement does not read very well as it contains nested requirements and a second "shall" in a separate sentence.

Suggest amending (4) to read:

"(4) a function to monitor compliance of the management system with the relevant requirements and adequacy of the procedures, including

(i) the establishment of an internal audit process;

(ii) a safety risk management process;

(iii) a feedback system of audit findings to the senior management of the competent authority to ensure implementation of corrective actions as necessary; and"

response

*Not accepted*

With a view to achieving a realistic implementation of the safety management procedures through SSP as required by ICAO, there is a growing support within the ATM/ANS community for the need to also harmonise the management

systems of the competent authorities. Without new rules at EU level that incorporate the SSP requirements, the harmonisation of the management system requirements would be very difficult – if not impossible – to achieve. The competent authorities in other aviation domains (e.g. aircrew, air operations) have already been required to upgrade their systems and procedures to the new SSP-based authority requirements introduced with Regulation (EU) No 290/2012 and Regulation (EU) No 965/2012. For the aerodrome authorities, these rules are already adopted. It should be also noted that, within the competent authorities of some Member States, the oversight of aerodromes, air traffic controllers licensing and certification, and ATM/ANS is combined within one functional unit. Towards a total system approach, these management system-related requirements are harmonised, and it would, therefore, be logical to meet the requirements for the ATM/ANS authority along the same lines to achieve full alignment.

comment

199

comment by: *Icelandic Transport Authority***ATM/ANS.AR.B.005 Management system**

regarding: (a) (2)

Referring also to the AMC and GM for this requirement: further provisions are required and explanations regarding what constitutes „necessary knowledge“ and „experience“. The requirement should at least be in accordance with the ICAO provision of Doc9734 where it is stated that „the qualification of a civil aviation inspector should ideally match the qualification of those who are being inspected“. We also refer to the art 3.5.1.6 of the document stating that the organisation with safety oversight responsibility should be as knowledgeable, qualified and experienced in the appropriate areas of qualification and experience as the organisation being inspected. It is our view that this needs to be spelled out in the regulation itself.

response

*Partially accepted*

The Agency takes the comment into consideration. In achieving the objective of 3.5.1.6 ICAO Doc 9734, AMC1 ATM/ANS.AR.B.001(a)(2) is already proposed.

comment

391

comment by: *EUROCONTROL***Page 21 - Annex I, Subpart B, ATM/ANS.AR.B.005**

Management systems are addressed in a very formal way (which was not the case in previous regulations). The introduction of the management systems will create some confusion among the NSAs that had already been certified as ISO 9001 (QMS).

Shall these continue with the QMS certification? In the case of small providers the management system as integrated management system will not work (see the results from the auditing requiring SMS with possible derogations and QMS at the same time).

A tailored system meeting only essential requirements (please see the same requirements from Regulation 73/2010 –ADQ) would be more effective than a system meeting the requirements currently given.

response *Not accepted*

It should be noted that the purpose of the management system related to the competent authorities is to facilitate the implementation of the SSP as required by ICAO. As part of the SSP, it is required that certain service providers under its supervision implement an SMS.

ATM/ANS.OR.B.005 addresses the management system requirements for providers, while ATM/ANS.AR.B.001 defines the requirements for authorities to ensure effective monitoring of the eight critical elements of the safety oversight function. The different set-up of the management system requirements related to competent authorities and providers are due to the different nature of activities of the regulated organisation.

Moreover, in practice, the management systems are meant to be commensurate with/proportionate to the complexity/size/activities of the organisation, which, in practice, allows the tailoring of the management system to the needs of the individual service providers, provided the objectives of the Regulation are met.

comment 556 comment by: *Federal Office of Civil Aviation FOCA*

Need for harmonisation with ADR.AR.B.005

response *Accepted*

With a view to achieving a realistic implementation of the safety management procedures through SSP as required by ICAO, there is a growing support within the ATM/ANS community for the need to harmonise the management systems of the competent authorities unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domains.

comment 954 comment by: *EUROCONTROL Safety Team*

Page 21 ATM/ANS.AR.B.005 Management System  
Support that competent authorities need a management system to ensure the effective and timely execution of their oversight duties.

response *Noted*

The Agency takes note of the comment.

comment 1079 comment by: *UK CAA*

**Page No:** 21  
**Paragraph No:** ATM/ANS.AR.B.005 (d)

	<p><b>Comment:</b> UK CAA suggests this paragraph needs to be modified to ensure that this is a requirement to facilitate Standardisation audits on demand and not a continual flow of documents to EASA.</p> <p><b>Justification:</b> Copying management procedures and amendments to the Agency would be burdensome and bureaucratic.</p> <p><b>Proposed Text:</b> 'shall be made available <b>on demand</b> to the agency ...'</p>
response	<p><i>Not accepted</i></p> <p>With a view to achieving a realistic implementation of the safety management procedures through SSP as required by ICAO, there is a growing support within the ATM/ANS community for the need to also harmonise the management systems of the competent authorities unless there is a sector-specific reason for them to be different due to the fact that in many cases the authority responsible for the oversight of service providers is the same body for more than one aviation domains.</p>
comment	<p>1094 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment</p> <p>General : "Territory" versus "high seas"</p> <p>In the case of cross-border or "cross-FIR" provision of services over oceanic airspace beyond territorial waters (<u>high seas</u>), the word "territory" is not appropriate.</p> <p>Related paragraphs: ATM/ANS.AR.B.005 (c) and ATM/ANS.AR.B.020 (a) (6)</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration. However, it should be noted that the EU rules apply to the area where the EU Treaty applies. For the purpose of the commented provision, the Agency considers that no amendment is required.</p>
comment	<p>1202 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p><b><u>Modify (a) as per following:</u></b></p> <p>(a) <b><u>With reference to ATM/ANS</u></b> The competent authority shall establish and maintain a management system, including as a minimum:</p> <p>To avoid that this part of the regulation embraces all fields of activities of the competent authority in other aviation domains.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the proposal. However, it should be noted that the applicability and the scope of the subject Part is defined in ATM/ANS.AR.A.001.</p>

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART B – MANAGEMENT (ATM/ANS.AR.B) –  
ATM/ANS.AR.B.010 Allocation of tasks to qualified entities**

p. 21-22

comment	<p>45</p> <p>ATM/ANS.AR.B.010 point (a) : in this article a task of continuous oversight of ATM/ANS providers is allocated to qualified entities. This is incorrect and against the Regulation of EASA 216/2008 Article 3 ! Qualified entities are legally created for doing a specific <u>certification</u> task. They are not mandated nor competent for a task of <u>continuous oversight</u>.</p>	comment by: <i>BCAA</i>
response	<p><i>Not accepted</i></p> <p>Taking into account those clarification needs, the Agency, therefore, amends its proposal on the GM associated to ATM/ANS.AR.B.010 (now ATM/ANS.AR.B.005) with regard to the tasks that may be performed by a qualified entity on behalf of the competent authority. Please refer to the final resulting text of GM1 ATM/ANS.AR.B.005.</p>	
comment	<p>65</p> <p>This means that external auditors can visit the ANSP on behalf of the NSA. This requires more preparation and guidance on ANSP side and can lead because of the cultural differences and language problems to misunderstandings. We propose an agreement with the NSA about which requirements such a qualified body should meet.</p>	comment by: <i>ATC the Netherlands</i>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>It should be noted that the proposal is already addressed in ATM/ANS.AR.B.005 (former ATM/ANS.AR.B.010(a)(2)) that requires that, when allocating tasks, the competent authority shall ensure that it has established a documented agreement with the qualified entity, approved by both parties at the appropriate management level, which clearly defines the tasks to be performed; the declarations, reports and records to be provided; the technical conditions to be met when performing such tasks; the related liability coverage; and the protection given to information acquired when carrying out such tasks.</p> <p>Furthermore, when allocating tasks to a qualified entity, Article 13 of the Basic Regulation also applies and the competent authority concerned shall ensure that such entity complies with the criteria laid down in Annex V to the Basic Regulation.</p>	

comment 144 comment by: *NATS National Air Traffic Services Limited*

Page 22 Qualified Entity (b)

It is feasible that a qualified entity may not have the same level of competence and experience as the competent authority although page 24 Oversight (b) (3) suggests the same requirement. What right of complaint does an ANSP have if the qualified entity is seen to lack competence?

Suggest the inclusion of detail of how an ANSP can complain about poor customer service from the competent authority or qualified entity.

response *Not accepted*

When the CA decides to allocate a task to a qualified entity, the competent authority must put in place a system to ensure initial and continuous compliance with requirements under the Basic Regulation and its Implementing Rules, as well as compliance with the experience and competence criteria set out in ATM/ANS.AR.B.005 (former ATM/ANS.AR.B.010). Therefore, any uncertainties need to be addressed by the service provider to the competent authority directly. In case of uncertainties regarding the oversight performed by a competent authority, the issue may be addressed to the Agency in the context of standardisation inspections or to the Ministry of Transport of the Member State concerned in accordance with the national legislation. Therefore, the Agency does not see a need for further amendments of the commented provision.

comment 237 comment by: *Icelandic Transport Authority*

**ATM/ANS.AR.B.010 Allocation of tasks to qualified entities  
EASA proposal;**

(3) the qualified entity has prior experience in assessing safety in aviation entities; and

**New proposal;**

(3) the qualified entity management personnels have prior experience in assessing safety in aviation entities; and

The current EASA proposal might hinder new companies starting operation in this field but by requiring experienced personnels the „quality“ can be assured.

response *Noted*

The Agency takes note of the comment.

The subject provision is amended and the commented point is removed as Article 13 of Regulation (EC) No 216/2008 requires the authority concerned to ensure that such entity complies with the criteria laid down in Annex V to the same Regulation which set up the respective criteria for the staff responsible for investigation.

comment 362 comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency would like to propose that AMC and/or GM be

response developed for this point, particularly relating to the requirement for authority to establish and maintain a safety risk management process to clarify what exactly is required.

*Noted*

The Agency proposes a new AMC with regard to the compliance monitoring process required in ATM/ANS.AR.AR.B.005(a)(4).

With regard to the safety risk management process, the Agency has a view that a coordinated effort is required to address this issue in a horizontal manner, therefore, the Agency at this stage can only take note of the proposal.

comment 419 comment by: CAA-NL

**ATM/ANS.AR.B.10 (general)**

Please refrain from introducing paragraph (a)(3) and a(4).

*Rationale:*

Article 13 BR states that “the agency or NAA concerned shall ensure that such entity comply with the criteria laid down in Annex V (of the BR)”. There is no delegation ground for additional requirements for the Qualified Entity to be formulated in the implementing rules This means that there is no ground for the additional requirements for the Qualified Entity which are introduced in item (3) and (4). Similar comment was given to and accepted with earlier NPA’s in other domains.

response *Accepted*

comment 424 comment by: Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)

ATM/ANS.AR.B.010 (a) (3)	22	The competence requirements for qualified entities should be equal to the requirement for competent authority ATM/ANS inspectors. This to ensure quality of the audits performed. “Prior experience” is not enough.
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response *Noted*

The Agency takes note of the comment.

The subject provision is amended and the commented point is removed as Article 13 of Regulation (EC) No 216/2008 requires the authority concerned to ensure that such entity complies with the criteria laid down in Annex V to the same Regulation which set up the respective criteria for the staff responsible for investigation.

However, in order to reinforce the qualification criteria for the qualified entities' personnel, AMC1 ATM/ANS.AR.B.010 (now ATM/ANS.AR.B.005) is amended. It defines the detailed requirements that need to be verified by the competent authority to ensure that all qualified entities' personnel concerned with the conduct of audits or reviews are adequately trained and qualified.

Furthermore, a GM is developed to provide guidance on what the competent authority should assess when verifying the qualifications of staff of qualified entities.

comment	563	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	Need for harmonization with NPA-2011-20	
response	<i>Accepted</i>	

comment	805	comment by: <i>EUROCONTROL</i>
	<p><b>Page 21 - ATM/ANS.AR.B.010 (a)</b>          "only" is misleading, as it may induce that tasks related to initial and continuous oversight cannot be allocated to staff from the competent authority itself.</p>	
response	<i>Accepted</i>	
	The Agency takes the comment into consideration and the provision is amended accordingly.	

comment	820	comment by: <i>Irish Aviation Authority</i>
	<p><b>Document:</b> B – Implementing Rule  <b>Page No:</b> 21  <b>Paragraph No:</b> ATM/ANS.AR.B.010 Allocation of tasks to qualified entities  <b>Comment:</b> ATM/ANS.AR.B.010.a states that tasks related to the initial certification or continuous oversight of ATM/ANS providers subject to Regulation (EC) No 216/2008 and its Implementing Rules shall only be allocated by the competent authority to qualified entities. The implication is that certification / oversight tasks can only be allocated to qualified entities and</p>	

	<p>cannot be allocated to personnel employed by the competent authority.  <b>Justification:</b> Legal clarity.  <b>Proposed Text:</b> No text proposed.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.  The provision is amended accordingly for better clarity and to avoid misunderstandings.</p>
comment	<p>988 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>ATM/ANS.AR.B.010 (a)(4)  This provision is not strong enough, it adds few to the Annex V of the basic regulation (216/2005), there is also a risk of to close financial proximity or of one company to be a sister of the company to be overseen which is not tackled...  A limitation of the number of tasks that can be delegated to a single qualified entity should also be introduce.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.  An associated GM clarifies the tasks that may be performed by a qualified entity on behalf of the competent authority. Please refer to GM1 ATM/ANS.AR.B.005. In reference to the numbers of tasks, the Agency considers inappropriate to bound it, but, when allocating tasks to qualified entities, it should be performed in a controlled manner and in conformance with the applicable requirements.</p>
comment	<p>1083 <span style="float: right;">comment by: <i>UK CAA</i></span></p> <p><b>Page No:</b> 21  <b>Paragraph No:</b> ATM/ANS.AR.B.010 (a)  <b>Comment:</b> UK CAA suggests this paragraph should be amended to provide clarity.  <b>Justification:</b> The text as written could be misinterpreted as meaning that such tasks must be allocated elsewhere by an NSA.  <b>Proposed Text</b> ‘...and its implementing rules, shall, <b>if allocated by the competent authority</b>, only be allocated <del>by the competent authority</del> to qualified entities.’</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the provision is amended accordingly.</p>

comment	<p>1086 <span style="float: right;">comment by: Danish Transport Authority</span></p> <p>ATM/ANS.AR.B.010 (a) (3) The competence requirements for qualified entities should be equal to the requirement for competent authority ATM/ANS inspectors. This to ensure quality of the audits performed. "Prior experience" is not enough.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>The subject provision is amended and the commented point is removed as Article 13 of Regulation (EC) No 216/2008 requires the authority concerned to ensure that such entity complies with the criteria laid down in Annex V to the same Regulation which set up the respective criteria for the staff responsible for investigation.</p> <p>However, in order to reinforce the qualification criteria for the qualified entities' personnel, AMC1 ATM/ANS.AR.B.005 is amended. It defines the detailed requirements that need to be verified by the competent authority to ensure that all qualified entities' personnel concerned with the conduct of audits or reviews are adequately trained and qualified.</p> <p>Furthermore, a GM is developed to provide guidance on what the competent authority should assess when verifying the qualifications of staff of qualified entities.</p>

comment	<p>1322 <span style="float: right;">comment by: comments provided on behalf of FIT/CISL italian trade union</span></p> <p>This provision is not strong enough, it adds few to the Annex V of the basic regulation (216/2005), there is also a risk of to close financial proximity or of one company to be a sister of the company to be overseen which is not tackled... A limitation of the number of tasks that can be delegated to a single qualified entity should also be introduce.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes note of the comment.</p> <p>The subject provision is amended and the commented point is removed as Article 13 of Regulation (EC) No 216/2008 requires the authority concerned to ensure that such entity complies with the criteria laid down in Annex V to the same Regulation which set up the respective criteria for the staff responsible for investigation.</p> <p>However, in order to reinforce the qualification criteria for the qualified entities' personnel, AMC1 ATM/ANS.AR.B.010 (now AMC1 ATM/ANS.AR.B.005) is amended. It defines the detailed requirements that need to be verified by the competent authority to ensure that all qualified entities' personnel concerned with the conduct of audits or reviews are adequately trained and qualified.</p> <p>Furthermore, a GM is developed to provide guidance on what the competent authority should assess when verifying the qualifications of staff of qualified</p>

entities.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
(Part-ATM/ANS.AR) – SUBPART B – MANAGEMENT (ATM/ANS.AR.B) –  
ATM/ANS.AR.B.020 Oversight records**

p. 22-23

comment	66	comment by: <i>ATC the Netherlands</i>
	c) As certificates have no validity date they can not expire. Please reword	
response	<i>Accepted</i>	
	The Agency takes the comment into consideration and the provision is amended.	
comment	159	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p style="text-align: center;">ATM/ANS.AR.B.020 (c)</p> <p style="text-align: center;">It is understood that that certificates do not expire as they do not have a validity date.</p> <p>Amend (c) to read: “(c) All records shall be kept for a minimum period of 5 years after the certificate ceases to be valid or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.”</p>	
response	<i>Partially accepted</i>	
	The Agency takes the comment into consideration. Based on the proposal, the provision is amended.	
comment	202	comment by: <i>Icelandic Transport Authority</i>
	regarding (a) (10)	
	Guidance regarding what is meant by „safety information“ is necessary, the term is very wide and could practically mean a whole lot of things.	
response	<i>Noted</i>	
	<p>What is meant by ‘safety information’ is the one referred in ATM/ANS.AR.A.025.</p> <p>The Agency has a view that a coordinated effort is required to address this issue in a horizontal manner, therefore, the Agency at this stage can only take note of the proposal.</p>	

comment 227 comment by: AENA-NPA2013-08

**Page 22, ATM/ANS.AR.B.020 Oversight records**

It should be established for whom would be accessible the information included in provision ATM/ANS.AR.B.020 (a).

As certificates are proposed to be unlimited, it shall be modify the provision set out in ATM/ANS.AR.A.020 (c) as highlighted in red:

(c) *All records shall be kept for a minimum period of 5 years ~~after the expiry of the certificate~~ or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.*

response *Not accepted*

The Agency takes note of the comment. The commented provision is amended.

comment 392 comment by: EUROCONTROL

**Page 23 - Annex I, Subpart B, ATM/ANS.AR.B.020, c)**

This provision cannot be applied in the case when the ANSP certificate has unlimited validity because it has no relevance.

response *Noted*

The Agency takes note of the comment and the provision is amended.

comment 422 comment by: CAA-NL

**ATM/ANS.AR.B.020 (c)**

It is proposed to change "after the expiry of the certificate" by "after the certificate has ceased to be valid".

*Rationale:*

Certificates are issued for an undefined period and can therefore not expire.

response *Accepted*

comment 425 comment by: Swedish Transport Agency, Civil Aviation Department  
(Transportstyrelsen, Luftfartsavdelningen)

ATM/ANS.AR.B.020(b)	23	Text is missing that the competent authority shall maintain a list of all declarations regarding FIS it receives.
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response *Accepted*

The Agency takes the comment into consideration and the provision is amended.

comment

427

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.B.020(c) 23

Why is the period 5 years and not for lifespan as in the Aerodrome Regulation?

Text is missing that the competent authority shall keep the declarations regarding FIS it receives.

response

*Partially accepted*

The Agency takes the comments into consideration.

Point (b) is amended to reflect the record keeping of the declarations received by the competent authority.

Point (c) is amended as well.

comment

466

comment by: *DSNA*

We understand that certificates do not expire as they do not have a validity date. We suggest to reword.

Proposal:

(c) All records shall be kept for a minimum period of 5 years after the expiry of the certificate **ceases to be valid** or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.

response

*Accepted*

The Agency takes the comment into consideration. The provision is amended.

comment	<p>467</p> <p style="text-align: right;">comment by: <i>DSNA</i></p> <p>There is no requirement for the period for which CA have to keep their records, only the records which they have to keep.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration.</p> <p>It should be noted that point (c) of the commented provision requires all records to be kept for a minimum period of 5 years after the certificate ceases to be valid or the declaration is withdrawn, subject to applicable data protection law. Furthermore, an associated AMC is developed.</p>

comment	<p>539</p> <p style="text-align: right;">comment by: <i>CANSO Civil Air Navigation Services Organization</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;"><b>ATM/ANS.AR.B.020 Oversight records</b></td> <td style="width: 40%; padding: 5px;">(c) All records shall be kept for a minimum period of 5 years after <del>the expiry</del> of the certificate ceases to be valid or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.</td> <td style="width: 30%; padding: 5px;">We understand that certificates do not expire as they do not have a validity date. We suggest to reword.</td> </tr> </table>	<b>ATM/ANS.AR.B.020 Oversight records</b>	(c) All records shall be kept for a minimum period of 5 years after <del>the expiry</del> of the certificate ceases to be valid or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.	We understand that certificates do not expire as they do not have a validity date. We suggest to reword.
<b>ATM/ANS.AR.B.020 Oversight records</b>	(c) All records shall be kept for a minimum period of 5 years after <del>the expiry</del> of the certificate ceases to be valid or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.	We understand that certificates do not expire as they do not have a validity date. We suggest to reword.		
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. The provision is amended.</p>			

comment	<p>566</p> <p style="text-align: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></p> <p>Need for harmonization with NPA-2011-20. The requirement addresses "oversight records". It might be worth considering whether the scope should be extended to the licensing area and state the conditions for record keeping for licences.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes note of the comments.</p>

The latter proposal does not address the subject NPA, but the separate EASA deliverable, which has been issued by the Agency as Opinion No 11/2013.

comment

648

comment by: PANSA

(c) All records shall be kept for a minimum period of 5 years after ~~the expiry of~~ the certificate **ceases to be valid** or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.

**Justification:**

*Rewording suggested since certificates do not expire as they do not have a validity date.*

response

Accepted

The Agency takes the comment into consideration. The provision is amended.

comment

746

comment by: AvinorANSP

(c) All records shall be kept for a minimum period of 5 years after ~~the expiry of~~ the certificate **ceases to be valid** or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.

We understand that certificates do not expire as they do not have a validity date. We suggest to reword.

response

Accepted

The Agency takes the comment into consideration. The provision is amended.

comment

774

comment by: ROMATSA

Comment:

To modify as follows:

(c) All records shall be kept for a minimum period of 5 years after ~~the expiry of~~ the certificate **ceases to be valid** or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.

Justification:

We understand that certificates do not expire as they do not have a validity

response	<p>date. We suggest to reword.</p> <p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. The provision is amended.</p>
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comment	<p>1032 <span style="float: right;">comment by: ENAV</span></p> <p>Proposal for rewording                  (c) All records shall be kept for a minimum period of 5 years after the expiry of the certificate ceases to be valid or until there is no material need to maintain the records, whichever is the longest unless a greater period is prescribed by data protection law.                  Rationale                  We understand that certificates do not expire as they do not have a validity date. We suggest to reword.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. The provision is amended.</p>

comment	<p>1088 <span style="float: right;">comment by: Danish Transport Authority</span></p> <p>ATM/ANS.AR.B.020(b)                  Text is missing that the competent authority shall maintain a list of all declarations regarding FIS it receives.                  ATM/ANS.AR.B.020(c)                  Text is missing that the competent authority shall keep the declarations regarding FIS it receives.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. Points (b) and (c) of the commented provisions are amended.</p>

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) – SUBPART C – OVERSIGHT, CERTIFICATION, AND ENFORCEMENT (ATM/ANS.AR.C) – ATM/ANS.AR.C.005 Monitoring of safety performance** p. 23

comment	<p>306 ❖ <span style="float: right;">comment by: AESA / DSANA</span></p>
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PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.A.020 <b>Safety directives</b> ATM/ANS.AR.C.005 <b>Monitoring of safety performance</b> ATM/ANS.OR.A.060 <b>Safety reporting</b>	AESA proposes to include " <i>national supervisory</i> " in these three sections as follows: <u>national supervisory</u> authority.	In order to clarify to which authority reference is being made.

response *Not accepted*

Article 4 'Competent authority' defines who is the competent authority. Therefore, the Agency does not consider appropriate to amend further the commented provision.

comment 309

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.C.005 <b>Monitoring of safety performance</b>	We propose to include "performance" as follows: (b) The competent national supervisory authorities shall use the results of the monitoring of safety performance in particular within their risk-based oversight.	In order to clarify what aspect of safety is to be monitored.

response *Accepted*

comment 393

comment by: EUROCONTROL

**Page 23 - Annex I, Subpart C, ATM/ANS.AR.C.005 b)**  
The States have to decide between the risk or performance based oversight.

	<p>The explanations offered during the EASA workshop on 2.07.2013 had not been relevant to understand the differences between the two of them.  However, a risk based approach would favor compliance monitoring with the specific rules. This is the recommended approach until the system is mature enough to run smoothly.  The performance based oversight should represent the future approach (performance scheme, FAB developments, etc.) but only when the maturity level of compliance has been reached by the relevant players within the States and then at FAB level.  This has been duly confirmed by the audits carried out by both ICAO and EUROCONTROL.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>As explained in the Explanatory Note to NPA 2013-08, ATM/ANS.AR.C.005 (now ATM/ANS.AR.C.001) on 'Monitoring of safety performance' transposes the provision from Article 5 of Regulation (EU) No 1034/2011 which has been initially transferred from Regulation (EC) No 1315/2007. After an assessment conducted by the Agency, the conclusion was that the essence of this provision requires clarification and, therefore, the requirement is for the competent authorities to still regularly monitor and assess the service providers' safety performance, but as a consequence, the results of this monitoring to be used by the competent authorities in particular within their risk-based oversight which is further stipulated in ATM/ANS.AR.C.015(a)(5). The oversight in a performance-based environment is a new approach for the competent authorities to discharge their responsibilities, as it considers the criteria of the service providers' safety management implementation in a controlled process. This controlled process is also linked to the introduction of a finding classification scheme, the level and frequency of these findings over an oversight planning cycle that will provide the control to adjust the planning in a next phase. However, it should be emphasised that before taking any decision by the CAs/NSAs on extension of the oversight cycle, a full 24-month oversight cycle of the certified service providers shall apply.</p> <p>Furthermore, it should be noted that in implementing performance-based oversight, requirements and compliance to them are not replaced by safety management, they are complemented by it.</p>
comment	<p>854 <span style="float: right;">comment by: IFATCA</span></p> <p>IFATCA does not understand how this should be carried out, in particular with the proposed targets for RP1 and 2. Does the competent authority have to set up a separate monitoring for EASA. Why is there no reference to EC 391/2013 Further as mentioned above – is this requested for the less than 1% of the activity of the ANSP.  IFATCA proposes that GM is established to assist states to monitor the 99% of he activities with wanted outcome.</p>
response	<p><i>Noted</i></p> <p>The aim of the commented provision is the competent authority to monitor regularly and assess the levels of safety achieved in order to determine the</p>

service providers' compliance with the applicable requirements and as a consequence, the results of this monitoring can be used by the competent authorities in particular within their risk-based oversight further defined in ATM/ANS.AR.C.015. There is no need for a separate monitoring.

comment 975 comment by: *Météo-France*

- ATM/ANS.AR.C.005 refers to the “competent authorities”. At other places, the singular is used: “the competent authority”.

response *Noted*

The Agency takes the comment into consideration.

comment 1195 comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.AR.C.005 refers to the “competent authorities”. At other places, the singular is used: “the competent authority”.

response *Noted*

The Agency takes the comment into consideration.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) – SUBPART C – OVERSIGHT, CERTIFICATION, AND ENFORCEMENT (ATM/ANS.AR.C) – ATM/ANS.AR.C.010 Certification, declaration, and verification of ATM/ANS** p. 23-24

comment 160 comment by: *NATS National Air Traffic Services Limited*

ATM/ANS.AR.C.010 (a)(1)

ATM/ANS providers are also required to comply with Annex XII as appropriate and as such the CA should verify that ATM/ANS providers comply with Annex XII.

Amend (a)(1) to read:

“...applicable requirements set out in Annex II to XII of this Regulation..”

response *Accepted*

comment 230 comment by: AENA-NPA2013-08

**Page 23, ATM/ANS.AR.C.010 Certification, declaration, and verification of ATM/ANS providers' compliance with the requirements**

ATM/ANS providers shall be oversight against common and known procedures and deadlines, so it is proposed to modify the provision set out in ATM/ANS.AR.C.010 (b)(1) as highlighted in red:

*(b) The process referred to in paragraph (a) shall:*

*(1) be based on documented procedures, that shall be accessible for ATM/ANS providers;*

response *Partially accepted*

The Agency takes the comment into consideration and a new subject provision is introduced in Subpart A of Part-ATM/ANS.AR.

'The competent authority shall make available legislative acts, standards, rules, technical publications and related documents to service providers and other interested parties to facilitate their compliance with the applicable requirements.'

comment 373 comment by: Prospect ATCOs' Branch UK

ATM/ANS.AR.C.010 (a)(5) & (6)

Given that the above rule making tasks are yet to be completed how does EASA intend to instruct competent authorities to establish processes for safety management and oversight of changes to ATM/ANS functional systems?

response *Noted*

The Agency takes note of the comment.

Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose the commented provisions.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment 426 comment by: CAA-NL

**ATM/ANS.AR.C.010(a)(1)**

Please delete the words 'or renewal'.

*Rationale:*

Certificates now have validity of an undefined period.

response *Accepted*

comment 428 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.C.010	23	It is not possible to assess this paragraph in whole due to the missing parts in point (5) and (6) regarding safety assessment of changes in functional systems.
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response *Noted*

The Agency takes note of the comment.

Another NPA relevant to this subject is to be published for consultation in the 2nd quarter of 2014. That NPA will propose the commented provisions.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment 429 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.C.010	23	ATM/ANS.OR.A.025 (d) states that the competent authority shall acknowledge a declaration. However there are no such requirements applicable to the competent authority in the AR. When included in AR we suggest the same procedure as for aerodromes and flight operations are implemented i.e. review of the declaration and possibility to request additional information in order to verify compliance before acknowledgement.
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response *Accepted*

comment 430 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.C.010 (6)	24	Regarding enforcement actions for declaration it's necessary to add the possibility to deregister a declaration. This possibility is included in the aerodrome rules.
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response *Accepted*

The Agency takes the comment into consideration. The enforcement measures for declared organisations are aligned with those applicable in the Aerodromes rule.

comment 434

comment by: *CAA-NL*

**ATM/ANS.AR.C.010(b)(4)**

Please include the possibility to perform inspections. The text will then be:  
(4) be based on audits, reviews and inspections, including unannounced inspections, where appropriate conducted by the CA;  
To this end the definition of Inspection needs to be incorporated in the list of definitions:

'inspection' means an independent evaluation by observation and judgement accompanied as appropriate by measurement, testing or gauging, in order to verify compliance with applicable requirements; Definition taken from the OPS regulation

*Rationale:*

This to allow the CA to use all possible means at hand for its oversight, audits, inspections and reviews, as they see fit for a specific oversight purpose.

response *Partially accepted*

The Agency takes the proposal into considerations.

The commented provision is amended accordingly. However, during the series of meetings carried out as part of the focussed consultation organised by the Agency after the closure of the NPA consultation, the Agency was advised not to include a definition on the subject.

comment 492

comment by: *HungaroControl*

Agreed.

response *Noted*

comment 569

comment by: *Federal Office of Civil Aviation FOCA*

According to the text [in particular the Appendix I] no certification is possible with "open findings". This requirement is almost impossible to comply with and

	<p>was a EASA-finding in many Member States. In FOCA's opinion it should be possible to issue a certificate with conditions. These conditions should be set in relation to the open findings (e.g. in agreement with the Corrective Action Proposal). If a certificate is no longer valid as soon as a non-compliance exist, then no viable ANS provision could be achieved. Otherwise, the Corrective Action Proposal process would not make sense.</p> <p>Special attention must be given that all OR and AR requirements regarding certification are harmonised across the various NPAs, notably NPA 2012-018, NPA 2013-08, NPA on Apron Management Services, NPA on Aerodromes, in order to allow one organisation to be certified for more than one activity e.g. all operational units will have to be certified as ANSPs and Training Organisation.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Based on the outcome of the public consultation and the focussed one organised by the Agency after the NPA publication closure, a newly developed provision ATM/ANS.AR.C.020 'Issue of certificates' providing a possibility for the issue of a certificate with 'no open findings' was introduced. It aims at clarification and avoidance of any unambiguity.</p>
comment	<p>857 <span style="float: right;">comment by: <i>IFATCA</i></span></p> <p>Again we should not have to comment to unfinished NPA, where no further consultation is foreseen. This is not ideal for such an important piece of legislation.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Another NPA relevant to this subject is to be published for consultation in the 2nd quarter of 2014. That NPA will propose the commented provisions.</p> <p>Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>
comment	<p>989 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>ATM/ANS.AR.C.010 (a)(5)and(6) How will this be published ? What if it comes too late for application ? Then we do not have a safety assessment requirement, it would be a problem and we ask how EASA intends to tackle it.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Another NPA relevant to this subject is be published for consultation in the 2<sup>nd</sup></p>

quarter of 2014. That NPA will propose the commented provisions.  
Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment 1095 comment by: Danish Transport Authority

ATM/ANS.AR.C.010  
It is not possible to assess this paragraph in whole due to the missing parts in point (5) and (6) regarding safety assessment of changes in functional systems.

response Noted

The Agency takes note of the comment.  
Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose the commented provisions.  
Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment 1133 comment by: French Civil Aviation Authority (DGAC)

French CAA comment

ATM/ANS.AR.C.010 – Certification (p23):  
« (a) Within the framework of ATM/ANS.AR.B.005(a)(1) the competent authority shall establish a process in order to verify:  
(1) ATM/ANS providers' compliance with applicable requirements set out in Annex II to XI of this Regulation, and any applicable conditions attached to the certificate before the issue or renewal of a certificate. The certificate shall be issued in accordance with Appendix I to this Part;”

A template should not be mandatory, since national requirements and regulation may request other means to issue a certificate. Moreover the national language should also be taken into account. However a template as a GM would be useful in order to harmonize the implementation of these requirements by all Member States.

This is the reason why it is suggested that the Appendix 1 to Annex 1 should be changed into a GM and to delete the underlined sentence.

response Not accepted

In accordance with Article 8b of Regulation (EC) No 216/2008, the service providers are required to hold a certificate in which capability to discharge responsibilities associated with their privileges shall be recognised by the issuance of a certificate. The service provider's certificate template is to establish a harmonised layout throughout the Member States, which is used by all Member States in the same way in order to facilitate mutual recognition.

comment	1323	comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i>
	<p>How will this be published ?          What if it comes too late for application ? Then we do not have a safety assessment requirement, it would be a problem and we ask how EASA intends to tackle it.</p>	
response	<i>Noted</i>	
	<p>The Agency takes note of the comment.</p> <p>Another NPA relevant to this subject is be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose the commented provisions.</p> <p>Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>	

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS  
 (Part-ATM/ANS.AR) – SUBPART C – OVERSIGHT, CERTIFICATION, AND  
 ENFORCEMENT (ATM/ANS.AR.C) – ATM/ANS.AR.C.015 Oversight**

p. 24-25

comment	33	comment by: <i>Swedavia CNS Safety</i>
	<p>Swedavia prefers option 2 due to the fact that this option will give flexibility to the competent authority.</p>	
response	<i>Accepted</i>	
	<p>The Agency takes the comment into consideration.</p>	
comment	67	comment by: <i>ATC the Netherlands</i>
	<p>c)3) These are not new requirements. Propose to delete this paragraph          c)5) Option 2 is preferred</p>	
response	<i>Accepted</i>	

The Agency takes the proposal and the comment into consideration.

comment

117

comment by: LfV

Support option 2, proposal that CAs/NSAs are able to base their oversight programme on a risk assessment, instead of automatically having to audit each provider against all requirements over a period of two years.

response

*Accepted*

The Agency takes the comment into consideration.

comment

142

comment by: EUROCONTROL

**Page 25 - Option 2**

Option 2 seems to be the ideal option as it is a true risk-based approach, is more flexible and makes better use of scant resources (CA/NSA).

**Page 25 Option 2 (d)**

Is there any obligation for the CA to notify the provider that it has decided to modify the objectives... etc.?

It is reasonable to expect that the CA shall notify the provider of the modification, but this is not reflected in the text.

Page 25 Option 2 (e)

Is there any obligation for the CA to notify the provider about the audits and what will be audited?

It is reasonable to expect that the CA shall notify the provider of the audits but this is not reflected in the text.

response

*Partially accepted*

The Agency takes note of the comments.

It should be noted that the commented provisions are amended to require that the oversight programme includes audits, which shall be subject to consultation with the service providers concerned and notification thereafter.

With regard to the question on the modifications of the objectives and the scope of the pre-planned audits, the Agency does not consider necessary to further amend the subject provision as it is an exceptional case and its prior notification is part of the standard audit techniques and practices.

comment

145

comment by: NATS National Air Traffic Services Limited

Page 24 Oversight (c)

Contradictory. Line 2 required monitor annually yet (c ) (4) says commensurate with the level of risk and options 1 and 2 suggest 24 month programmes, Suggest delete annually from line 2 and replace with a frequency determined by the competent authority commensurate with the risk.

response	<p><i>Partially accepted</i></p> <p>The Agency takes note of the comment.</p> <p>'Annually' is removed from the text, which is in line with the proposal to maintain the validity of the certificate unlimited subject to the provider being continuously in compliance with the applicable requirements.</p>
comment	<p>146 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p>AR.C.015 (c) (3) Why explicitly single out ATSEPs as opposed to any other operational staff? Recommend the deletion of all text after “personnel”</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. The whole subject provision is removed.</p>
comment	<p>147 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p>AR.C.015 (c) (5) Option 1 is simpler, but Option 2 permits a reduced level of oversight for “low risk” organisations, therefore NATS supports Option 2.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p>
comment	<p>179 <span style="float: right;">comment by: <i>AENA-NPA2013-08</i></span></p> <p><b>Page 24, ATM/ANS.AR.C.015 4).</b> the definition of the implementing arrangements referred to in point 4) should be defined in the IR and not in the GM.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comment into consideration. However, the Agency does not consider that each term should be defined in the definitions provision, while the guidance material intends to illustrate the meaning of the requirement and is used to support the interpretation of the Implementing Rule.</p>
comment	<p>219 <span style="float: right;">comment by: <i>AIRBUS</i></span></p> <p>ATM/ANS.AR.C.015</p>

	Option 1 is preferred. As general principle, an Implementing Rule should not contain too detailed technical requirements.
response	<i>Not accepted</i>
	The Agency takes the comments into consideration.

comment 231 comment by: AENA-NPA2013-08

**Page 24, ATM/ANS.AR.C.015 Oversight**

ATM/ANS providers shall be oversight against common and known procedures, so it is proposed to add a new provision in ATM/ANS.AR.C.015 (c) as highlighted in red:

*(9) be based on documented procedures accessible for ATM/ANS providers.*

ATM/ANS providers shall be aware of the oversight programme, so it is proposed to add a new provision in ATM/ANS.AR.C.015 (c) as highlighted in red:

*(10) be notified prior to its beginning and subject to consultation with the ATM/ANS providers concerned.*

Regarding the two options proposed by EASA regarding provision ATM/ANS.AR.C.015 (c) (5), **Aena prefers Option 1** but considers that the concept "to sample" should be clarified through guidance material.

Additionally, the period of two years could be too restrictive for some ATM/ANS providers, so it is proposed to modify the provision set out in ATM/ANS.AR.C.010 (5) (Option 1) as highlighted in red:

*(5) ensure that audits are conducted in sufficient number and depth over a period of two years to sample each organisation under its supervision in a manner commensurate with the level of risk posed by each ATM/ANS provider and proportionally to the size of the organization;*

In case that Option 2 is chosen, the way through which an organisation "demonstrates" the following provisions should be clarified through GM or AMC (it should be clarified the meaning of concepts like "effective" and "full control"):

*(i) the organisation has demonstrated an effective identification of aviation safety hazards and management of associated risks; and*

*(ii) the organisation has continuously demonstrated under ATM/ANS.OR.A.035 that it has full control over all changes; and*

Aiming to establish a detailed and clear application of the oversight process, it is proposed to modify provision ATM/ANS.AR.C.015 (g) as highlighted in red:

*(g) An audit report, including the details of the findings and observations, shall be drawn up and communicated to the ATM/ANS provider before one month after concluding the audit.*

response *Partially accepted*

The commented provision was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. Considering the comments received and as result of the NPA consultation, Option II is retained into the CRD resulting text as an intermediate step of the subject rulemaking activity. Furthermore, the commented provision is amended addressing some of the proposals such as the requirement that an oversight programme is subject of consultation with the

service providers concerned and notification thereafter.

Furthermore, in reference to the period for drawing up an audit report, it should be pointed out that it depends on the competent authority's decision which should be defined in its subject procedure.

comment 266

comment by: AENA-NPA2013-08

**ATM/ANS.AR.C.015 Oversight (c).**

Change reference to the 'ATSEP personnel' by 'personnel' in general, in the point (c)(3) of the ATM/ANS.AR.C015.

We prefer 'option 1' because of its simplicity, eliminating the second part of the option because it is already said in the (4) paragraph.

response *Not accepted*

The Agency takes the comment on 'ATSEP personnel' into consideration. The subject provision is removed based on the consultation.

The Agency takes note of the preferred option.

comment 284

comment by: HungaroControl

Option 2 is the preferred option. This option allows to maintain safety, costs less to take into account and permits regulators and organisations to optimize the use of resources.

response *Noted*

The Agency takes the preferred option into consideration.

comment 296

comment by: HungaroControl

(3) Cover the oversight means implemented by ANSP to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEP);

As CAs audit providers not individuals, there should not be any findings referring to individuals. Clarification is needed.

response *Noted*

The Agency takes the comment on 'ATSEP personnel' into consideration. The subject provision is removed based on the consultation.

comment 374

comment by: Prospect ATCOs' Branch UK

response	<p>ATM/ANS.AR.C.015 (c) (3)</p> <p>These proposals are about oversight of organisations and not individuals. It should not be for the competent authority to directly oversee and audit individuals with respect to these proposals, as implied in this IR, but rather oversee and audit a competence scheme managed by the relevant provider.</p> <p>We would suggest re wording ATM/ANS.AR.C.015 (c)(3)to:</p> <p style="padding-left: 40px;">cover the oversight of competence checking processes applicable to personnel, including the air traffic safety electronics personnel (ATSEP);</p> <p><i>Noted</i></p> <p>The Agency takes the comment on 'ATSEP personnel' into consideration. The subject provision is removed based on the consultation.</p>
comment	<p>394 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 25 - Annex I, Subpart C, ATM/ANS.AR.C.015</b>  Art (c) (3) isolates the concept of "ATSEP" in the scope of ATM/ANS. It shall address all involved personnel.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment on 'ATSEP personnel' into consideration. The subject provision is removed based on the consultation.</p>
Comment	<p>395 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 25 - Annex I, Subpart C, ATM/ANS.AR.C.015 - Option 2</b>  (OPTION 2) is more flexible than (OPTION 1) provided the criteria for application of option 2 are clearly defined.  Option 2 introduces the notion of inspection whereas it was only made reference to audits up until now.  Additionally, the paras d) to g) are part of guidance material rather than requirements (they shall be moved to the GM parts).  We suggest clarifying the terminology used for long time: certification (initial certification and certification appear in the new regulation), oversight and continuous oversight, supervision, audit and inspection. For instance, are "oversight" and "supervision" synonyms?  While the last two (audit and inspections) are means to undertake oversight and continuous oversight, the initial certification is part of the initial oversight while re-certification is part of the continuous oversight as supervisory roles of the NSAs.  Inspections, as mentioned in the Regulation 550/2004, shall be used by NSAs within their oversight mechanism as possible activities to the audits. Inspections shall be dedicated to specific tasks verification and should last a very limited time (a few hours).</p>

Response *Partially accepted*

Considering the comments received and as result of the NPA consultation, Option II is retained into the CRD resulting text as an intermediate step of the subject rulemaking activity.

In reference to the terms used in the proposed rule and considering the comment, they are either defined in Article 2 or clarified in GM to associated provisions.

comment

431

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.C.015 (c) 3	25
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25	Competent authority shall perform oversight of ATSEPs, this is not according to the scope for competent authority in ATM/ANS.AR.A.001 and also not according to explanatory note point 38. Safety oversight of personnel involved in safety related ATM/ANS tasks is ensured through the ATM/ANS provider’s oversight.
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response

*Accepted*

The Agency takes the comment into consideration. The subject provision is removed based on the consultation.

comment

432

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.C.015 (c) 5	25
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25	Option 1 This is the preferable option as it is most flexible. It opens for the possibility to make use of collated safety information (described in previous paragraphs). To enable true risk-and performance based oversight. However, the sampling would be more efficient and appropriate (resource wise) if the period can be extended to three years (36 months) This to enable more than one audit during the stated period in organisations where risks has been identified.
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response *Not accepted*

The Agency takes the comment into consideration.

comment 438

comment by: CAA-NL

**ATM/ANS.AR.C.015(b)(3)**

Please delete this paragraph.

*Rationale:*

ATM/ANS.AR.B.005(a)(2) includes this requirement: 'personnel shall be qualified to perform their allocated tasks', so audit personnel shall be qualified to perform audits. A reference here and not for other personal is quite senseless and confusing

response *Accepted*

comment 440

comment by: CAA-NL

**ATM/ANS.AR.C.015(b)(6)**

Please delete this paragraph.

*Rationale:*

With the introduction of ATM/ANS.AR.C.025 this is not required anymore. Furthermore the implementation of corrective actions is the responsibility of the ATM/ANS Provider, In addition actions stemming from ATM/ANS.AR C.025 could also lead to suspension and/or revocation.

response *Accepted*

comment 441

comment by: CAA-NL

**ATM/ANS.AR.C.015(c) (introduction)**

Please delete 'annually'.

*Rationale:*

The proposed new system should lead to continuous monitoring.

response *Accepted*

comment	442	comment by: CAA-NL
	<p><b>ATM/ANS.AR.C.015 (c)(3)</b> Please delete this paragraph. <i>Rationale:</i> As the requirements regarding personnel are an integral part of the requirements for the ATM/ANS providers, the oversight on these requirements is automatically within the scope of this Regulation. The competent authority performs oversight on the ATM/ANS provider and within this framework on the adherence to the personnel-related requirements.</p>	
response	Accepted	

comment	443	comment by: CAA-NL
	<p><b>ATM/ANS.AR.C.015 (c5)</b> Option 2 is preferred. This in order to enhance the total system approach within the CA.</p>	
response	Accepted	
	The Agency takes the preferred option into consideration.	

comment	469	comment by: DSNA
	<p>The audit is focused on the provider. There should be no findings towards individuals. This needs to be clarified.</p> <p>Proposal: (c) ..... (3) Cover the oversight means implemented by ANSP to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEP);</p>	
response	Partially accepted	
	<p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The revised provision reads as follows: 'cover the means implemented by the service providers to ensure the competency of personnel;'</p>	

comment	470	comment by: <i>DSNA</i>
	<p>Preference is given to option 2 – however the application of commensurate manner relating to the risk should be included. The cycle of 24 months is very tight, resulting in both an exaggerated time and effort driven frame. Our timeframe expectations should be established at 36 months, with a possible extension to 48 months to cover for the maturity of the processes and experience of the operator.</p>	
response	<p><i>Partially accepted</i></p> <p>The Agency takes the preferred option and the comments thereto into consideration.</p>	

comment	576	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	<p>Need for harmonisation with ADR.AR.C.005                  FOCA supports OPTION 2 (see also corresponding comment to the RIA).                  FOCA would like to raise the attention to the fact that the requirement does not state whether electronical files are approved as evidence. Is this intended by EASA - if yes - on what grounds?                  Furthermore, it seems that the audit function and corrective action process are not adressed separately. Is this intended by EASA and - if yes - on what grounds?</p>	
response	<p><i>Partially accepted</i></p> <ul style="list-style-type: none"> <li>– Considering the comments received and as result of the NPA consultation, Option II is retained into the CRD resulting text as an intermediate step of the subject rulemaking activity.</li> <li>– In reference to the question whether the electronic files are consider as evidence, the Agency does not find it appropriate, taking into account latest scientific and technical progress, to limit it only to 'paper' evidence.</li> <li>– In reference to the audit process, it is considered that the corrective action process is part thereof taking into account the basic audit techniques.</li> </ul>	

comment	579	comment by: <i>CANSO Civil Air Navigation Services Organization</i>			
	<table border="1" style="width: 100%;"> <tr> <td style="width: 30%; vertical-align: top;"> <p><b>ATM/ANS.AR.C.015 Oversight</b></p> </td> <td style="width: 40%; vertical-align: top;"> <p>(c)                      .....                      (3) Cover the oversight means implemented by ANSP to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEP);</p> </td> <td style="width: 30%; vertical-align: top;"> <p>The audit is focused on the provider. There should be no findings towards individuals. This needs to be</p> </td> </tr> </table>		<p><b>ATM/ANS.AR.C.015 Oversight</b></p>	<p>(c)                      .....                      (3) Cover the oversight means implemented by ANSP to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEP);</p>	<p>The audit is focused on the provider. There should be no findings towards individuals. This needs to be</p>
<p><b>ATM/ANS.AR.C.015 Oversight</b></p>	<p>(c)                      .....                      (3) Cover the oversight means implemented by ANSP to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEP);</p>	<p>The audit is focused on the provider. There should be no findings towards individuals. This needs to be</p>			

		clarified.
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The revised provision reads as follows:</p> <p>'cover the means implemented by the service providers to ensure the competency of personnel;'</p>	

comment	655	comment by: PANSA
	<p>(3) Cover the oversight means implemented by ANSP to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEP);</p> <p><b><u>Justification:</u></b>  <i>The audit checks the provider's compliance.</i></p>	

response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The revised provision reads as follows:</p> <p>'cover the means implemented by the service providers to ensure the competency of personnel;'</p>	
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comment	701	comment by: AENA-NPA2013-08
	<p><b>ATM/ANS.AR.C.015 Oversight.</b></p> <ul style="list-style-type: none"> <li>• (c)(5) on Page 25:              There are 2 options but not explanation about it. Can ANSPs choose one of them? Is the competent authority the responsible of choosing the option? Or is this a draft and in the final document there will be only one of this options?</li> <li>• (g) on Page 25:              an audit report shall be drawn up by the competent authority, but there should be a maximum period of time for it, for example, within a period of three months from the date of the review (in Regulation 1035/2011 this is the maximum period of time given to the Commission to draw up</li> </ul>	

	the review's report to the competent authority).
response	<p><i>Noted</i></p> <p>The Agency takes the comments into consideration.</p> <ul style="list-style-type: none"> <li>– It should be noted that the explanations on the options referred by the commentator could be found in paragraphs 91-93 (please refer to pages 33-35) of the Explanatory Note to the subject NPA 2013-08.</li> <li>– In reference to the period for drawing up an audit report, including the details of the findings and observations, it should be pointed out that it depends on the competent authority's decision which should be defined in its subject procedure.</li> </ul>

comment	<p>747 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>(c) ..... (3) Cover the oversight <b>means implemented by ANSP to ensure the competency</b> of personnel , including the air traffic safety electronics personnel (ATSEP); The audit is focused on the provider. There should be no findings towards individuals. This needs to be clarified.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The revised provision reads as follows: 'cover the means implemented by the service providers to ensure the competency of personnel;'</p>

comment	<p>775 <span style="float: right;">comment by: <i>ROMATSA</i></span></p> <p>Comment: From the ATM/ANS provider perspective, the proposed Option no. 2 is the preferred approach, being a more performance-based oversight function.</p> <p>Justification: The internal auditing activities undertaken by the ATM/ANS continuously demonstrated the ANSPs compliance with the common requirements and revealed that the providers established an effective continuous reporting system to the competent authority on the safety performance and regulatory compliance of the organization. If this is the case in a full 24 month cycle, Option 2 provides flexibility and allow for a decision making in order to extend the oversight cycle to 48 month.</p>
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	<p>This is the reason for EU strives to evolve towards an integrated performance-based oversight function that requires first of all that the States to have in place basic safety oversight capabilities in order to certify the ANSPs. State safety oversight functions will need to evolve further to support the ATM systems of the future, and this should be achieved by considering changing the actual safety oversight system.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the preferred option into consideration.</p>

comment	<p>813 <span style="float: right;">comment by: <i>D Winship</i></span></p> <p><i>At present, the Irish NSA favours Option 1 whilst recognising that Option 2 has some merit in terms of the potential flexibility offered to NSAs.</i></p> <p><b><u>ANALYSIS/JUSTIFICATION</u></b></p> <p>The explicit recognition that the programme is fulfilled via appropriate sampling focused according to risk is welcomed in Option 1. While Option 2 has some merits in terms of the flexibility it offers to NSAs some significant issues and risks may be associated with this approach. Factors influencing the Irish NSA's decision to express a preference for Option 1 include the following;</p> <ul style="list-style-type: none"> <li>·</li> <li>· Given that the pace of regulatory change shows no sign of diminishing (SES II+, Performance Scheme, IOP IRs, further EASA rules etc.) there is some value in ensuring that all organisations are addressed in the NSA's programme at least every 2 years to provide adequate assurance that they maintain adequate awareness of, and continue to comply with, the rapidly evolving regulatory baseline.</li> <li>· While Option 2 offers the potential for NSAs to focus their activities where most needed there is also a danger that, for under-resourced NSAs, the decision making process regarding appropriate levels of oversight is not solely driven by the level of risk but is also highly influenced by the level of resources / competencies within the NSA. In other words NSA resource capabilities could end up driving the programme periodicity rather than safety risk.</li> </ul> <p>As written there is a significant distinction between Option 1 and Option 2 in terms of the explicit reference to audits. Option 1 explicitly refers to the need to conduct audits of sufficient number and depth over a 2 year period. In contrast Option 2 refers to the periodicity of an "oversight planning cycle". Therefore in strictly legal terms there is a considerable difference between these two options which could be problematic in the context of European NSA standardisation and harmonisation. Option 2 could potentially provide a legal gap in that there is no requirement to audit within <i>any explicit timeframe</i>, only to adjust the periodicity of the "oversight planning cycle".</p>
response	<p><i>Not accepted</i></p> <p>Considering the comments received and as result of the NPA consultation, Option II is retained into the CRD resulting text as an intermediate step of the subject rulemaking activity.</p>

comment	<p data-bbox="352 210 411 246">867</p> <p data-bbox="1082 210 1457 246" style="text-align: right;">comment by: <i>Belgocontrol</i></p> <p data-bbox="352 297 1457 456">Preference is given to option 2 – however the application of commensurate manner relating to the risk should be included. The cycle of 24 months is very tight, resulting in both an exaggerated time and effort driven frame. Our timeframe expectations should be established at 36 months, with a possible extension to 48 months.</p> <p data-bbox="352 461 963 495"><i>Option 2 seems to be the ideal option as it is</i></p> <ul data-bbox="352 497 751 589" style="list-style-type: none"> <li>• <i>a true risk-based approach,</i></li> <li>• <i>more flexible and makes better use of resources (CA/NSA).</i></li> </ul> <p data-bbox="352 622 1457 757">(e) Competent authorities shall decide, in consultation with the ATM/ANS providers concerned, which arrangements, elements, services, functions, products, physical locations, and activities are to be audited within a specified time frame.</p>
response	<p data-bbox="352 770 596 806"><i>Partially accepted</i></p> <p data-bbox="352 860 1457 952">Considering the comments received and as result of the NPA consultation, Option II is retained into the CRD resulting text as an intermediate step of the subject rulemaking activity.</p> <p data-bbox="352 972 1457 1111">In reference to the proposal regarding paragraph (e), it should be noted that the requirements for the oversight programme to 'be subject to consultation with the service providers concerned and notification thereafter.' are addressed in point (a)(7) of the new ATM/ANS.AR.C.015 provision.</p>
comment	<p data-bbox="352 1191 411 1227">937</p> <p data-bbox="1177 1191 1457 1227" style="text-align: right;">comment by: <i>ESSP</i></p> <p data-bbox="352 1279 1457 1514"><i>Regarding "Article ATM/ANS.AR.C.015 Oversight" who set that "(c) The competent authority shall, on the basis of the evidence at its disposal, monitor <b>annually the continuous compliance of the ATM/ANS providers under its supervision</b>"; does the term annually means that there will be a unique audit each year or minimum one audit per year ? If more than one audit is planned per year, up to how many audits per year could we expect?</i></p>
response	<p data-bbox="352 1527 437 1563"><i>Noted</i></p> <p data-bbox="352 1615 1457 1688">Considering the comments received and as result of the NPA consultation, the subject provision is amended. As such, the term 'annually' is removed.</p>
comment	<p data-bbox="352 1769 411 1805">946</p> <p data-bbox="1177 1769 1457 1805" style="text-align: right;">comment by: <i>ESSP</i></p> <p data-bbox="352 1856 1457 2018">On ESSP side, we consider that Option 2 with a possible oversight cycle of 48 Months is the most suitable to oversight ESSP activity, as ESSP has already implemented Performance Indicators to overview the safety performance of the system. Will the initial 24 months oversight cycle be based on an exhaustive verification</p>

	of the fulfilment of all the requirements of the regulation or will it be based on a risk-based approach sampling the organisation <b>in a manner commensurate with the level of risk posed?</b>
response	<p><i>Accepted</i></p> <p>Based on the NPA consultation, Option II is retained into the CRD resulting text as an intermediate step of the subject rulemaking activity and Option I is removed. As explained in the Explanatory Note to NPA 2013-08, it should be emphasised that before taking any decision on extension of the oversight cycle, a full 24-month oversight cycle of the service providers shall apply.</p>

comment	<p>990 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>ATM/ANS.AR.C.015 (c)(3) This NPA is aimed at ATM/ANS providers not at individuals inside those entities, so for competent authorities, raising findings to (or about) individuals is not relevant. The oversight has to be on an approved competence scheme not on anything else.</p> <p>Alternative proposal : cover the oversight of processes put in place by ATM/ANS providers to make sure that staff is competent for their safety related duties <del>personnel including the air traffic safety electronics personnel (ATSEP);</del> AMC : On-the-job competence should only be checked through appropriate means with the help of assessors when they exist for the competence checked. GM : ATCOs on the job competence may only be checked through the assessment procedure defined in ATCO licensing NPA.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the proposal into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The revised provision reads as follows: 'cover the means implemented by the service providers to ensure the competency of personnel;'</p>

comment	<p>1087 <span style="float: right;">comment by: <i>UK CAA</i></span></p> <p><b>Page No:</b> 24 <b>Paragraph No:</b> ATM/ANS.AR.C.015 (b) (1) <b>Comment:</b> The term '<i>applicable requirements</i>' is not defined. <b>Justification:</b> The previous legislation (1034/2011) refers to Applicable Safety Regulatory Requirements which are defined as including National Regulations. Without a clear definition it is ambiguous as to whether National Regulations or even EU regulations can or cannot apply. <b>Proposed Text:</b> '<b>Applicable Requirements means the requirements</b></p>
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	<b>established by the Union or National regulations for the provision of ATM/ANS.'</b>
response	<i>Not accepted</i>
	It is not considered appropriate to define the term 'applicable requirements' in the subject draft rule.

comment	1089	comment by: UK CAA
	<p><b>Page No:</b> 24  <b>Paragraph No:</b> ATM/ANS.AR.C.015 (b) (1)  <b>Comment:</b> The term '<i>Implementing Arrangements</i>' is not defined within the legislation.  <b>Justification:</b> The term '<i>Implementing Arrangements</i>' is defined in the Guidance Material GM1 ATM/ANS.AR.C.015 Oversight, however the guidance material has no legal status therefore a definition is required within the legislation.  <b>Proposed Text:</b> '<b>Implementing Arrangements means the ATM/ANS provider's management system documentation, policies, procedures and operating instructions.</b>'</p>	

response	<i>Partially accepted</i>
	<p>It is important to note that the purpose of the GM is to help to illustrate the meaning of the requirements to the associated provision, while the aim of the definition is to prescribe the meaning of the term to be used within the rule in a uniform manner. During the rule development it was considered more appropriate the term '<i>implementing measures</i>' to be explained in reference to the subject provision, as this term is used with different meaning in other articles and provisions.</p> <p>However, considering the proposal provided, the GM is amended accordingly.</p>

comment	1098	comment by: Danish Transport Authority
	<p>ATM/ANS.AR.C.015 (c) 3  Competent authority shall perform oversight of ATSEPs, this is not according to the scope for competent authority in ATM/ANS.AR.A.001 and also not according to explanatory note point 38. Safety oversight of personnel involved in safety related ATM/ANS tasks is ensured through the ATM/ANS provider's oversight.  ATM/ANS.AR.C.015 (c) 5  Option 2 seems to be best in line with DTA strategies and not yet decided policies on the matter.</p>	

response	<i>Accepted</i>
	<p>The Agency takes the comment into consideration and the commented provision is amended.</p> <p>The preferred option is taken into consideration.</p>

comment	<p>1142 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment</p> <p>ATM/ANS.AR.C.015 – Oversight (p24):  « (c) <i>The competent authority shall, on the basis of the evidence at its disposal, monitor <u>annually</u> the continuous compliance of the ATM/ANS providers under its supervision.</i>”</p> <p>The wording “annually” seems contradictory with the other requirements (oversight planning cycle of 24 months, or more) which give the responsibility but also the liberty of organising the monitoring of continuous compliance of providers. As it is described later in the same paragraph the competent authority is in charge of covering “all the areas of potential safety concern” and “ensure that audits are conducted in a manner commensurate with the level of the risk posed buy the ATM/ANS provider’s operations”.</p> <p>Particularly, annual oversight may be considered as not commensurate with the risks of very small providers such as AFIS provider.</p> <p><u>This is the reason why it is suggested to modify the sentence:</u>  « (c) <i>The competent authority shall, on the basis of the evidence at its disposal, monitor <b>regularly</b> the continuous compliance of the ATM/ANS providers under its supervision.</i>”</p>
response	<p><i>Partially accepted</i></p> <p>Based on the subject NPA consultation and taking into account the comment, ‘annually’ is removed.</p>
comment	<p>1145 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment</p> <p>ATM/ANS.AR.C.015 – Oversight (p25):  « (c) (...) <i>To this end, the competent authority shall establish and maintain an oversight programme including audits, which shall: (...)</i>  <i>(8) indicate the envisaged interval of the inspections of the different sites.</i>”</p> <p>Since inspections are not mandatory, and since a competent authority may decide not to lead inspections, <u>it is suggested to modify the sentence:</u>  “(8) <i>indicate the envisaged interval of the inspections of the different sites, <b>if any.</b></i>”</p>
response	<p><i>Accepted</i></p>
comment	<p>1204 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p>

**Modify (2) and (3) as follows:**

(2) cover all the ATM/ANS providers and services and **the part of** network functions under the supervision of the competent authority;

Network functions, being Pan-European by definition, will be overseen by the Agency.

(3) cover the oversight of personnel **requirements** including **the air traffic controllers** and air traffic safety electronics personnel (ATSEP);

The oversight is exercised over requirements, and not over personnel. In addition, the competent authority should have proper authority over the unit part of the ATCO licencies.

response

*Noted*

Based on the outcome of the NPA consultation, the subject provision is reworked. This subject was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The text of the commented provisions is revised towards organisations instead of their activities and reads as follows:

'(2) cover all the service providers under the supervision of the competent authority;

(3) cover the means implemented by the service provider to ensure the competency of personnel;'

comment

1208

comment by: *Luca Valerio Falessi*

**Option 1 is preferred because it allows a planning of Authority resources.**

In Option 2 the required resources are related to the "good behavior" of the ANSP, and therefore fall outside the control of the competent authority.

To choose the option 2 would mean making something deviating from the cost part of the the performance regulation and allow to the authority to charge the ANSP for oversight beyond the limits imposed by the risk cost (see regulation 391).

response

*Not accepted*

The Agency takes the preferred option into consideration.

comment

1227

comment by: *SINCTA - Portuguese Air Traffic Controllers' Union*

**ATM/ANS.AR.C.015 Oversight**

We should focus on the objective of the oversight program: monitor the continuous compliance of the ATM/ANS providers under its supervision. That means to verify compliance with requirements applicable to organizations and persons. Regarding persons it is only about the requirements applicable to the issue and maintenance of a personnel license, certificate, rating or endorsement.

Proposal: (3) Cover the oversight **means implemented by ANSPs to ensure the competency** of personnel , including the air traffic safety electronics personnel (ATSEPs);

response *Partially accepted*

The Agency takes the proposal into consideration and the commented provision is amended.

comment

1238

comment by: ENAV

Proposal for rewording

c)

.....

(3) Cover the oversight **means implemented by ANSP to ensure the competency** of personnel , including the air traffic safety electronics personnel (ATSEP);

Rationale

The audit is focused on the provider.  
There should be no findings towards individuals.  
This needs to be clarified.

response *Partially accepted*

The Agency takes the proposal into consideration and the commented provision is amended.

comment

1269

comment by: CAA CZ

The NSA prefers the Option 2 by which they receive greater flexibility in the oversight planning and by which they can fully develop the risk based oversight process.

response *Accepted*

The Agency takes the commented option into consideration.

comment

1280

comment by: Romanian Civil Aviation Authority

	<p>Proposal:</p> <p>Option 1</p> <p>Justification:</p> <p>Option 1 offers more choices for conducting the safety oversight.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the commented option into consideration.</p>

comment	<p>1313</p> <p style="text-align: right;">comment by: ATCEUC</p> <p><b>ATM/ANS.AR.C.015 Oversight</b></p> <p>We should focus on the objective of the oversight program: monitor the continuous compliance of the ATM/ANS providers under its supervision. That means to verify compliance with requirements applicable to organizations and persons. Regarding persons it is only about the requirements applicable to the issue and maintenance of a personnel license, certificate, rating or endorsement.</p> <p>So ATCEUC proposes to change the text:  <i>(3) Cover the oversight <u>means implemented by ANSPs to ensure the competency</u> of personnel , including the air traffic safety electronics personnel (ATSEPs);</i></p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the proposal into consideration and the commented provision is amended.</p>

comment	<p>1324</p> <p style="text-align: right;">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></p> <p>proposed amendment:</p> <p>cover the oversight of processes put in place by ATM/ANS providers to make sure that staff is competent for their safety related duties <del>personnel licenses and certificates, including the air traffic safety electronics personnel (ATSEP);</del></p> <p>AMC : On-the-job competence should only be checked through appropriate means with the help of assessors when they exist for the competence checked.</p> <p>GM : ATCOs on the job competence may only be checked through the assessment procedure defined in ATCO licensing NPA.</p> <p>justification:</p> <p>This NPA is aimed at ATM/ANS providers not at individuals inside those entities,</p>
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	so for competent authorities, raising findings to (or about) individuals is not relevant. The oversight has to be on an approved competence scheme not on anything else.
response	<i>Partially accepted</i>
	The Agency takes the comment into consideration. The subject provision is amended.

comment	1344	comment by: USCA
	<b>ATM/ANS.AR.C.015 Oversight</b>	
	We should focus on the objective of the oversight program: monitor the continuous compliance of the ATM/ANS providers under its supervision. That means to verify compliance with requirements applicable to organizations and persons. Regarding persons it is only about the requirements applicable to the issue and maintenance of a personnel license, certificate, rating or endorsement.	
	<i>Cover the oversight means implemented by ANSPs to ensure the competency of personnel , including the air traffic safety electronics personnel (ATSEPs);</i>	

response	<i>Partially accepted</i>
	The Agency takes the proposal into consideration and the commented provision is amended.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) – SUBPART C – OVERSIGHT, CERTIFICATION, AND ENFORCEMENT (ATM/ANS.AR.C) – ATM/ANS.AR.C.020 Changes – ATM/ANS providers**

p. 26

comment	119	comment by: LfV
	It must be clear that this paragraph covers implementation of organisational changes (which is the interpretation from text in Explanatory Note, but not explained in IR), i.e. the scope of changes affected, and that safety accountabilities and responsibilities are the relevant issues under consideration. It should be very carefully evaluated what type of changes that really require approval from CA, and what need only notification or can be a part of certification compliance according to the ANSP management system (i.e. subject to oversight). Detailed requirements on approval from CA may be very cost driving for both ANSP and NSA	

response	<p><i>Noted</i></p> <p>The Agency takes the comments into consideration.</p> <p>Based on the outcome of the NPA consultation, the subject provisions are revised. These issues were also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>
comment	<p><i>161</i> <span style="float: right;"><i>comment by: NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.AR.C.020</b></p> <p>The competent authority should be obliged to respond to change request within a reasonable timescale (similar to the timescales for ATM/ANS providers). The title of this IR "Changes – ATM/ANS providers" is different to the title of the related GM "Changes to ATM/ANS providers" and creates confusion over what types of changes the rule is trying to address.</p> <p><b>Propose new (d) with candidate timescales:</b></p> <p>"(d) The competent authority shall formally respond to applications for a change within the following time frames:</p> <ul style="list-style-type: none"> <li>(1) All applications shall be acknowledged within 1 calendar week;</li> <li>(2) The competent authority shall satisfy themselves within 30 calendar days for a change to an existing ATM/ANS service;</li> <li>(3) The competent authority shall satisfy themselves within 90 calendar days for a new ATM/ANS service provided within the scope of an existing certificate; and</li> <li>(4) The competent authority shall satisfy themselves within 120 days for the issuing of a new certificate to a new ATM/ANS service provider." </li></ul>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p> <p>As a result, associated AMCs are introduced (AMC1 ATM/ANS.AR.C.025(b) and AMC1 ATM/ANS.AR.C.025(c)).</p>
comment	<p><i>162</i> <span style="float: right;"><i>comment by: NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.AR.C.020 (c)</b></p> <p>Whilst this requires the CA to approve a procedure developed by the ATM/ANS provider the referred to OR (ATM/ANS.OR.A.035 (b)) only requires CA agreement.</p> <p><b>Propose that</b> ATM/ANS.OR.A.035 (b) is amended to reflect the need for CA approval of the procedure.</p>
response	<p><i>Accepted</i></p>

Based on the outcome of the NPA consultation, the subject provision is revised to address the issue. It was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

comment 234

comment by: AENA-NPA2013-08

**Page 26, ATM/ANS.AR.C.020 Changes – ATM/ANS providers**

For changes not requiring prior approval, it is considered enough to submit the procedure to de competent authority without requiring formal approval, understanding that if there is any problem with the procedure, the competent authority will notify the ATM/ANS provider.

Therefore, it is proposed to modify provision ATM/ANS.AR.C.020 (c) as highlighted in red:

*(c) For changes not requiring prior approval, ~~the competent authority shall approve a procedure developed by the ATM/ANS provider~~ the ATM/ANS provider shall submit to the competent authority a procedure developed by the ATM/ANS provider in accordance with ATM/ANS.OR.A.035(b) defining the scope of such changes and its management and notification mechanism.*

response Not accepted

Based on the outcome of the NPA consultation, the provision is revised. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

Furthermore, it should be pointed out that the requirements for the service providers are laid down in Annex III, while the subject provision is related to the competent authority requirements.

comment 242

comment by: EUROCONTROL

**Page 26 - ATM/ANS.AR.C.020 - Changes – ATM/ANS providers**

What is the timeframe for notifying changes that require prior approval?

What is the timeframe for receiving and approval?

We propose that the timeframe for notification and approval is added.

response Accepted

The Agency takes the comment into consideration.

The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

As a result, an associated AMC is introduced (AMC1 ATM/ANS.AR.C.025(b)).

comment 291

comment by: HungaroControl

	This provision does not set any timescale for the CA to respond to the notification or request of an ANSP. Setting of a timescale would be appreciated.
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p> <p>As a result, an associated AMC is introduced (AMC1 ATM/ANS.AR.C.025(b)).</p>

comment	<p>396 <span style="float: right;">comment by: EUROCONTROL</span></p>
	<p><b>Page 26 - Annex I, Subpart C, ATM/ANS.AR.C.020</b></p> <p>The concept of “change that requires prior approval” has not been introduced nor defined. That is to say that this shall be better explained in the requirement, viz. which changes shall require prior approval.</p> <p>The relevant AMC/GM (GM1 and GM 2 ATM/ANS.AR.C.020) offer only a limited explanation, viz. changes to the management system, personnel or the certificate may need prior approval.</p> <p>Anyhow, within the management system there could be amendments that do not require prior approval. We think that this situation should be made clearer because it introduces another layer of approvals within the certification/oversight system.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. This subject was tabled and also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The subject provisions are significantly reworked to address the aspects raised by the commentator.</p>

comment	<p>471 <span style="float: right;">comment by: DSNA</span></p>
	<p>Request to keep this part reserved until such time as the articles AR.C.030 and AR.C.035 are drafted and the same for the corresponding OR parts.</p>
response	<p><i>Noted</i></p> <p>Based on the outcome of the NPA consultation, the provision is revised. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Furthermore, the Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. The final outcome of the consultation of NPA 2013-08 and of the said NPA will be issued in a single EASA Opinion.</p>

comment 555 comment by: *CANSO Civil Air Navigation Services Organization*

<b>AR.C.020(c)</b>	Timescale for reacting to a change	When an ANSP notifies a CA of a change, there is no timescale set within which the CA has to respond to this notification or request. The converse regarding ANSP reaction time is not true. CANSO would appreciate the requirement being set for both types of organisation.
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response *Accepted*

The Agency takes the comment into consideration.

The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

As a result an associated AMC is introduced (AMC1 ATM/ANS.AR.C.025(b)).

comment 578 comment by: *Federal Office of Civil Aviation FOCA*

The paragraph refers to "changes" whereas the Explanatory notes refer to "organizational change". The purpose/intent of this paragraph is unclear. May also be covered by ATM/ANS.OR.A.035 or vice versa.  
FOCA recommends to merge the section ATM/ANS.AR.C.020 and ATM/ANS.OR.A.035 into a single section. The current separation is artificial and readability and comprehensiveness is strongly compromised (as the two sections are located in two different parts of the NPA (Annex I / Annex II))

response *Noted*

The Agency takes note of the comment.

The subject was tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. Based on the outcome of the NPA consultation, the provision is significantly reworked to better clarify the issue, especially the scope of the changes.

Furthermore, it should be noted that Annex II (Part-ATM/ANS.AR) sets up the requirements to be applied by the competent authorities, while Annex III the requirements for service providers.

Moreover, the Agency is to issue a dedicated NPA on the provisions related to the safety assessment of changes to the functional systems. The final outcome of the consultation of NPA 2013-08 and of the said NPA will be issued in a

single EASA Opinion.

comment

748

comment by: *AvinorANSP*

Timescale for reacting to a change When an ANSP notifies a CA of a change, there is no timescale set within which the CA has to respond to this notification or request. The converse regarding ANSP reaction time is not true. CANSO would appreciate the requirement being set for both types of organization.

response

*Accepted*

The Agency takes the comment into consideration.

The issue was also tabled and thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

As a result, an associated AMC is introduced (AMC1 ATM/ANS.AR.C.025(b)).

comment

869

comment by: *Belgocontrol*

We are concerned that this point is too large (in relation to the expected understanding in the **OR.A.040**), we would propose containing it to the safety relevant changes to the functional system. We propose:  
Upon receiving an application for a change in accordance with ATM/ANS.OR.A.040 ~~that requires prior approval~~, the competent authority shall verify the ATM/ANS provider's compliance with the applicable requirements before issuing the approval.  
In case of approvals, the NSA should provide their response within a pre-defined timeframe.

response

*Not accepted*

Based on the outcome of the NPA consultation, the provision is revised to better clarify the issue, especially the scope of the changes. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

Furthermore, the Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. The final outcome of the consultation of NPA 2013-08 and of the said NPA will be issued in a single EASA Opinion.

comment	<p data-bbox="352 277 411 313">870</p> <p data-bbox="1082 277 1447 313" style="text-align: right;">comment by: <i>Belgocontrol</i></p> <p data-bbox="352 367 1447 685">Approval process should focus exclusively on Safety Relevant changes to the Functional System. To this end, the reference below is proposed to be adapted. (c) For changes not requiring prior approval, the competent authority shall approve a procedure developed by the ATM/ANS provider in accordance with <del>ATM/ANS.OR.A.035(b)</del> <b>ATM/ANS.OR.A.040</b> defining the scope of such changes and its management and notification mechanism. In the continuous oversight process the competent authority shall assess the information provided in the notification and verify whether actions taken comply with the approved procedures and applicable requirements.</p>
response	<p data-bbox="352 728 534 772"><i>Not accepted</i></p> <p data-bbox="352 824 1447 981">Based on the outcome of the NPA consultation, the provision is revised to better clarify the issue, especially the scope of the changes. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p data-bbox="352 987 1447 1115">Furthermore, the Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. The final outcome of the consultation of NPA 2013-08 and of the said NPA will be issued in a single EASA Opinion.</p>

comment	<p data-bbox="352 1200 427 1243">1092</p> <p data-bbox="1145 1200 1447 1243" style="text-align: right;">comment by: <i>UK CAA</i></p> <p data-bbox="352 1294 534 1328"><b>Page No:</b> 26</p> <p data-bbox="352 1328 845 1361"><b>Paragraph No:</b> ATM/ANS.AR.C.020</p> <p data-bbox="352 1361 1447 1424"><b>Comment:</b> The title needs to make clear that this applies only to 'Organisational' changes and not to changes in functional ATM systems.</p> <p data-bbox="352 1424 1447 1581"><b>Justification:</b> This article seems to make sense only in the context of changes to the organisation, however, it is not clear that this process may not also apply to changes to functional systems. There is nothing here that seems to reflect the needs of an SMS to address Safety Related changes that are not of an organisational nature.</p> <p data-bbox="352 1581 1447 1648"><b>Proposed Text</b> Amend the title to read: '<b>Organisational</b> Changes – ATM/ANS providers'.</p> <p data-bbox="352 1648 1447 1715">In addition, the word 'organisational' needs to be added to the text in front of the word 'change' on each occasion.</p>
response	<p data-bbox="352 1724 534 1769"><i>Not accepted</i></p> <p data-bbox="352 1821 1447 1955">Based on the outcome of the NPA consultation, the provision is revised to better clarify the change management subject. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p>

comment	1093	comment by: UK CAA
	<p><b>Page No:</b> 26  <b>Paragraph No:</b> ATM/ANS.AR.C.020 (a)  <b>Comment:</b> The term 'Application for a Change' is used here. This should be 'Notification of a proposed Change'.  <b>Justification:</b> The use of the term 'Application' implies that an application form would be required. 'Application' is not used anywhere else in the legislation or guidance note text. The words 'Notification' and 'Notify' are used.  <b>Proposed Text:</b> 'Upon receiving an application a <b>notification</b> for a <b>of a proposed</b> change that requires prior approval...'</p>	
response	<p><i>Partially accepted</i></p> <p>Based on the outcome of the NPA consultation, the subject provision is revised and the resulting text is:  'Upon receiving a notification for a change that requires prior approval.'</p> <p>This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p>	
comment	1096	comment by: UK CAA
	<p><b>Page No:</b> 26  <b>Paragraph No:</b> ATM/ANS.AR.C.020 (a)  <b>Comment:</b> UK CAA suggests the final sub-paragraph under (a) should be amended.  <b>Justification:</b> The paragraph should be related to how the change would affect the ATM/ANS provider's compliance with the applicable requirements and needs to be done before the change is put into effect.  <b>Proposed Text:</b>  'When satisfied that the ATM/ANS provider is <b>would remain</b> in compliance with the applicable requirements the competent authority shall <b>give approval for</b> the change <b>to take place.</b>'</p>	
response	<p><i>Not accepted</i></p> <p>Based on the outcome of the NPA consultation, the subject provision is reworked. This subjectt was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p>	
comment	1097	comment by: UK CAA
	<p><b>Page No:</b> 26  <b>Paragraph No:</b> ATM/ANS.AR.C.020 (b)  <b>Comment:</b> UK CAA suggests the wording should be amended as this paragraph asks for the competent authority to take 'immediate action' when a change is implemented without prior approval. It is difficult to see how the authority can</p>	

	<p>take immediate action if they have not been notified of the change.  <b>Justification:</b> The authority would not be able to take immediate action if they were unaware that the change had taken place.  <b>Proposed Text:</b>          'Without prejudice to any additional enforcement measures, when the <b>competent authority has been made aware that an</b> ATM/ANS provider has implemented changes requiring prior approval without having received competent authority approval as defined in (a), the competent authority shall take immediate appropriate action.'</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>Based on the outcome of the NPA consultation, the subject provision is reworked. This subject was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>

comment	<p>1149 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment</p> <p>ATM/ANS.AR.C.020 – Changes (p26):          « (a) Upon receiving an application for a change that requires prior approval, the competent authority shall verify the ATM/ANS provider's compliance with the applicable requirements before issuing the approval.”          This requirement as it is written is not understandable without any reference to the requirement applicable to the ATM/ANS provider. <u>This is the reason why it is suggested to modify the sentence:</u></p> <p>« (a) Upon receiving an application <b>by the ATM/ANS provider</b> for a change that requires prior approval <b>in accordance with ATM/ANS.OR.A.035</b>, the competent authority shall verify the ATM/ANS provider's compliance with the applicable requirements before issuing the approval.”</p>
response	<p><i>Partially accepted</i></p> <p>Based on the outcome of the NPA consultation, the subject provision is reworked. This subject was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p>

comment	<p>1210 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p>Change title as follows:</p> <p><b>ATM/ANS.AR.C.020 <u>Oversight of Changes</u> – ATM/ANS providers</b></p>
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Nothing in this chapter refers to the finding itself. The text actually refers to the oversight of changes introduces by ATM/ANS providers.

response *Not accepted*

Based on the outcome of the NPA consultation, the subject provision is reworked. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

comment *1281* comment by: *Romanian Civil Aviation Authority*

Proposed text:

a) Upon receiving an application for a change that requires prior acceptance, the competent authority shall verify the ATM/ANS provider's compliance with the applicable requirements before issuing the approval.  
The competent authority shall accept the conditions under which the ATM/ANS provider may operate during the change unless the competent authority determines that the change cannot be implemented.

Justification:

If competent authorities approve changes made by ANSPs this issue will lead to a conflict interest because Competent authorities will verify documents approved by them during audit, inspections, investigations activities. Approving changes, it gives more responsibility for implementation of those changes to competent authorities. Accepting changes, it shows clearly that the responsibility of the implementation of changes belong to ANSPs and competent authorities, through given acceptance, indicate that the change process is in compliance with change procedure.

response *Not accepted*

Based on the outcome of the NPA consultation, the subject provision is reworked. This subject was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

Furthermore, the concept of such 'changes (not) requiring prior approval' (already into force in other domains, e.g. air operations and aerodrome) uses the term 'approval'.

comment *1282* comment by: *Romanian Civil Aviation Authority*

Proposed text:

(b) Without prejudice to any additional enforcement measures, when the

ATM/ANS provider implements changes requiring prior approval without having received competent authority acceptance as defined in (a), the competent authority shall take immediate appropriate action.

Justification:

If competent authorities approve changes made by ANSPs this issue will lead to a conflict interest because Competent authorities will verify documents approved by them during audit, inspections, investigations activities.

Approving changes, it gives more responsibility for implementation of those changes to competent authorities.

Accepting changes, it shows clearly that the responsibility of the implementation of changes belong to ANSPs and competent authorities, through given acceptance, indicate that the change process is in compliance with change procedure.

response *Not accepted*

Based on the outcome of the NPA consultation, the subject provision is reworked. This subject was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

Furthermore, the concept of such 'changes (not) requiring prior approval' (already into force in other domains, e.g. air operations and aerodrome) uses the term 'approval'.

comment 1283

comment by: *Romanian Civil Aviation Authority*

Proposed text:

For changes not requiring prior acceptance, the competent authority shall approve a procedure developed by the ATM/ANS provider in accordance with ATM/ANS.OR.A.035(b) defining the scope of such changes and its management and notification mechanism. In the continuous oversight process the competent authority shall assess the information provided in the notification and verify whether actions taken comply with the approved procedures and applicable requirements.

Justification:

If competent authorities approve changes made by ANSPs this issue will lead to a conflict interest because Competent authorities will verify documents approved by them during audit, inspections, investigations activities.

Approving changes, it gives more responsibility for implementation of those changes to competent authorities.

Accepting changes, it shows clearly that the responsibility of the implementation of changes belong to ANSPs and competent authorities, through given acceptance, indicate that the change process is in compliance with change procedure.

response *Not accepted*

Based on the outcome of the NPA consultation, the subject provision is reworked. This subject was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

Furthermore, the concept of such 'changes (not) requiring prior approval' (already into force in other domains, e.g. air operations and aerodrome) uses the term 'approval'.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) – SUBPART C – OVERSIGHT, CERTIFICATION, AND ENFORCEMENT (ATM/ANS.AR.C) – ATM/ANS.AR.C.025 Findings, corrective actions, and enforcement measures** p. 26-27

comment 79

comment by: *ATC the Netherlands*

Delete 3e). The consequences of raising an issue from level 2 to level 1 because of delays in corrective action plan submission or implementation does not consider operational or third party related issues that the ANSP may encounter to correct findings as initially estimated. It is considered as mechanistic and over-reaction because the NSA has other means to mandate compliance when an actual safety issue stemming from a finding is not correct

response *Partially accepted*

The Agency takes the comment into consideration.

This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority's discretion.

comment 120

comment by: *LFV*

Propose additional text to enable the providers to fully understand the criteria against which they are being audited / inspected:

(a) The competent authority shall have a system to analyse findings for their safety significance and decide on enforcement measures on the basis of the safety risk posed by the ATM/ANS provider's or Network Manager's non-compliance.

*The CA shall communicate both the full description of the system and of the safety risk criteria to the ATM / ANS provider.*

response *Noted*

This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.

The subject could be considered, but would require a deeper discussion, analysis and evaluation of the possible impacts. Therefore, the commentator is kindly invited also to consider whether a more detailed rulemaking proposal on the issue would be possible and the Agency would take appropriate action to initiate such a task.

comment 163 comment by: *NATS National Air Traffic Services Limited*

ATM/ANS.AR.C.025 (b)

The term "...provision of ATM/ANS..." is misleading as the scope is ATM/ANS providers.

response *Accepted*

The Agency takes the comment into consideration and the text is amended accordingly.

comment 165 comment by: *NATS National Air Traffic Services Limited*

ATM/ANS.AR.C.025 (c) (4)

A Level 1 finding is considered appropriate for a lack of an accountable manager; however there is no **explicit** requirement in the rule for an ATM/ANS provider to have an accountable manager (or who it should be). There are requirements in the ATM/ANS.OR for the accountable manager (or accountable managers in one instance) but not specifically to have one.

Suggest adding the requirement for an accountable manager to ATM/ANS.OR

response *Accepted*

The Agency takes the comment into consideration.

In Annex II (now Annex III)(Part-ATM/ANS.OR), a new provision is introduced on personnel requirements (ATM/ANS.OR.B.020) which sets up a requirement for the service provider to appoint an accountable manager, who has the authority over ensuring that all activities can be financed and carried out in accordance with the applicable requirements.

comment 166 comment by: *NATS National Air Traffic Services Limited*

ATM/ANS.AR.C.025 (e) (3)

AMC / GM would be appreciated to clarify the intent of this provision with regard to the circumstances and rationale for the escalation of findings, particularly in the case where third parties are involved. Third parties could unduly influence the ability to submit an acceptable corrective action plan etc.

response *Partially accepted*

The Agency takes the comment into consideration, and a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced.

However, it should be noted that the ultimate responsibility to provide service in accordance with the applicable requirements remain within the service provider, therefore, the findings raised are against the service provider and any third parties' aspects should be duly considered by the service provider itself.

comment 180

comment by: AENA-NPA2013-08

**Page 26, ATM/ANS.AR.C.025.**

A level 1 finding can revoke certification's provider. The point of a declaration that "calls into question the ATM/ANS provider's fitness to continue operations" is so diffuse that a no so much severe issue can influence Provider's fitness and generate a level 1 finding (eg regulation related with ATC strikes can be considered as an example of Provider's unfitness).

response *Noted*

It is important to be noted that level 1 findings are not 'regular' findings for which a certain time period can be allowed to rectify the non-compliance. These are very serious cases and, therefore, the competent authorities need to act directly to minimise the identified impact until the service provider has taken successful corrective action. This creates a balance between providing the competent authorities with sufficient powers to take all the necessary measures and ensuring that safety is not compromised on the one hand, and not forcing them into actions that could jeopardise the continuation of the necessary services by the service providers on the other.

comment 236

comment by: AENA-NPA2013-08

**Page 26, ATM/ANS.AR.C.025 Findings, corrective actions, and enforcement measures**

It is of paramount importance for the transparent application of the oversight process that its various stages and deadlines are clearly established. Consequently, it is proposed to add the following text highlighted in red at the beginning of requisite ATM/ANS.AR.C.025:

*The competent authority shall establish and implement a procedure covering the various stages of the process associated to the management of the findings and the associated deadlines including the definition and classification of findings. This procedure shall cover:*

As included in paragraph 96 of document NPA 2013-08 (a), competent authorities shall establish a system for categorising findings and deciding on enforcement measures. In order to achieve this purpose it is very important to define a detailed categorization of findings and not just a poor categorization which only differentiates between findings level 1 and level 2. The system shall be accessible for ATM/ANS providers.

Therefore, it is suggested to develop GM 2 ATM/ANS.AR.C.025 which includes detailed categories of findings, as well as to modify provision ATM/ANS.AR.C.025 (a) as highlighted in red:

*(a) The competent authority shall have a system to analyse findings for their safety significance and decide on enforcement measures on the basis of the safety risk posed by the ATM/ANS provider's or Network Manager's non-compliance. This system shall be established in a documented way, being accessible for ATM/ANS providers.*

In case of "no safety risk" it is not always necessary to take "immediate" mitigation measures, so it is proposed to modify provision ATM/ANS.AR.C.025 (b) as highlighted in red:

*"(b) In circumstances where no or very low additional safety risk would be present with ~~immediate~~ appropriate mitigation measures, the competent authority may accept the provision of ATM/ANS to ensure continuity of service whilst corrective actions are being taken".*

In any case, it shall be set an origin in time for the term "immediate", establishing if it starts after the receipt of the audit report, after the formal communication of the competent authority, etc. This is also applicable for the concept "immediate" included in provision ATM/ANS.AR.C.025 (e) (1).

In case of "no safety risk" it is not always necessary to take "immediate" mitigation measures, so it is proposed to modify provision ATM/ANS.AR.C.025 (b) as highlighted in red:

*"(b) In circumstances where no or very low additional safety risk would be present with ~~immediate~~ appropriate mitigation measures, the competent authority may accept the provision of ATM/ANS to ensure continuity of service whilst corrective actions are being taken".*

In any case, it shall be set an origin in time for the term "immediate", establishing if it starts after the receipt of the audit report, after the formal communication of the competent authority, etc. This is also applicable for the concept "immediate" included in provision ATM/ANS.AR.C.025 (e) (1).

In order to establish clear and common oversight rules across Europe, it shall be clearly established (through GM and/or AMC) the meaning of the concept "serious" in provision ATM/ANS.AR.C.025 (c), as well as the scope of the concept "significant" in provision ATM/ANS.AR.C.025 (c) (1):

*"(c) A level 1 finding shall be issued by the competent authority when any serious non-compliance is detected with the applicable requirements of Regulation (EC) No 216/2008 and its Implementing Rules, (...)"*

*"Level 1 findings shall include, but not be limited to:*

*(1) promulgating operational procedures and/or providing a service in a way which introduces a significant risk to flight safety;"*

Additionally, it shall be also included in the regulation if level 1 findings imply that the service cannot be provided until appropriate corrective actions are implemented.

The current wording does not permit the ATM/ANS provider to exercise an allegation process regarding findings detected by the authority. It just considers the implementation of corrective actions on time.

It should be considered the common supervision process which includes the possibility of allegation by the provider being supervised (at least for level 2 findings), so that the implementation period starts counting once resolved by the authority's the allegation made by the ATM/ANS provider.

Consequently, it is proposed to add the text highlighted in red in requisite ATM/ANS.AR.C.025 (e):

*(2bis) The ATM/ANS provider may carry out an allegation process regarding findings detected by the authority. For level 2 findings the corrective action implementation period shall start counting once resolved by the authority's the allegation made by the ATM/ANS provider.*

Furthermore, it is paramount that the AMC or GM associated to this requirement ATM/ANS.AR.C.025 (e) (2bis) should establish the **deadlines for the various stages of the process associated to the management of the findings** (distinguishing between level 1 and level 2 findings): submission of allegations by the ATM/ANS provider, resolution of allegations by the authority, submission of a corrective action plan by the ATM/ANS provider, acceptance of the corrective action plan by the authority, implementation of corrections and corrective actions by the ATM/ANS provider.

It is too restrictive that findings classified as level 2 and with low impact in safety can become level 1 (with the serious consequences that it entails) just by a failure to meet deadline for its implementation. Therefore, it is proposed to modify the following text included in requisite ATM/ANS.AR.C.025 (e) (3) as highlighted in red:

"(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, *depending on its nature* the finding *shall may* be raised to a level 1 finding, and action taken as laid down in (e)(1)".

response *Partially accepted*

The Agency takes the proposals into consideration.

The aspects raised by the commentator were also tabled and discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

As a result, the issues that were not already covered by the management requirements for the competent authority were considered and the commented provision is amended.

comment 263

comment by: AENA-NPA2013-08

**ATM/ANS.AR.C.025 Findings, corrective actions, and enforcement measures. (e)**

We need further explanation about the paragraph 1.(c) of Art. 6, 'FIS is provided for no longer than 30 consecutives days'?

response *Noted*

The Agency takes the comment into consideration.

Based on the NPA consultation, the subject provision is revised and this eligibility criterion is removed. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

comment 310

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>Annex I ATM/ANS.AR.C.025 <b>Findings, corrective actions, and enforcement measures</b></p>	<p>As it has been reported that article 6.3 of regulation (CE) No 1035/2011 is being interpreted in several ways and many NSAs were in agreement that their interpretation is that the 30 days refers to a request to be made by the Competent Authority. This, however, is not the understanding of EASA. (For further details, pray refer to point 2 of the notes of 3<sup>rd</sup> ATM/ANS Standardisation Meeting held on the 4 June 2013.)</p> <p>This aspect is not addressed in this NPA.</p> <p>The requirement established in paragraph (e) 1) is that <i>"In the case of level 1 findings, the competent authority shall take immediate and appropriate action"</i>, whereas in most cases such action consists in requiring the ANSP to take this action and in overseeing that the ANSP reacts within a reasonable and limited timeframe, a timeframe which depends on how significant this finding is.</p>	<p>The Competent Authority shall require the organisation to take corrective action and to oversee that such corrective action is taken in an reasonable an adequate timeframe. These timeframes should be divided into 3 categories: Immediate, 30 days and 2-3 months.</p>

response *Noted*

The Agency takes note of the comment.  
It is important to point out that the introduction of a finding classification

scheme is a novelty in the subject NPA 2013-08. So far, the current legislation refers only to non-compliances without considering their significance. The new approach would provide for a convenient and straightforward system between findings and corrective actions, and has been tailored to the oversight of service providers while ensuring the continuity of service.

comment

311

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.C.025(a) <b>Findings, corrective actions, and enforcement measures</b>	A set of minimum requirements both for the system to analyse findings and for carrying out a safety risk assessment of the non-compliance should be developed in order to be able to decide the safety significance.	This would set a level playing field and would harmonise/standardise the way to proceed with the analysis of findings and the safety risk assessment of the non-compliance.

response

*Noted*

This issue was discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The subject could be considered, but would require a deeper discussion, analysis and evaluation of the possible impacts. Therefore, the commentator is kindly invited also to consider whether a more detailed rulemaking proposal on the issue would be possible and the Agency would take appropriate action to initiate such a task.

comment

341

comment by: HungaroControl

AMC / GM is needed to define the aim of this provision with regard to the circumstances and rationale for the escalation of findings, particularly in the case where third parties are involved.

response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration, and a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced.</p> <p>However, it should be noted that the ultimate responsibility to provide service in accordance with the applicable requirements remains within the service provider, therefore, the findings raised are against the service provider and any third parties' aspects should be duly considered by the service provider itself.</p>
comment	<p>343 <span style="float: right;">comment by: <i>skyguide Corporate Regulation Management</i></span></p> <p>(e)(3) We understand that the competent authority needs some sort of enforcing mechanism to correct findings. However, raising the finding to a level 1 finding (which is by definition posing a significant risk to flight safety or calling into question the ATM/ANS provider's fitness to continue operations) is not the right tool, since this is not safety risk but purely compliance based. We therefore propose to delete letter (e) number (3) of this article, and find another more appropriate mechanism to enforce compliance</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.</p>
comment	<p>397 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 26 - Annex I, Subpart C, ATM/ANS.AR.C.025 (c)</b> The possibility for a CA to issue an "Observation" creates another layer down of the scale for the auditors.</p> <p>It is interesting to read that Level 1 is associated with enforcement measures.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p>
comment	<p>463 <span style="float: right;">comment by: <i>DSNA</i></span></p> <p>Proposed addition to enable the providers to fully understand the criteria against which they are being audited / inspected.</p>

	<p>Proposal:  (a) The competent authority shall have a system to analyse findings for their safety significance and decide on enforcement measures on the basis of the safety risk posed by the ATM/ANS provider's or Network Manager's non-compliance. The CA shall communicate both the full description of the system and of the safety risk criteria to the ATM / ANS provider.</p>
response	<p><i>Not accepted</i></p> <p>The proposal is considered partially as an overlap, as the issue raised by the commentator is to a certain extent addressed in various provisions. Furthermore, the audit report, including the details of the findings and observations should be drawn up and communicated to the service provider concerned. In addition, these aspects are recognised as 'standard audit techniques'.</p> <p>This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject.</p> <p>However, the subject could be considered, but would require a deeper discussion, analysis and evaluation of the possible impacts. Therefore, the commentator is kindly invited also to consider whether a more detailed rulemaking proposal on the issue would be possible and the Agency would take appropriate action to initiate such a task.</p>
comment	<p>465 <span style="float: right;">comment by: DSNA</span></p> <p>The consequences of raising an issue from level 2 to level 1 because of delays in corrective action plan submission or implementation does not consider operational or third party related issues that may prevent the ANSP to correct the finding as initially estimated.</p> <p>It is considered as a mechanistic and over-reaction because the NSA has other means to mandate compliance when an actual safety issue stemming from a finding is not corrected.</p> <p>Proposal:  (e) <del>(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding shall be raised to a level 1 finding, and action taken as laid down in (e)(1).</del></p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.</p> <p>Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced. However, it should be noted that</p>

the ultimate responsibility to provide service in accordance with the applicable requirements remains within the service provider, therefore, the findings raised are against the service provider itself, and any third parties' aspects should be duly considered by the audited provider itself.

comment

558 comment by: *military safety expert/ safety management systeme inspector*

**This requirement doesn't seem to be commensurate with the risks due to the requirement attached to level 1 findings. Level 2 findings may be non-conformities with no or very low safety risks. This is the reason why raising all level 2 findings to level 1 findings if the ATM/ANS provider exceeds a few days the deadline accepted by the competent authority seems unrealistic and without safety benefits.**

**Suggestions:**  
*(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding [level 2] shall be raised to a level 1 finding, in case of significant non-compliance, and action taken as laid down in (e)(1)."*

response

*Partially accepted*

The Agency takes the comment into consideration.

This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.

Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced to provide further clarity.

comment

575 comment by: *CANSO Civil Air Navigation Services Organization*

<p><b>ATM/ANS.AR.C.025 Findings, corrective actions, and enforcement measures</b></p>	<p><del>(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding</del></p>	<p>The consequences of raising an issue from level 2 to level 1 because of delays in corrective action plan submission or implementation does not consider operational or third party related issues that may prevent the ANSP to correct the finding as</p>
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	<p>shall be raised to a level 1 finding, and action taken as laid down in (e)(1).</p>	<p>initially estimated. It is considered as a mechanistic and over-reaction because the NSA has other means to mandate compliance when an actual safety issue stemming from a finding is not corrected.</p>
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response *Partially accepted*

The Agency takes the comment into consideration.

This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.

Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.

Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced. However, it should be noted that the ultimate responsibility to provide service in accordance with the applicable requirements remains within the service provider, therefore, the findings raised are against the service provider itself, and any third parties' aspects should be duly considered by the audited provider itself.

comment 580

comment by: *Federal Office of Civil Aviation FOCA*

Documentary evidence may include:

Replace "inspection records and internal audit results" with "internal quality control results (inspection, audit and tests)

Justification:

Quality Control consists of three different methods (inspections, audits and tests). All three methods are considered to be internal quality control activities.

FOCA suggests to add to (c) the following:

staff recruitment (pre-employment check or background check)

response *Not accepted*

comment 654

comment by: *PANSA*

	<p><del>(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding shall be raised to a level 1 finding, and action taken as laid down in (e)(1).</del></p> <p><b>Justification:</b>  <i>Delays in implementation of corrective actions may lay beyond ANSP control and such automatic reaction may not always be justified. NSA may prefer to use other means to mandate compliance when an actual safety issue identified in a finding is not corrected.</i></p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.</p> <p>Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced. However, it should be noted that the ultimate responsibility to provide service in accordance with the applicable requirements remains within the service provider, therefore the findings raised are against the service provider itself, and any third parties' aspects should be duly considered by the audited provider itself.</p>
comment	<p>749 <span style="float: right;">comment by: AvinorANSP</span></p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p><del>(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding shall be raised to a level 1 finding, and action taken as laid down in (e)(1).</del></p> </div> <p>The consequences of raising an issue from level 2 to level 1 because of delays in corrective action plan submission or implementation does not consider operational or third party related issues that may prevent the ANSP to correct the finding as initially estimated.</p> <p>It is considered as a mechanistic and over-reaction because the NSA has other means to mandate compliance when an actual safety issue stemming from a finding is not corrected.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings</p>

organised, which provided the Agency with further valuable advice on how to proceed with the issue.

Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.

Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced. However, it should be noted that the ultimate responsibility to provide service in accordance with the applicable requirements remains within the service provider, therefore, the findings raised are against the service provider itself, and any third parties' aspects should be duly considered by the audited provider itself.

comment

821

comment by: *Irish Aviation Authority*

**Document:** B – Implementing Rule

**Page No:** 27 and 37

**Paragraph No:** ATM/ANS.AR.C.025.e.2 and ATM/ANS.OR.A.050.b

**Comment:** ATM/ANS.AR.C.025.e.2 states that the competent authority shall assess the corrective action and implementation plan proposed by the ATM/ANS provider and, if the assessment concludes that they are sufficient to address the non-compliance(s), accept them.

ATM/ANS.OR.A.050.b states that the ATM/ANS provider shall define a corrective action plan that shall be approved by the competent authority

**Justification:** Legal clarity.

**Proposed Text:** No text proposed.

response

*Noted*

The Agency takes note of the comment.

However, it should be noted that the corrective action plan includes deadlines proposed, by which the service provider would accomplish the actions to rectify the non-compliances. Therefore, the competent authority should assess the corrective action(s) and in addition thereto the implementation periods proposed.

comment

1101

comment by: *UK CAA*

**Page No:** 26

**Paragraph No:** ATM/ANS.AR.C.025 (c) (4)

**Comment:** The term 'Accountable Manager' is not defined. 'Accountable Manager' needs to be defined within the legislation.

**Justification:** This paragraph recognises that the Accountable Manager holds the most important post in an ATM/ANS provider's safety management system by the fact that the lack of one would result in a Level 1 finding. Therefore it is of utmost importance that the post of the Accountable Manager is defined

**Proposed Text:**

	<p>'The organization must identify the Accountable Manager, who must be a single, identifiable person having final responsibility for the effective and efficient performance of the organization's SMS.'</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>In Annex III (Part-ATM/ANS.OR), a new provision is introduced on personnel requirements (ATM/ANS.OR.B.020) which sets up a requirement for the service provider to appoint an accountable manager, who has the authority over ensuring that all activities can be financed and carried out in accordance with the applicable requirements.</p>

comment	<p><i>1151</i> comment by: <i>French Civil Aviation Authority (DGAC)</i></p>
	<p>French CAA comment</p> <p>ATM/ANS.AR.C.025 – Findings (p26):  « (e) (...) <i>(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding [level 2] shall be raised to a level 1 finding, and action taken as laid down in (e)(1)."</i></p> <p>This requirement seems to be not commensurate with the risks due to the requirement attached to level 1 finding. Level 2 findings may be non-conformities with no or very low safety risks. This is the reason why raising <u>all</u> level 2 findings to level 1 findings if the ATM/ANS provider exceeds of few days the deadline accepted by the competent authority seems unrealistic and without safety benefits.</p> <p><u>This is the reason why it is suggested to modify the sentence:</u></p> <p><i>(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding [level 2] shall be raised to a level 1 finding, <b>in case of significant non-compliance</b>, and action taken as laid down in (e)(1)."</i></p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.</p> <p>Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced to provide further clarity.</p>

comment	1173	comment by: ENAV
	<p>Proposal for rewording  <del>(e)(3) Where the ATM/ANS provider fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding shall be raised to a level 1 finding, and action taken as laid down in (e)(1).</del></p> <p>Rationale  The consequences of raising an issue from level 2 to level 1 because of delays in corrective action plan submission or implementation does not consider operational or third party related issues that may prevent the ANSP to correct the finding as initially estimated.  It is considered as a mechanistic and over-reaction because the NSA has other means to mandate compliance when an actual safety issue stemming from a finding is not corrected.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Based on the NPA consultation, the provision is amended and 'shall' is replaced by 'may' in order not to exclude this possibility, but to leave it to the competent authority discretion.</p> <p>Furthermore, a newly developed GM associated to ATM/ANS.AR.C.050(e) (formerly ATM/ANS.AR.C.025) is introduced to clarify the subject. However, it should be noted that the ultimate responsibility to provide service in accordance with the applicable requirements remains within the service provider, therefore, the findings raised are against the service provider itself, and any third parties' aspects should be duly considered by the audited provider itself.</p>	
comment	1239	comment by: CAA Norway
	<p><b>ATM/ANS.AR.C.025</b> Findings, corrective actions, and enforcement measures  Because of the nature of the ATM/ANS services and the severe consequences the revoking, limiting or suspending of a certificate will have on air traffic, the N-CAA proposes that financial penalties should be highlighted as the most appropriate enforcement measure in this IR. The N-CAA believes that a financial penalty is the most effective way to secure compliance without inflicting significant social costs.</p>	
response	<i>Partially accepted</i>	
	<p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p> <p>Considering the comment, a newly developed GM (ENFORCEMENT MEASURES – FINANCIAL PENALTIES) associated to ATM/ANS.AR.C.050 (formerly ATM/ANS.AR.C.025) is introduced to point out the issue.</p>	

comment	1284	comment by: <i>Romanian Civil Aviation Authority</i>
	<p>Comment on letter f):</p> <p>There is need for a definition for observation.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration.</p> <p>The Agency does not consider that a definition is required, however an associated GM is introduced on the subject to clarify what an observation means — a way to communicate and draw future audit teams' attention on specific matters that deserve scrutiny.</p>	

**ANNEX I — REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) —SUBPART C — OVERSIGHT, CERTIFICATION, AND ENFORCEMENT (ATM/ANS.AR.C) — ATM/ANS.AR.C.030 Oversight of changes to the functional system**

p. 27

comment	181	comment by: <i>AENA-NPA2013-08</i>
	<p><b>Page 27, ATM/ANS.AR.C.030.</b></p> <p>Confirm that the NPA will be published as IR when these articles are completed. Phased implementation will increase the transition effort.</p>	
response	<i>Noted</i>	
	<p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focused review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p>	

comment	278	comment by: <i>skyguide Corporate Regulation Management</i>
	<p>There seems to be a fundamental problem with issuing such a major regulation for commenting when it is not complete. Suggest to wait for the outcome of the work groups (RMT.0469 and RMT.0470) prior to doing analysis on the</p>	

	<p>comments received from this round of consultation as the updates will need to be reviewed in context.</p>
response	<p><i>Noted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning safety assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p>

comment	<p>433 comment by: <i>Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)</i></p> <table border="1" data-bbox="363 920 1442 1030"> <tr> <td data-bbox="363 920 628 1030">ATM/ANS.AR.C030</td> <td data-bbox="628 920 676 1030">27</td> <td data-bbox="676 920 1442 1030">When can we expect this paragraph as a proposal in an NPA? We consider that it is inappropriate to adopt this regulation without the complete content.</td> </tr> </table>	ATM/ANS.AR.C030	27	When can we expect this paragraph as a proposal in an NPA? We consider that it is inappropriate to adopt this regulation without the complete content.
ATM/ANS.AR.C030	27	When can we expect this paragraph as a proposal in an NPA? We consider that it is inappropriate to adopt this regulation without the complete content.		

response	<p><i>Noted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p>
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comment	<p>1109 comment by: <i>Danish Transport Authority</i></p> <p>ATM/ANS.AR.C030 When can we expect this paragraph as a proposal in an NPA? We consider that it is inappropriate to adopt this regulation without the complete content.</p>
response	<p><i>Noted</i></p>

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the safety assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

**ANNEX I – REQUIREMENTS FOR COMPETENT AUTHORITIES IN ATM/ANS (Part-ATM/ANS.AR) – SUBPART C – OVERSIGHT, CERTIFICATION, AND ENFORCEMENT (ATM/ANS.AR.C) – ATM/ANS.AR.C.035 Review procedure of the proposed changes**

p. 27

comment 121 comment by: LfV

Since this section is left "reserved" we suppose it will be subject to changes compared to (EU) 1034/2011.  
When will these changes be informed about?

response Noted

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

comment 182 comment by: AENA-NPA2013-08

**Page 27, ATM/ANS.AR.C.035.**

Confirm that the NPA will be published as IR when these articles are completed. Phased implementation will increase the transition effort.

response Noted

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed

review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

comment 279 comment by: *skyguide Corporate Regulation Management*

There seems to be a fundamental problem with issuing such a major regulation for commenting when it is not complete. Suggest to wait for the outcome of the work groups (RMT.0469 and RMT.0470) prior to doing analysis on the comments received from this round of consultation as the updates will need to be reviewed in context.

response *Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

comment 435 comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

ATM/ANS.AR.C035	27	When can we expect this paragraph as a proposal in an NPA? We consider that it is inappropriate to adopt this regulation without the complete content.
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response *Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated

NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion during the 4<sup>th</sup> quarter of 2014.

comment

1112

comment by: *Danish Transport Authority*

ATM/ANS.AR.C035

When can we expect this paragraph as a proposal in an NPA? We consider that it is inappropriate to adopt this regulation without the complete content.

response

*Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the said NPA resulting from RMT.0469 will be issued in a single EASA Opinion during the 4<sup>th</sup> quarter of 2014.

**APPENDIX 1 TO ANNEX I – CERTIFICATE FOR AIR TRAFFIC MANAGEMENT/AIR NAVIGATION SERVICE PROVIDER (ATM/ANSP) – EUROPEAN UNION COMPETENT AUTHORITY – AIR TRAFFIC MANAGEMENT/AIR NAVIGATION SERVICE PROVIDER – CERTIFICATE**

p. 28

comment

168

comment by: *NATS National Air Traffic Services Limited*

Throughout this Appendix the term "Air Traffic Management / Air Navigation Service" is used. This means that then definitions in 549/2004 prevail. Additionally the term "ATM/ANSP" is used, which is undefined. The correct term is "ATM/ANS provider" as per the definitions in Article 2. Recommend consistently using the term "ATM/ANS provider" throughout the Appendix.

response

*Partially accepted*

The Agency takes the comment into consideration, and the 'ATM/ANS provider' is replaced by 'service provider'.

comment

312

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I Appendix 1 <b>Services list</b>	The air-ground communication service does not distinguish between voice and data (CPDLC) communications. Although both belong to the Aeronautical Mobile Service, it would be better to list them both for clarity's and completeness' sake.	If no difference is made between voice and data communications, a condition will have to be attached to the certificate in the case that the CNS service provider is not providing both services. This would also facilitate mutual recognition of certificates as indicated in (A) 102.

response

*Not accepted*

The Agency takes note of the comment. However, it is important to be noted that the purpose of the certificate is to present the privileges obtained for the provision of the respected services which the provider is certified for. Therefore, the certificate is rather about the provision of services than about the means used for their provision.

comment

313

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I Appendix 1 <b>Certificate - Service provisions conditions</b>	AESA would like to know where would MLAT and SMR be included.	Although the details of this may be part of the activities undertaken in <b>RMT.0479 &amp; RMT.0480</b> , it is important that the services do already appear in the certificate in order to ensure proper treatment of those service providers that may apply for them in order to facilitate mutual recognition of certificates as indicated in (A) 102.

response *Noted*

The Agency takes note of the comment. The Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication. With the details available today, if you have a mark for primary surveillance, the provider should have the privileges to provide primary surveillance data for surface movement surveillance, surveillance in TMAs, ACCs or FIRs, etc.

comment 358

comment by: *HungaroControl*

CERTIFICATE FOR AIR TRAFFIC MANAGEMENT/AIR NAVIGATION SERVICE PROVIDER (~~ATM/ANSP~~)  
Certificate for the provision of ATM/ANS and/or Network Functions

response *Partially accepted*

The Agency takes the comment into consideration. Based on the NPA consultation, the title of the certificate is amended.

comment 359

comment by: *HungaroControl*

Surveillance: Service provision of MLAT and ASMGCS is missing from the appendix.

response *Noted*

The Agency takes note of the comment. The Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication.

comment 360

comment by: *HungaroControl*

Navigation: provision of GNSS core system should be removed, otherwise GPS, GLONASS, ... should be subject to certification as well. [in this case the Part of service should be renamed as Provision of signal in space](#)

response *Accepted*

The Agency takes consideration of the comment. The certificate template is amended and the whole column 4 (Sub-part of service) is removed.

comment

604

comment by: *CANSO Civil Air Navigation Services Organization*

APPENDIX 1 TO ANNEX I	CERTIFICATE FOR AIR TRAFFIC MANAGEMENT/AIR NAVIGATION SERVICE PROVIDER (ATM/ANSP)	Certificate for the provision of ATM/ANS provider
APPENDIX 1 TO ANNEX I	Air Space Management (ASM) Provision of the local ASM (Tactical/ASM Level 3) service as described in ... <i>Page 32</i>	Provision of the local ASM (Pre-tactical/ Level 2 and Tactical/ASM Level 3) service as described in ...
APPENDIX 1 TO ANNEX I	Surveillance: Service provision of MLAT and ASMGCS is missing	
APPENDIX 1 TO ANNEX I	Navigation: provision of GNSS core system should be removed, otherwise GPS, GLONASS, ... should be subject to certification as well.	

response

*Partially accepted*

1. The Agency takes the comment into consideration, and the title of the certificate is amended.
2. With regard to the ASM aspect, the proposal is accepted.
3. The Agency takes note of the comment on MLAT and ASMGCS. The Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication. With the details available today, if you have a mark for primary surveillance, the provider should have the privileges to provide primary surveillance data for surface movement surveillance, surveillance in TMAs, ACCs or FIRs, etc.
4. With regard to GNSS core system comment, the proposal is accepted.

comment

773

comment by: *ROMATSA*

Comment:

The attachment to the ANS/ATM Certificate related to service provisions conditions does not contain DAT.

Justification:

	In the Explanatory Note (Part A), para. 73, proposals for transition provisions, last bullet, there is a proposal for 2+1 years transition period for the ANS/ATM providers already certified according to IR 1035/2011 but needs to extend their certificate to cover the provisions of ATFM, ASM, DAT or ASD. In our opinion this means that DAT providers need to be certified.
response	<i>Accepted</i>

comment	776	comment by: <i>ROMATSA</i>
	<p>Comment: Modification of the OFIS subparts: HF operational flight information service (OFIS) broadcast, VHF operational flight information service (OFIS) broadcast, Voice-ATIS broadcast and D-ATIS shall be moved in the fourth column as they are subparts of OFIS.</p> <p>Justification: According with ICAO Annex 11 OFIS (Operational flight information broadcast) has the following subparts: - HF operational flight information service (OFIS) broadcast; - VHF operational flight information service (OFIS) broadcast; - Voice-ATIS broadcast;; D-ATIS</p>	
response	<i>Noted</i>	
	<p>The Agency takes note of the comment.</p> <p>It is important to be noted that the purpose of the certificate is to present the privileges obtained for the provision of the services which the provider is certified for. Based on the NPA consultation, the Agency redrafted the service provider's certificate template oriented towards the provision of services rather than the means used to provide them.</p>	

comment	777	comment by: <i>ROMATSA</i>
	<p>Comment: Addition of WAM (Wide Area Multilateration)/MLAT as sub-parts of SSR part of Surveillance service.</p>	
response	<i>Noted</i>	
	<p>The Agency takes note of the comment. The Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication. With the details available today, if you have a mark for primary surveillance, the provider should have the privileges to provide primary surveillance data for surface movement surveillance, surveillance in TMAs, ACCs or FIRs, etc.</p>	

comment	<p data-bbox="352 215 411 246">876</p> <p data-bbox="1082 215 1445 246" style="text-align: right;">comment by: <i>Belgocontrol</i></p> <p data-bbox="352 300 1018 331">DAT Service is missing in the provided Template.</p> <p data-bbox="352 362 1445 470">Is one generic MET box sufficient or should there be a further split up envisaged (e.g. in line with identified functions in MET.OR: aerodrome MET Office, MWO, MET station, VAAC, TCAC, WAFC)?</p>
response	<p data-bbox="352 528 480 560"><i>Accepted</i></p> <p data-bbox="352 613 911 645">The Agency takes note of the comments.</p> <p data-bbox="352 663 1445 819">The certificate is amended to address the DAT. Furthermore, RMT.0593 on 'Technical requirements and operational procedures for the provision of data for airspace users for the purpose of air navigation' is in progress and its result will be published for consultation in the 3rd quarter of 2014. It will include an amendment to the certificate.</p> <p data-bbox="352 837 1214 869">In reference to the MET, the certificate is amended accordingly.</p>

comment	<p data-bbox="352 958 427 990">1105</p> <p data-bbox="1145 958 1445 990" style="text-align: right;">comment by: <i>UK CAA</i></p> <p data-bbox="352 1043 616 1075"><b>Page No:</b> 28 to 33</p> <p data-bbox="352 1077 895 1108"><b>Paragraph No:</b> The Certificate page 28</p> <p data-bbox="352 1111 1445 1267"><b>Comment:</b> The certificate refers to '<i>the attached conditions approval</i>' and '<i>the attached approval</i>'. No such approval document is provided. It is assumed that this is referring to the Service Provision Conditions on pages 29 to 33, therefore the certificate text needs to be changed to refer to '<i>Service Provision Conditions</i>' not approvals.</p> <p data-bbox="352 1270 1445 1337"><b>Justification:</b> The document is entitled '<i>Service Provision Conditions</i>' and is not an Approval.</p> <p data-bbox="352 1339 584 1370"><b>Proposed Text:</b></p> <p data-bbox="352 1373 1445 1462">'as a certified Air Traffic Management/Air Navigation Service Provider with the privilege to provide ATM/ANS, as listed in the attached <b>Service Provision Conditions</b>.</p> <p data-bbox="826 1464 967 1496" style="text-align: center;">Privileges:</p> <p data-bbox="352 1498 1445 1565">This certificate is limited to the conditions and the scope of providing services as listed in the attached <b>Service Provision Conditions</b>.'</p>
response	<p data-bbox="352 1588 596 1619"><i>Partially accepted</i></p> <p data-bbox="352 1673 1445 1740">The Agency takes the comment into consideration, and the text is amended accordingly.</p>

comment	<p data-bbox="352 1823 427 1854">1153</p> <p data-bbox="730 1823 1445 1854" style="text-align: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></p> <p data-bbox="352 1908 647 1939">French CAA comment</p> <p data-bbox="352 1971 1094 2002">Appendix 1 to Annex 1 – Template of certificate (p28):</p>
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	<p>In addition to previous comments on ATM/ANS.AR.C.010, the use of "*" in the template is unclear, since it seems to be reference but without any text attached.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into consideration, and the certificate template is amended.</p>
comment	<p>1212 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p><b>The service provision conditions should also list the Air Traffic Service Units</b></p> <p>Number and identification of ATSU is the main "Service provision Condition", especially if we figure out a dynamic contestable market with cross border operations.</p>
response	<p><i>Not accepted</i></p> <p>The certificates should be mutually recognised by all Member States in order to allow service providers to provide services in a Member State other than the country in which they obtained their certificate, therefore, the Agency does not consider the proposal appropriate.</p>
comment	<p>1247 <span style="float: right;">comment by: <i>ENAV</i></span></p> <p>Proposal rewording</p> <p>CERTIFICATE FOR AIR TRAFFIC MANAGEMENT/AIR NAVIGATION SERVICE PROVIDER (<del>ATM/ANSP</del>) AND/OR ATM NETWORK FUNCTIONS</p> <p>Rationale</p> <p>We suggest "ATM Network Functions" as reported in the article 2(12).</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. Based on the NPA consultation, the title of the certificate is amended.</p>
comment	<p>1285 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Proposed text:</p>

To include „Flight Information Service provided by Flight Information Centre” or ATC unit using direct transmission as Part of Service of Flight Information Service (FIS)

Justification:

According to Chapter 1 of Annex 11 ICAO, Flight Information Centre is defined as “A unit established to provide flight information service and alerting service ” According to the Chapter 4.2 Responsibility for the provision of Flight Information Service and Alerting Service from ICAO Doc 4444:

„Flight information service and alerting service shall be provided as follows:

a) *within a flight information region (FIR): **by a flight information centre***, unless the responsibility for providing such services is assigned to an air traffic control unit having adequate facilities for the exercise of such responsibilities;

b) *within controlled airspace and at controlled aerodromes: by the relevant air traffic control units.”*

The information included there specify only FIS provided using broadcast as a mean of transmission. According to the Chapter 9.1.3, an ATS unit is another mean of transmission:

„9.1.3.1.1 Except as provided in 9.1.3.2.1, information shall be disseminated to aircraft by one or more of the

following means as determined by the appropriate ATS authority:

a) the preferred method of directed transmission on the initiative of the appropriate ATS unit to an aircraft, ensuring that receipt is acknowledged; or

b) a general call, unacknowledged transmission to all aircraft concerned; or

c) broadcast; or

d) data link.”

response

*Noted*

The Agency takes note of the comment.

It is important to be noted that the purpose of the certificate is to present the privileges obtained for the provision of the services which the provider is certified for. Based on the NPA consultation, the Agency redrafted the service provider's certificate template oriented towards the provision of services rather than the means used to provide them..

comment

1286

comment by: *Romanian Civil Aviation Authority*

Comment:

The attachment to the ANS/ATM Certificate related to service provisions conditions does not contain DAT.

Justification:

In the Explanatory Note (Part A), para. 73, proposals for transition provisions, last bullet, there is a proposal for 2+1 years transition period for the ANS/ATM providers already certified according to IR 1035/2011 but needs to extend their

response	<p>certificate to cover the provisions of ATFM, ASM, DAT or ASD. In our opinion this means that DAT providers need to be certified.</p> <p><i>Accepted</i></p> <p>The certificate is amended accordingly. Furthermore, RMT.0593 on 'Technical requirements and operational procedures for the provision of data for airspace users for the purpose of air navigation' is in progress and its result will be published for consultation in the 3<sup>rd</sup> quarter of 2014. It will include an amendment to the certificate.</p>
comment	<p>1287 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Comment:</p> <p>Addition of WAM (Wide Area Multilateration)/MLAT as sub-parts of SSR part of Surveillance service.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. The Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication. With the details available today, if you have a mark for primary surveillance, the provider should have the privileges to provide primary surveillance data for surface movement surveillance, surveillance in TMAs, ACCs or FIRs, etc.</p>

<b>AIR TRAFFIC MANAGEMENT/AIR NAVIGATION SERVICE PROVIDER –</b>	p. 29-33
<b>CERTIFICATE – SERVICE PROVISIONS CONDITIONS</b>	

comment	<p>148 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p>"(and conduct*)" and "(and training*)" have asterisks which are not explained</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. The certificate template is amended.</p>
comment	<p>149 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p>NATS wishes to see clarification as to the rationale for "Air Traffic Services (ATSS) for flight test". This seems to be an unnecessary provision which adds cost for no identifiable benefit.</p>

response *Noted*

During the rule development, the Agency was advised on the specific needs of ATS providers which provide primarily ATS services to flight test, especially when carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to give the possibility to the competent authority to include into the certificate a privilege for providing services for flight tests. Nothing prevents the competent authority from deciding not to include such a privilege into the certificate, if deemed necessary.

comment *183*

comment by: *AENA-NPA2013-08*

- Why are VOLMET and D-VOLMET services within the same part of service whereas Voice ATIS and D-ATIS constitute each one a part of the service. Does it mean that a provider certified for VOLMET is automatically able to provide D-VOLMET?
- Multilateration is not included in the surveillance service
- The approach is very technology oriented and it should be more service oriented.
- Services are not aligned with current CNS services.

**Page 29, Certificate template.**

response *Partially accepted*

The Agency takes the comment into consideration. Following the principle that the service provider is certified to provide certain services and not certified for the means used to provide it, the template is redrafted.

comment

*436*

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Appendix 1 to Annex I	30	Air Traffic services/Flight information service/Part of service, in part of service regarding FIS there is only systems. We are missing the FIS service performed by ATCOs and AFIS personnel. (As we understand from the text in ICAO Annex 11 and Doc 7030 there is no OFIS in EUR region.) Propose to delete all part of service regarding FIS in all templates.
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response *Noted*

The Agency takes note of the comment.

Based on the NPA consultation, the certificate is amended and the commented part is redrafted.

comment

437

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Appendix 1 to Annex I

32

Aeronautical service – part of service is described as whole AIS service as described in ...  
The service of AIS should be divided in different parts.  
Propose to divide the aeronautical information service in;  
- Provision of NOTAM office service (including issuing NOTAM, NOTAM checklist and NOTAM Summary).  
- Provision of pre-flight information service .  
- Provision of AIP, AIP amendment, AIP Supplement and AIC.

response

*Not accepted*

The Agency takes the comment into consideration.

Today, the requirements for the different subsets of AIS are common, therefore the Agency considers inappropriate to introduce this deviation at this stage. However it is up to the competent authority to specify it into the limitation column. Moreover, there is a rulemaking task in progress dealing with "technical requirements and operational procedures for aeronautical information services (AIS) and aeronautical information management (AIM)". As an outcome of this task the certificate template could be amended to reflect possibly such specification.

comment

439

comment by: *Swedish Transport Agency, Civil Aviation Department (Transportstyrelsen, Luftfartsavdelningen)*

Appendix 1

32

Meteorological service – part of service is described as whole

to Annex I	<p>MET service as described in...</p> <p>The services of MET should be divided in different parts, as for example observation could be done by a provider who does not make forecast or issue warnings.</p> <p>Propose to divide the meteorological service in;</p> <ul style="list-style-type: none"> <li>- Provision of meteorological observations.</li> <li>- Provision of meteorological forecasting.</li> <li>- Provision of meteorological briefing and consultation.</li> <li>- Provision of meteorological watch.</li> </ul>
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response *Partially accepted*

The Agency takes the comment into consideration. The certificate template is amended.

comment 481

comment by: DSNA

Appendix 1 to Annex I - Definition of "ASM service".

Rationale:

The certificate model proposed in the IR indicates that what is meant is ASM level 3 (tactical/local ASM). This activity consists in reality of coordination between ANSP (between heads of control rooms –chief controllers- or between civil and military controllers). It does not seem possible to identify a service provider for ASM level 3. We do not believe this activity can be described as a service and certified. SES regulations use the word "function", which is more appropriate. Requirements can be put on this function but certification is not pertinent here. Introducing certification would bring useless burden. However, certifying ASM level 2 (Airspace Management Cells and NMOC) would probably make more sense.

The "service" covered by this denomination is not clearly circumscribed and does not lend itself to certification.

Suggestion: we oppose requiring certification for ASM level 3. If needed, define an ASM level 2 service. Address the issue within a risk-based approach.

response *Partially accepted*

The Agency takes note of the commentator's concerns. However, the Framework Regulation (Regulation (EC) No 549/2004) provides the definition of ASM and also the definition of ATM as ASM is included therein. The Basic Regulation in its Article 8b requires that providers of ATM/ANS are subject to certification. Both Regulations are adopted by the European Parliament and the Council. With this proposed draft Implementing Rule, which has a dual legal

basis, the above-mentioned provisions should be reflected accordingly.

Furthermore, considering the comments received during the subject NPA consultation, the certificate template is amended and AMS level 2 (pre-tactical level) is added. Moreover, the dedicated Annex X refers to Commission Regulation (EC) No 2150/2005 when the ASM provider develops and implements its working methods and operating procedures where ASM level 2 is defined.

comment

482

comment by: *DSNA*

Appendix 1 to Annex I :Definition of "ASD service"

Rationale:

ASD service encompasses clearly the design of IFR procedures. This activity is harmonised at global level by ICAO's PANS-OPS. But encompassing the design of ATS routes, control sectors, CTR or TMA in an "ASD service" would probably be counter-productive. This activity is initiated by every ATS unit in a widely coordinated approach. For example, in France for example, the formal decision for creation of such ATS structure is made at State level, based on the work produced by local airspace committees in which airspace users, civil and military ATS units take part. Designating an ASD provider for such airspace structures will be very complicated and would not really make sense. This will put useless burden on all these actors.

What is covered by the ASD service should be clearly defined. It is not possible to define requirements for an activity which has not been identified.

Suggestion: Define ASD service as the service consisting mainly in designing IFR procedure, and exclude the designing of airspace structures such as routes, sectors, control area from its scope.

response

*Noted*

The Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules, AMC/GM on airspace design, including procedure design, in order to ensure the airspace structures and flight procedures are appropriately surveyed, designed, and validated. It seems appropriate that this RMT analyses and decides the most appropriate way to regulate the organisations that design these elements. Therefore, the comment will be duly considered during the work of the mentioned rulemaking task without prejudging the approach in this NPA. ASD is, therefore, removed from the definition of service provider and certificate template consequently until the output of RMT.0445.

comment

559

comment by: *military safety expert/ safety management systeme inspector*

We do support the new certificate but it should be useful to admit that competent authority could add some topics in this template for national and

safety reasons. This template shouldn't be binding but non binding.  
proposal:

- The template should be moved to AMC.

response *Not accepted*

For the purpose of the mutual recognition, a uniform format for service providers certificate is necessary.

comment 577 comment by: *CANSO Civil Air Navigation Services Organization*

<p><b>APPENDIX 1 TO ANNEX I p.29</b></p>	<p>Services: ATS; type of service: FIS. Flight information services is sub-divided into "OFIS" and "VOLMET broadcasts and/or D-VOLMET service". The OFIS is sub divided into VHF OFIS, HF OFIS, Voice / D-ATIS (which would be moved one column across to the right.</p>	<p>In accordance with ICAO annex 11 chapter 4.3</p>
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response *Partially accepted*

It is important to be noted that the purpose of the certificate is to indicate the privileges obtained to provide the services which the provider is certified for. Therefore, the certificate is redrafted oriented towards the provision of services rather than the means used to provide them.

comment 627 comment by: *EUROCONTROL*

**Page 32 - Row on MET**  
 Whilst the MET.OR element of this NPA identifies multiple types of services mainly expressed in the form of their respective support function or area of responsibility, this is not reflected at the level of the certificate template. Based on the MET.OR it was expected that the following types of services would have been indicated in the 'Type of Service' column: Meteorological Watch Office, Aerodrome Meteorological Office, Meteorological Station, WAFC, VAAC and TCAC. We recommend their inclusion.

response *Accepted*

comment	633	comment by: <i>Jan Sondij</i>
	With regard to Type of Service "MET" include the specific functions as being described by this NPA in Annex 4 - such as Meteorological Watch Office, Aerodrome Meteorological Office etc.	
response	<i>Accepted</i>	

comment	634	comment by: <i>Jan Sondij</i>
	General comment with regard to certification cq rulemaking.	
	The rationale behind the rulemaking is to my understanding to create a level playing field and harmonized service provision of equal quality and consistency.	
	Certification is an important aspect to assess that a service provider is capable to provide services in line with the requirements.	
	For MET it is important that the specific function for which an ANSP is certified is made explicit on the certificate.	
	Even when this is the case the entire process does not guarantee that in each country the same services are being provided for e.g. an airport. Because it is up to the regulator to define which airports will be served with a specific service provision. One could argue that this is not in line with the initial objectives and that this is due to the national sovereignty of the State. Once a State decides that certain regulated products and services should be made available for an airport there is a level playing field. Still there seems to be a significant discrepancy, based on the before mentioned fact, between the goals and the actual outcome of the regulations.	
response	<i>Accepted</i>	
	The Agency takes the comment into consideration and the certificate is amended accordingly.	

comment	699	comment by: <i>AENA-NPA2013-08</i>
	In any safety relate document, it is of paramount importance to have clear definitions to avoid ambiguity, misunderstandings and thus errors.	
	<ul style="list-style-type: none"> <li>This table is not clear at all (even though it has been used in earlier documents).</li> </ul>	
	The IR should clearly define each service and subpart of service and where the limits are. Otherwise, different people/organizations have different understanding.	
	As an example: What is actually the "voice-ATIS" part of service? If the owner of the ATIS server is a company, the tower ATS provider is	

	<p>a different company, the owner of the radio transmitting the ATIS message is a different company and the maintenance of the ATIS server and the radio is performed by a different company, who is actually providing the "voice-ATIS service". Again, the IR should be clear and avoid misunderstandings. Different people/organisations have different understanding.</p> <p>Similar problems occur with many other services.</p> <ul style="list-style-type: none"> <li>• The table does not identify Multilateration as a "part of service" in the Surveillance Service. However, some national authorities identify this service as a separate service. As an example, Aena is currently certified as a Multilateration Data Service Provider by AESA (Spanish national competent authority), in accordance with RD 931/2010 (national law based on Regulation 1035/2011), which does identify Multilateration as a separate part of service.</li> <li>• The table does not identify the service "aeronautical mobile service air-ground communications based on data link (CPDLC)". However, some national authorities identify this service as a separate part of service.</li> <li>• Page 30.-The IR does not define the "provision of ATS services for flight tests". It seems unnecessary to define this service.</li> </ul>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comments.</p> <ul style="list-style-type: none"> <li>– It is important to be noted that the purpose of the certificate is to indicate the privileges obtained to provide the services which the provider is certified for. Therefore, the certificate is redrafted oriented towards the provision of services rather than the means used to provide them.</li> <li>– In reference to MLAT and CPDLC, the Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication. With the details available today, if you have a mark for primary surveillance, the provider should have the privileges to provide primary surveillance data for surface movement surveillance, surveillance in TMAs, ACCs or FIRs, etc.</li> <li>– During the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially in carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate.</li> </ul>
comment	<p><i>750</i> <span style="float: right;"><i>comment by: AvinorANSP</i></span></p> <p>Services: ATS; type of service: FIS.</p>



	Navigation ..provision of GNSS core system should be removed, otherwise GPS, GLONASS, ... should be subject to certification as well.
response	<i>Accepted</i>
	The Agency takes the comment into consideration. The certificate template is amended and the whole column 4 (Sub-part of service) is removed.

comment	1016 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span>
	Template section "Navigation" - page 31 The provision of „GNSS core system“ should not be within the scope of ATM/ANS service provision. Otherwise the provision of GPS, GLONASS and other upcoming satellite core systems would also require to be certified. <b>DFS proposal:</b> Delete “GNSS core system”.
response	<i>Accepted</i>
	The Agency takes the comment into consideration. The certificate template is amended and the whole column 4 (Sub-part of service) is removed.

comment	1018 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span>
	Part Surveillance: The provision of multilateration systems and A-SMGCS is missing. <b>DFS proposal:</b> Add the provision of MLAT and A-SMGCS.
response	<i>Noted</i>
	The Agency takes note of the comment. The Agency considers the comment as valid, however if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication. With the details available today, if you have a mark for primary surveillance, the provider should have the privileges to provide primary surveillance data for surface movement surveillance, surveillance in TMAs, ACCs or FIRs, etc.

comment	1106 <span style="float: right;">comment by: UK CAA</span>
	<b>Page No:</b> 29 to 33 <b>Paragraph No:</b> The Service Provision Conditions <b>Comment:</b> This document simply details the type of service provision that the ATM/ANS may provide. It does not allow any space for other conditions to be attached to the certificate. <b>Justification:</b> ANNEX II (b) of the Service provision regulation 550/2004 allows additional conditions to be attached to the certificate.

	<p><b>Proposed Text:</b> 'has obtained the privileges to provide (<i>and conduct*</i>) the following services (<i>and training*</i>) <b>subject to the following additional conditions:</b>'</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration and the certificate template is redrafted to address the issue.</p>
comment	<p>1115 <span style="float: right;">comment by: <i>Danish Transport Authority</i></span></p> <p>Appendix 1 to Annex I Air Traffic services/Flight information service/Part of service, in part of service regarding FIS there is only systems. We are missing the FIS service performed by ATCOs and AFIS personnel. It should be considered to supplement the form with data regarding FIS. Page 32: Aeronautical service – part of service is described as whole AIS service as described in ... The service of AIS should be divided in different parts. Propose to divide the aeronautical information service in; - Provision of NOTAM office service (including issuing NOTAM, NOTAM checklist and NOTAM Summary). - Provision of pre-flight information service . - Provision of AIP, AIP amendment, AIP Supplement and AIC. PaPage 33: Meteorological service – part of service is described as whole MET service as described in... The services of MET should be divided in different parts, as for example observation could be done by a provider who does not make forecast or issue warnings. Propose to divide the meteorological service in; - Provision of meteorological observations. - Provision of meteorological forecasting. - Provision of meteorological briefing and consultation. - Provision of meteorological watch.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comments into consideration.</p> <p>It is important to be noted that the purpose of the certificate is to indicate the privileges obtained to provide the services which the provider is certified for. Therefore, the certificate is redrafted oriented towards the provision of services rather than the means used to provide them.</p> <p>Today, the requirements for the different subsets of AIS are common, therefore, the Agency considers inappropriate to introduce this deviation at this stage. However, it is up to the competent authority to specify it into the limitation column. Moreover, there is rulemaking task in progress dealing with 'technical requirements and operational procedures for aeronautical information services (AIS) and aeronautical information management (AIM)'. As an outcome of this task, the certificate template could be amended to reflect such</p>

possible specification.

The proposal related to MET is accepted, and the certificate is amended accordingly.

comment

1175

comment by: ENAV

Services: ATS; type of service: FIS.

Flight information services is sub-divided into "OFIS" and "VOLMET broadcasts and/or D-VOLMET service". The OFIS is sub divided into VHF OFIS, HF OFIS, Voice / D-ATIS (which would be moved one column across to the right.

In accordance with ICAO annex 11 chapter 4.3

response

*Noted*

The Agency takes note of the comment.

The purpose of the certificate is to indicate the privileges obtained to provide the services which the provider is certified for. Therefore, and based on the NPA consultation, the Agency redrafted the service provider's certificate template oriented towards the provision of services rather than the means used to provide them.

comment

1253

comment by: ENAV

Proposal for rewording

Provision of the local ASM (**Pre-tactical/** Level 2 and Tactical/ASM Level 3) service as described in ...

response

*Accepted*

comment

1254

comment by: ENAV

Surveillance: Service provision of MLAT and ASMGCS is missing

response

*Noted*

The Agency takes note of the comment. The Agency considers the comment as valid, however, if such details will be included into the certificate for CNS, in particular for the Surveillance provider, that would be an unnecessary complication.

comment

1256

comment by: ENAV

Navigation: provision of GNSS core system should be removed, otherwise GPS,

	GLONASS, ... should be subject to certification as well.
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. The certificate template is amended, and the whole column 4 (Sub-part of service) is removed.</p>
comment	<p>1267 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span></p> <p>ATS for flight test DFS does not support the introduction of provisions for flight tests in the proposed manner. Test flights are handled by ATC in accordance with the agreed procedures in the frame of the existing rules of the air through particular means of understanding, letters of agreement etc. These are not to be regarded as a separate service. <b>The allocation of such services at the same level in the certificate as the common ATS-Service is not correct.</b> <b>ATS-Service for flight test may be a sub-part of the ATS-Service(s), if required at all.</b> <b>The allocation of such service at the same level as the ATM/ANS does as well not fit with the given definitions for ATM/ANS and ANS</b> The procedures for test flights shall be treated as subject to oversight and evidence to the CA within the frame of the oversight for ATS. If particular treatment shall be required in a harmonised way, then such provisions shall be integrated in the full scope of common requirements and not be subject to local agreements with the CA. However this would require more thorough further analysis and common support. See our related comments to ATS.TR.105 (b) and AMC.</p>
response	<p><i>Noted</i></p> <p>During the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially in carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate.</p>

<b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS (ATM/ANS.OR.A) – ATM/ANS.OR.A.005 Scope</b>	p. 34
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comment	<p>496 <span style="float: right;">comment by: HungaroControl</span></p>
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response	<p>Agreed.</p> <p><i>Noted</i></p>
comment	<p>581 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>General remark to Annex II: There is no explicit obligation for the ANSP to run a systematic compliance management in the frame of a SMS. It might be possible that EASA considers the need for a compliance management on the level of corporate governance. However, this should be mentioned appropriately. In FOCA's opinion, a modern company should run a proper compliance management by demonstrating (and assuring) compliance not only at a specific moment of time (time of the audit).</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Annex II (now Annex III) relates to common requirements for service providers and does not contain requirements for safety management systems (these are in Annex IV). Annex II (now Annex III) does include provisions for a function to monitor compliance as a part of a management system (ATM/ANS.OR.B.005(c)).</p>
comment	<p>611 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p>The title of Annex II is misleading insofar as it uses the term "the provision of ATM/ANS". Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS provider (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS. Please note that the title of AMC/GM to Annex II is different to this title and they need to be aligned. <b>Proposed Resolution</b> Amend title to read "COMMON REQUIREMENTS FOR ATM/ANS PROVIDERS (Part-ATM/ANS.OR)"</p>
response	<p><i>Partially accepted</i></p> <p>The term 'service providers' has been adopted and has substituted for 'ATM/ANS providers'.</p>
comment	<p>613 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;">ATM/ANS.OR.A.005</p> <p>The introductory text refers to "This Part establishes...", however the Scope is in Subpart A. Use of the term ATM/ANS provider implies a scope greater than that which is</p>

covered by 216/2008 (e.g. ATM network functions) so there needs to be additional references to other relevant rules.

The numbering convention appears to be quite different amongst the Annexes.

Here ATM/ANS.OR.A.005 is followed by ATM/ANS.OR.A.010. Annex I starts at 001, Annex III starts at 105 as do Annexes V, VII, VIII and XI; Annexes IV and XII start with 005.

#### **Impact**

Inconsistent use of Subpart and Part within the Annexes.

#### **Suggested Resolution**

Move ATM/ANS.OR.A.005 to be physically above "SUBPART A – GENERAL COMMON REQUIREMENTS (ATM/ANS.OR.A)" and below "ANNEX II COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR)

Align Annexes to a common numbering scheme.

response *Partially accepted*

The Agency takes the comments into consideration.

ATM/ANS.OR.A.005 (now ATM/ANS.OR.A.001) is kept, however, 'This Part' is replaced by 'This Annex'.

The numbering convention is aligned with the EASA Style Guide.

comment 664

comment by: AENA-NPA2013-08

#### **Page 34, ATM/ANS.OR.A.005 Scope.**

Due to the fact that Annex XII only establish requirements for technical and engineering electronic personnel, we propose an ammendment to the table of page 17/197 of the document NPA 2013-08 (C). We propose to eliminate the last row, related to all ATM/ANS providers and include the aplicabiliy of Annex XII in the rows of CNS and ATS providers, and/or Data Providers, depending on the content of this Annex (if it has Data Procesing systems).

response *Not accepted*

The last row of the table at page 17 of NPA 2013-08 (C) has a footnote associated with it, that explains the role and purpose of Annex XII and allows for the future inclusion of training and competence for other services as they arise.

comment 778

comment by: ROMATSA

General remark

Requirements for QMS are missing (provisions regarding QMS from R1035/2011 shall be kept).

Justification:

ATM/ANS providers shall have in place a quality management system which covers all air navigation services that they provide.

response *Not accepted*

In NPA 2013-08 (A), the cross reference table of Regulation (EU) No 1035/2011 to Cover Regulation and Parts–ATM/ANS.AR and ATM/ANS.OR, ATS, MET, AIS and CNS incorrectly refers to paragraph 125 of the EN. The correct reference is paragraph 124; additionally, paragraph 45 elaborates on the rationale for the introduction of management systems provisions. Paragraph 124 explains that management system replaces (and incorporates) the previous provisions for a quality management system. Under the auspices of a management system, a specific quality management system is permissible, should a service provider wish to have one.

comment

779

comment by: ROMATSA

**Annex II, Title**

## Comment:

To change the title to “*Common requirements to be met by the ATM/ANS provider*”

## Justification:

The present title is not consistent with the scope declared in ATM/ANS.OR.A.005 (requirements to be met by an ATM/ANS provider).

response

*Partially accepted*

Based on the NPA consultation outcome, the title of the commented Annex is amended to ‘COMMON REQUIREMENTS FOR SERVICE PROVIDERS (Part-ATM/ANS.OR)’. Furthermore, ‘service provider’ replaces ‘ATM/ANS provider’.

comment

1288

comment by: Romanian Civil Aviation Authority

## Comment:

Requirements for QMS are missing (provisions regarding QMS from R1035/2011 shall be kept).

## Justification:

ATM/ANS providers shall have in place a quality management system which covers all air navigation services that they provide.

response

*Not accepted*

In NPA 2013-08 (A), the cross reference table of Regulation (EU) No 1035/2011 to Cover Regulation and Parts–ATM/ANS.AR and ATM/ANS.OR, ATS, MET, AIS and CNS incorrectly refers to paragraph 125 of the EN. The correct reference is paragraph 124; additionally paragraph 45 elaborates the rationale for the introduction of management systems provisions. Paragraph 124 explains that management system replaces (and incorporates) the previous provisions for a quality management system. Under the auspices of a management system, a specific quality management system is permissible, should a service provider

wish to have one.

comment	<p>1289 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Comment:</p> <p>To change the title to “<i>Common requirements to be met by the ATM/ANS provider</i>”.</p> <p><i>Justification:</i></p> <p>The present title is not consistent with the scope declared in ATM/ANS.OR.A.005 (requirements to be met by an ATM/ANS provider).</p>
response	<p><i>Partially accepted</i></p> <p>Based on the NPA consultation outcome, the title of the commented Annex is amended to ‘COMMON REQUIREMENTS FOR SERVICE PROVIDERS (Part-ATM/ANS.OR)’. Furthermore, ‘service provider’ replaces ‘ATM/ANS provider’.</p>

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS (ATM/ANS.OR.A) – ATM/ANS.OR.A.010 Application for an ATM/ANS provider certificate**

p. 34

comment	<p>46 <span style="float: right;">comment by: <i>BCAA</i></span></p> <p>ATM/ANS.OR.A.010 : this set of requirements implies again a much wider scope of application than the Single European Sky Regulations have foreseen. Again the full ATM/ANS as defined in the proposed IR instead of only the scope of Regulation 549/2004 or of Regulation 216/2008.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>However, it is important to be highlighted that the subject NPA proposes measures that seek to satisfy the objectives of the Basic Regulation and its Essential Requirements. Furthermore, it has a dual legal basis covering also the implementation of the SES regulations, and, as such, the scope of the regulation has been increased so as to be aligned with the Basic Regulation.</p>

comment	<p>184 <span style="float: right;">comment by: <i>AENA-NPA2013-08</i></span></p> <p><b>Page 34, ATM/ANS.OR.A.10 b) 2).</b></p>
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response	<p>No mention is done to Annex XII.</p> <p><i>Accepted</i></p> <p>The reference is corrected.</p>
comment	<p>222 <span style="float: right;">comment by: <i>AIRBUS</i></span></p> <p>ATM/ANS.OR.A.010 Airbus suggests to replace the text in (a): "Application for an ATM/ANS provider certificate or an amendment to an existing certificate shall be made in a form and manner established by the competent authority <b>that complies with</b> the applicable requirements of Regulation (EC) No 216/2008 and its Implementing Rules</p>
response	<p><i>Not accepted</i></p> <p>The Agency considers that the proposal would change the goal of the commented text.</p>
comment	<p>497 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>Agreed.</p>
response	<p><i>Noted</i></p>
comment	<p>615 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;">ATM/ANS.OR.A.010 (b)</p> <p>The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p>Amend text to read "To obtain the certificate an ATM/ANS provider shall comply with:"</p>
response	<p><i>Partially accepted</i></p> <p>'ATM/ANS provider' is replaced by 'service provider' based on the NPA consultation feedback.</p>
comment	<p>616 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p>

response	<p style="text-align: center;"><b>ATM/ANS.OR.A.010 (b)(2)</b></p> <p>ATM/ANS providers are required to also comply with Annex XII as applicable.</p> <p style="text-align: center;"><b>Impact</b> Incorrect Scope</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p>Amend "Annexes III to XI" to read "Annexes III to XII".</p> <p><i>Accepted</i></p>
comment	<p>877 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>When applying for any new services, it should be established that the previously certified services are not subject to complete re-certification</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>It is important to be noted that the issue raised by the commentator is already addressed in the proposed (draft) Regulation. It proposes an approach moving from 're-certification' towards unlimited validity of the certificate, subject to the provider being continuously in compliance with the applicable requirements.</p>
comment	<p>878 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>This clause is very tight and implies that full compliance is demonstrated at the time of certificate delivery. In taking into consideration AR.C025 point e.1 we would propose following :</p> <p>(c) An ATM/ANS provider shall comply with the applicable requirements, and approved Corrective Action Proposals have been agreed between the Service Provider and the Competent Authority, in full consideration of the safe continuation of services, no later than the time at which the certificate is issued.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Based on the outcome of the public consultation and the focussed one organised by the Agency after the NPA publication closure, a newly developed provision (ATM/ANS.AR.C.020 'Issue of certificates') providing a possibility for the issue of a certificate with 'no open findings' was introduced. Furthermore, the commented provision is deleted. It aims at clarification and avoidance of any unambiguity.</p>
comment	<p>1108 <span style="float: right;">comment by: <i>UK CAA</i></span></p>

**Page No:** 34

**Paragraph No:** ATM/ANS.OR.A.010 (c)

**Comment:** The statement that 'An ATM/ANS provider shall comply with the applicable requirements no later than the time at which the certificate is issued' means that the same situation exists as it did under the previous legislation in that you cannot be an ATM/ANS provider unless you are a ATM/ANS provider.

It is impossible for a potential ATM/ANS provider to provide sufficient evidence of compliance with the regulations unless actually providing a service.

This needs to change to a process that allows certificates to be issued with non-safety related non-compliances outstanding. The certificate should contain additional conditions that require that the non-compliances are rectified on or before operations commence or being granted designation.

For example finding a non-compliance during a routine oversight audit does not result in the removal of certification so why is full compliance required at certification?

**Justification:** It is almost impossible for a company or organisation that is not certified, to achieve certification status without the assistance of a certified ATM/ANS provider. Not being able to achieve certified status without already being an ATM/ANS provider very much limits entry into the market and makes the market less than contestable .

**Proposed Text:** 'An ATM/ANS provider shall comply with the applicable requirements **and any additional conditions attached to their certificate no later than the proposed operation date.**'

response

*Partially accepted*

The Agency takes the comment into consideration.

Based on the outcome of the public consultation and the focussed one organised by the Agency after the NPA publication closure, a newly developed provision (ATM/ANS.AR.C.020 'Issue of certificates') providing a possibility for the issue of a certificate with 'no open findings' was introduced. Furthermore, the commented provision is deleted. It aims at clarification and avoidance of any unambiguity.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS** p. 34-35  
**(ATM/ANS.OR.A) – ATM/ANS.OR.A.015 Application for a limited certificate**

comment

375

comment by: *Prospect ATCOs' Branch UK*

Whilst we understand the need for proportionality particularly for providers at small aerodromes however we feel that there are areas of the regulation that need to be considered. Some of the criteria particularly around monetary values will need to be regularly reviewed, and number of movements might not be an appropriate indicator to use for the criteria for a limited certificate. It is our view that aerodromes operating under a limited certificate should still be required to comply with record keeping, operations manual requirements and facilities requirements.

response

*Not accepted*

The number of movements and monetary value are as currently detailed in the existing Regulation (EU) No 1035/2011 (Article 5(2)(d)). No specific suggestions have been made with regard to the monetary value and number of movements.

The subject provision does not specifically preclude record keeping, operations manual requirements and facilities requirements; they would be subject to determination by the competent authority as to whether or not they were required of a particular service provider (as it is today for ANS providers through derogations).

comment

398

comment by: EUROCONTROL

**Page 34 - Annex II, Subpart A, ATM/ANS.OR.A.015**

The service providers subject to derogations in the past and having now the possibility to apply for a limited certificate have to comply with a lot of requirements.

Bearing in mind that such providers usually do not have substantial human resources, and on the basis of experience from past audits, the certification of such providers cannot be achieved in a cost efficient manner.

However, the activities will continue to be provided i.e. aerial work and general aviation (see the comment from Annex I, Subpart B, ATM/ANS.AR.B.005).

It may therefore be the right time to reconsider a tailored application of the common requirements for such small providers (see as well the relevant AMC/GM material).

response

*Noted*

The Agency takes note of the comment.

It is important to be noted that the subject provision is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent retained. The existing requirement for the safety management has been replaced by a requirement for management system. Beyond that, there are no additional requirements to those that currently exist. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment

444

comment by: CAA-NL

**ATM/ANS.OR.015.(d)**

We are not a strong supporter of the possibility of limited certification for limited services provided, we would rather see proportional regulations. With the current proposals we are somewhat surprised that within the ATM/ANS domain this proportionality is not achieved by a variation in AMC, or a simple way of fulfilling the rule but by excluding certain requirements. We wonder whether a limited/small provider does not need facilities, or to keep records. Without proper record, in the case of an accident the accident investigation

	board will be in a difficult position to perform its investigation in full. Further this seems very unbalanced in the total system approach related to the other domains.
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>The subject provision is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent retained. The existing requirement for the safety management has been replaced by a requirement for management system. Beyond that, there are no additional requirements to those that currently exist. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. Furthermore, it is important to be noted that it is not the services that are limited; rather, the certificate is limited to the specific airspace under the responsibility of the Member States.</p> <p>The subject provision does not specifically preclude record keeping, operations manual requirements and facilities requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as it is today for ANS providers through derogations).</p>

comment	<p>618 <i>comment by: NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;"><b>ATM/ANS.OR.A.015 (a)(3)</b></p> <p>The "and/or" is superfluous as the text at the end of (a) includes "one or more".</p> <p><b>Suggested Resolution</b> Delete "and/or".</p>
response	<i>Accepted</i>

comment	<p>619 <i>comment by: NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;"><b>ATM/ANS.OR.A.015 (c)</b></p> <p>This sentence refers to (a) and (b); (a) applies to air traffic service providers and (b) applies to air navigation service providers. Whilst ATS is a subset of ANS it would be clearer if (a) specifically referred to air traffic services.</p> <p style="text-align: center;"><b>Impact</b> Potential Confusion</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p>Amend to read "Air traffic service providers or air navigation service providers applying for a limited certificate under (a) or (b) respectively shall comply, at least, with:"</p>
response	<p><i>Not accepted</i></p> <p>As air traffic services are included in the definition of air navigation services, the Agency does not consider that this clarification is necessary.</p>

comment	<p>991 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>The criteria are too high and it is a door open for the introduction of low-cost providers. We encourage EASA to bring in some proportionality to this aspect and to cease the opportunity to change the ancient criteria which may cause safety issues.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>However, it should be noted that the commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011, and, with the subject requirements, the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner. The existing requirement for the safety management has been replaced by a requirement for management system. Beyond that, there are no additional requirements to those that currently exist.</p> <p>At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p>

comment	<p>1111 <span style="float: right;">comment by: <i>UK CAA</i></span></p> <p><b>Page No:</b> 34 <b>Paragraph No:</b> ATM/ANS.OR.A.015 <b>Comment:</b> This paragraph states: '(a) .....</p> <p>(1) aerial work; (2) general aviation; (3) commercial air transport limited to aircraft with less than 10 tonnes of maximum take-off mass or less than 20 passenger seats; and/or (4) commercial air transport with less than 10 000 movements per year, regardless of the maximum take-off mass and the number of passenger seats;' The terms 'aerial work' and 'general aviation' do not align with the EASA Basic Regulation or the Air Operations Regulation. In terms of aircraft operations, aerial work is replaced by the concept of specialised operations (SPO). These can be either commercial or non-commercial flights. Additionally, non-commercial operations with complex motor-powered aircraft are subject to additional rules more closely aligned to those for commercial air transport. Further consideration should be given to the terminology used to describe those sectors of air operations to which ANSPs may provide a service under a limited certificate. <b>Justification:</b> Clarity.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p>

It is important to be noted that whilst one of the main objectives of the proposed rule is to implement EASA Basic Regulation and its Essential Requirements, it has a dual legal basis covering also the implementation of the SES regulations.

Furthermore, the commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011, and, with the subject requirements, the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner.

Moreover, at the time of the draft rule development the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment

1114

comment by: UK CAA

**Page No:** 34

**Paragraph No:** ATM/ANS.OR.A.015 (a) (4)

**Comment:** The paragraph refers to 10,000 movements and 'movements' are not defined as they were in Commission Regulation (EU) 1035/2011 Article 5.2 (d).

**Justification:** If 'movements' are not defined it is unclear at what level this limit operates, for example, is a movement a landing, a takeoff or both?

**Proposed Text:** 'Movements in the context of ATM/ANS means ... The sum of take-offs and landings and calculated as an average over the previous three years.'

response

Partially accepted

The Agency takes the comment into consideration, and the slightly modified definition is incorporated in the text.

comment

1128

comment by: UK CAA

**Page No:** 34

**Paragraph No:** ATM/ANS.OR.A.015 (b) (2)

**Comment:** This paragraph refers to 'operating regularly not more than one working position at any aerodrome'. 'Operating Regularly' and 'Working Position' are not defined and the reference to 'any aerodrome' could imply 'any aerodrome' not just the ANSP's aerodrome.

**Justification:** The concept of 'Operating Regularly' needs to be defined i.e. is this one day a week or one day a year?. The 'Working Position' must be defined and 'any aerodrome' must be 'any of the ANSPs aerodromes'.

**Proposed Text:** Amend paragraph (b)(2) to read:

'Air navigation service providers providing aerodrome flight information services by operating regularly not more than one working position **at any of the ANSP's** aerodrome.'

Include in Article 2 Definitions:-

'Working Position – The HMI used by a FISO to provide aircraft with Flight Information Services.

	<p>Operating Regularly means.....' (How many times a Day/Week/Month/Year as a minimum is considered to be regularly).</p>
response	<p><i>Not accepted</i></p> <p>It is important to be noted that whilst one of the main objectives of the proposed rule is to implement the EASA Basic Regulation and its Essential Requirements, it has a dual legal basis covering also the implementation of the SES regulations.</p> <p>Furthermore, the commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011, and with the subject requirements, the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner.</p> <p>Moreover, at the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p>

comment	<p>1130 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 35  <b>Paragraph No:</b> ATM/ANS.OR.A.015 (d)  <b>Comment:</b> This requirement is the same as in the previous legislation Commission Regulation (EU) 1035/2011, in that Limited (derogated) FIS units are not required to comply with Annex III ATS.OR.205(a)(2) which is the requirement to have a safety management function to develop and maintain the SMS. This exception should be removed and Limited FIS should comply with the requirements of Annex III ATS.OR.205(a)(2).  <b>Justification:</b> Limited FIS units are required to comply with Annex III and develop a SMS in accordance with ATS.OR.205 therefore it is necessary to have a safety management function to develop and maintain the required SMS.  <b>Proposed Text:</b>  'Air navigation service providers applying for a limited certificate under (b)(2) shall comply at least with the requirements in (c)(1) to (4) and with the requirements in Annex III, except <del>ATS.OR.205(a)(2)</del>, ATS.OR.205(c)(1)(ii) and ATS.OR.210.'</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. As correctly mentioned by the commentator, the subject provision is a transposition of Article 5 of Regulation (EU) No 1035/2011 and with the subject requirements the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner. Moreover, at the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p>However, based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on application for</p>

a limited certificate have been redrafted. The proposal is that the ANS applying for a limited certificate under (b)(2) shall comply, as a minimum, with the requirements in (c)(1) to (4) and with the requirements in Annex IV. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

comment

1157

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.OR.A.015 – Limited certificate for small ANS providers - §c (p35):

The French NSA supports the requirements for declared AFIS providers. The following requirements should be mandatory for all ANS providers in order to ensure safety indeed:

- o - Subpart A, with some exceptions
- o - Technical and operational competence and capability;
- o - Organisational structure;
- o - Management system;
- o - Human resources;
- o - Operations manuals;
- o - and Liability and insurance cover.

However the subpart A and the last two items (operations manuals and liability/insurance cover) in addition with Organisational structure, which are major requirements in order to ensure that the ANS provider puts a system in place which would enable a sufficient level of safety, are not required for a provider applying for a limited certificate, what could appear as inconsistent. How could an ATS provider work without any operations manual, without having defined a structure to operate or without covering itself against risks? Moreover due to the addition of new requirements as compared to Regulation (EU) No 1035/2011, it is suggested to apply requirements regarding contracted activities (ATM/ANS.OR.B.020), facilities requirements (ATM/ANS.OR.B.030) and record keeping (ATM/ANS.OR.B.035) to all ATM/ANS providers.

This is the reason why it is suggested to modify the sentence:

« (c) Air navigation service providers applying for a limited certificate under (a) or (b) (1) shall comply, at least, with:

**(1) the requirements of this subpart;**

**(2) ATM/ANS.OR.B.005 Technical and operational competence and capability;**

**(3) ATM/ANS.OR.B.010 Organisational structure;**

**(4) ATM/ANS.OR.B.015 Management system;**

**(5) ATM/ANS.OR.B.020 Contracted activities;**

**(6) ATM/ANS.OR.B.025 Human resources;**

**(7) ATM/ANS.OR.B.030 Facilities requirements;**

**(8) ATM/ANS.OR.B.035 Record keeping;**

**(9) ATM/ANS.OR.B.040 Operations manuals;**

**(10) ATM/ANS.OR.C.025 Liability and insurance cover;**

**(11) ATM/ANS.OR.C.030 Open and transparent provision of services; and**

**(12) the specific requirements set out in Annexes III, IV, V and VII to this Regulation according to the type of services they provide.”**

The French NSA considers indeed that all requirements in subpart B are essential for ensuring good operations and then safety of the services.

In order to simplify the reading, another suggestion may be the following:

	<p>« (c) Air navigation service providers applying for a limited certificate under (a) or (b) (1) shall comply, at least, with:</p> <p><b>(1) the requirements of this subpart;</b>  <b>(2) the requirements of the subpart B of this annex;</b>  <b>(3) ATM/ANS.OR.C.025 Liability and insurance cover;</b>  <b>(4) ATM/ANS.OR.C.030 Open and transparent provision of services; and</b>  <b>(5) the specific requirements set out in Annexes III, IV, V and VII to this Regulation according to the type of services they provide.”</b></p> <p>The GM1 ATM/ANS.OR.A.015 should then be modified accordingly.</p>
response	<p>Not accepted</p> <p>The Agency takes note of the comment.</p> <p>The subject provision is sourced from the existing Article 5 of Regulation (EU) No 1035/2011 and the intent remains the same. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p>The subject provision does not specifically preclude the commented requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as the situation is today for ANS providers through derogations).</p>

comment	<p>1161 comment by: <i>French Civil Aviation Authority (DGAC)</i></p> <p>French CAA comment</p> <p>ATM/ANS.OR.A.015 – Limited certificate for AFIS - §d (p35):</p> <p>This paragraph refers to the exemptions for limited certificate in subpart C of this annex.</p> <p>These exemptions are the following:</p> <ul style="list-style-type: none"> <li>- ATS.OR.205(a)(2): identification and independence of a safety management function. However in this requirement, the case of small organisation is explicitly covered. It is then suggested to delete this exemption;</li> <li>- ATS.OR.205(c)(1)(ii): this reference seems to be a mistake, since the regulation (EU) No 1035/2011 allows a “derogation” for “safety surveys” which corresponds to ATS.OR.205(c)(1)(i) and not (ii)</li> <li>- ATS.OR.210: this article refers to Safety requirements for risk assessment and mitigation with regard to changes, and should be kept indeed.</li> </ul> <p>Moreover, in the regulation (EU) No 1035/2011, a “derogation” for AFIS was possible for Software safety assurance system, under the derogation to § 3.2 of annex II (and so to section §3.2.5 regarding Software safety assurance system). However in the current NPA, no exemption is possible for ATS.OR.215. The French NSA considers the requirements are too difficult to implement for small AFIS providers and suggest to align with current regulation (EU) No 1035/2011. <u>This is the reason why it is suggested to modify the sentence:</u></p> <p>“Air navigation service providers applying for a limited certificate under (b)(2) shall comply at least with the requirements in (c)(1) <b>to xx [to be changed under the previous comments]</b> and with the requirements in Annex III, except <b><del>ATS.OR.205(a)(2)</del>, ATS.OR.205(c)(1)(i), ATS.OR.210 and</b></p>
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response	<p><b>ATS.OR.215.”</b></p> <p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. As correctly mentioned by the commentator, the subject provision is a transposition of Article 5 of Regulation (EU) No 1035/2011 and with the subject requirements the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner.</p> <p>Based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on application for a limited certificate have been redrafted. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.</p>
comment	<p>1228                      comment by: <i>SINCTA - Portuguese Air Traffic Controllers' Union</i></p> <p><b>ATM/ANS.OR.A.015 Application for a limited certificate</b></p> <p>We accept proportionate requirements as long as requirements related to safety are not included in the concept. Those figures will have different results in different countries or regions. While in some cases these will be very small aerodromes, it will also be applied to international small airports. We don't think it is acceptable for an ANSP providing an ATC service (to an aerodrome with less than 27 movements/day) to be exempt from facilities, record keeping and operations manuals requirements. If EASA considers these items as necessary to assure safety, why are the aerodromes having less than 27 movements/day exempt?</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>The commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011, and, with the subject requirements, the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner. The existing requirement for safety management has been replaced by a requirement for the management system. Beyond that, there are no additional requirements to those that currently exist. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p>Based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on application for a limited certificate have been redrafted. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.</p>

comment	<p data-bbox="354 210 427 246">1314</p> <p data-bbox="1142 210 1445 246" style="text-align: right;">comment by: ATCEUC</p> <p data-bbox="354 297 1185 333"><b>ATM/ANS.OR.A.015 Application for a limited certificate</b></p> <p data-bbox="354 362 1445 427">ATCEUC accepts proportionate requirements as long as requirements related to safety are not included in the concept.</p> <p data-bbox="354 427 1445 524">ATCEUC states that figures, especially monetary ones, don't mean anything when compared between different countries. Furthermore, they have to be revised on a regular basis.</p> <p data-bbox="354 524 1445 620">For ATCEUC it is not acceptable for an ANSP providing an ATC service to be exempt from facilities, record keeping and operations manuals requirements, no matter the size of the unit.</p> <p data-bbox="354 651 1445 784">EASA should revise all the articles that ANSPs applying for a limited certificate do not have to comply with. We consider that certain exceptions should not be so, even though a certain degree of proportionality might apply in certain cases.</p>
response	<p data-bbox="354 795 596 840"><i>Partially accepted</i></p> <p data-bbox="354 891 895 927">The Agency takes note of the comment.</p> <p data-bbox="354 938 1445 1263">The commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011, and, with the subject requirements, the flexibility for a service provider remains to limit its service to the airspace under the responsibility of a Member State under eligibility criteria in a controlled manner. The existing requirement for safety management has been replaced by a requirement for the management system. Beyond that, there are no additional requirements to those that currently exist as, at the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p data-bbox="354 1276 1445 1440">Furthermore, the subject provision does not specifically preclude the commented requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as the situation is today for ANS providers through derogations).</p> <p data-bbox="354 1453 1445 1617">Based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on application for a limited certificate have been redrafted. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.</p>
comment	<p data-bbox="354 1691 427 1736">1325</p> <p data-bbox="517 1691 1445 1776" style="text-align: right;">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></p> <p data-bbox="354 1830 1445 1895">The criteria are too high and it is a door open for the introduction of low-cost providers.</p> <p data-bbox="354 1895 1445 1960">We encourage EASA to bring in some proportionality to this aspect and to cease the opportunity to change the ancient criteria which may cause safety issues.</p>

response *Partially accepted*

The Agency takes the comment into consideration.

The commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011 and the intent remains the same. The existing requirement for safety management has been replaced by a requirement for the management system. Beyond that, there are no additional requirements to those that currently exist as, at the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

Based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on application for a limited certificate have been redrafted. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

comment 1345

comment by: USCA

#### **ATM/ANS.OR.A.015 Application for a limited certificate**

USCA accepts proportionate requirements as long as requirements related to safety are not included in the exceptions.

USCA states that figures, especially monetary ones, don't mean anything when compared between different countries. Furthermore, they have to be revised on a regular basis, so we propose to delete paragraph (b)(1).

For USCA it is not acceptable for an ANSP providing an ATC services, regardless the size of the unit, to be exempt from facilities, record keeping and operations manuals requirements. We believe that there are many of those provisions that ANSPs applying for a limited certificate are not requested to comply with that should be reconsidered, though of course a certain degree of proportionality might apply in certain cases.

response *Partially accepted*

The Agency takes note of the comment.

The commented provision is a transposition of Article 5 of Regulation (EU) No 1035/2011 and the intent remains the same. The existing requirement for safety management has been replaced by a requirement for the management system. Beyond that, there are no additional requirements to those that currently exist as at the time of the draft rule development the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

Based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on application for a limited certificate have been redrafted. Having adopted the ICAO Annex 19 SMS framework into Annex IV, all exceptions have been removed. The associated AMC ensure the proportionality aspects.

Furthermore, the subject provision does not specifically preclude the commented requirements; they would be subject to determination by the competent authority as to whether or not they are required for a particular service provider (as the situation is today for ANS providers through derogations).

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS  
(Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS  
(ATM/ANS.OR.A) – ATM/ANS.OR.A.020 Continued validity**

p. 35

comment

1163

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.OR.A.020 – Continued validity - §a (p35):

This requirement introduces unlimited duration of certificate. However, in almost cases of limited certificates, it has been noticed that the process of renewal of a certificate introduces more “pressure” on the provider, and enables the competent authority to make the provider resolve some open non-compliances.

This “smooth process” has been proved as a very powerful means to improve providers’ compliance, without the necessity of using enforcement measures. Moreover, the possibility for the competent authority to decide for the duration of a limited certificate is clear evidence of the use of “risk based oversight” spirit. In the case of unlimited certificate, there is almost no other means to adapt the certification except for revocation or surrender: the duration of a certificate is indeed a political window, for which the ATM/ANS providers make efforts to improve their “publicity”.

This is the reason why it is suggested to add the possibility to issue limited certificate:

*“(a) The ATM/ANS provider’s certificate shall remain valid subject to:*

*(1) the ATM/ANS provider remaining in compliance with the relevant requirements of Regulation (EC) No 550/2004 and Regulation (EC) No 216/2008 and its Implementing Rules, taking into account the provisions related to the handling of findings as specified under ATM/ANS.AR.C.025;*

*(2) the competent authority being granted access as defined in ATM/ANS.OR.A.045 to determine continued compliance with the relevant requirements of Regulation (EC) No 550/2004 and Regulation (EC) No 216/2008 and its Implementing Rules; and*

*(3) **the duration of the certificate, if any, not being expired,***

*(4) the certificate not being surrendered or revoked.*

response

*Not accepted*

The current Regulations (EU) No 1034/2011 and (EU) No 1035/2011 have been implemented within the Member States in various ways; certificate validities vary from 1 or 2 years (based on the oversight programme) up to 5 or 6 years.

In some other cases, the certificates are unlimited. The Agency considers that the proposed unlimited validity to the service provider certificate would facilitate and promote the implementation of a risk-based oversight scheme by the competent authority, and would also ensure a continuous oversight based on the identified risks instead of an oversight aiming at ensuring compliance and closing the findings only at the moment of the re-certification process. Moreover, service providers' management system aims at ensuring that they achieve the objectives for the provision of the services and continuously comply with the applicable requirements (i.e. compliance monitoring system). This is also supported by the fact that providers also have to develop performance indicators with regard to their management system and also with regard to the provision of their services. The analysis of these performance indicators is used by the providers for their continuous improvement. This approach also avoids unnecessary (or non-prioritised) use of valuable resources (provider and competent authority) in a re-certification activity. Instead, these resources can concentrate on high-risk areas. Furthermore, this practice is already implemented in the other fields of aviation such as aerodromes, ATCO training organisations, etc.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS (ATM/ANS.OR.A) – ATM/ANS.OR.A.025 Declaration by flight information services providers** p. 35-36

comment 272 comment by: *HungaroControl*

(c) Flight information services providers **declaring** shall comply with the following requirements:  
Lends clarity.

response *Accepted*

The comment is accepted, and the text is amended with 'declaring its activities' for better clarity.

comment 273 comment by: *HungaroControl*

(d) Flight information service providers **declaring** shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority.  
Lends clarity.

response *Accepted*

The comment is accepted, and the text is amended with 'declaring its activities' for better clarity.

comment	<p>399 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 35 - Annex II, Subpart A, ATM/ANS.OR.A.025</b>                  The same comment as for Annex II, Subpart A, ATM/ANS.OR.A.015 - Application for a limited certificate applies.                  The size of the organisations (i.e. mainly AFIS) will not allow the implementation of such requirements at the level required. Better tailored requirements are needed.                  Additionally, para d) shall be adapted to include that the CA shall return to the FIS organisation the signed/approved declaration based on the activities involved in the verification of compliance.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It is considered that the requirements for the aerodrome flight information services are proportionate and commensurate with the risk posed by such activities.</p>

comment	<p>489 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>(c) Flight information services providers <u>declaring their activities</u> shall comply with the following requirements:</p> <p>Proposed to add "declaring their activities" as it stands in (a) of ATM/ANS.OR.A.025</p>
response	<p><i>Accepted</i></p>

comment	<p>490 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>(d) Flight information service providers <u>declaring their activities</u> shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority.</p> <p>Proposed to add "declaring their activities" as it stands in (a) of ATM/ANS.OR.A.025</p>
response	<p><i>Accepted</i></p>

comment	<p>538 <span style="float: right;">comment by: <i>CANSO Civil Air Navigation Services Organization</i></span></p>	
	<p><b>ATM/ANS.OR.A.025 Declaration by flight information services</b></p>	<p>(c) Flight information services providers <u>declaring</u> shall comply with the following requirements:</p>
		<p>Brings clarity to the scope</p>

<b>providers</b>	(d) Flight information service providers <b>declaring</b> shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority.	of the articles.
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response

*Accepted*

The comment is accepted and the text is amended with "declaring its activities" for better clarity.

comment

620

comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.A.025**

Given the previous comment on Article 6 (whereby it should be applicable to aerodrome flight information services) if accepted then it needs to be clear that ATM/ANS.OR.A.025 applies the flight information service providers other than aerodrome flight information services providers.

response

*Not accepted*

Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (was ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness and consistency. Having determined in Article 7 'who' is eligible to declare, ATM/ANS.OR.A.015 details the requirements to be met if declaring.

comment

621

comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.A.025 (a)(1)**

Appendix 1 appears to be limited to broadcasts and not active flight information

	services. Is this the intent?
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. The declaration template is amended and proposed as GM.</p>
comment	<p>649 <span style="float: right;">comment by: PANSA</span></p>
	<p>(c) Flight information services providers <b>declaring</b> shall comply with the following requirements: (d) Flight information service providers <b>declaring</b> shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority. <b><i>Justification:</i></b> <i>Brings clarity to the scope of both articles c) and d).</i></p>
response	<p><i>Accepted</i></p> <p>The comment is accepted and the text is amended with 'declaring its activities' for better clarity.</p>
comment	<p>754 <span style="float: right;">comment by: AvinorANSP</span></p>
	<p>(c) Flight information services providers <b>declaring</b> shall comply with the</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>(d) Flight information service providers <b>declaring</b> shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority</p> </div> <p>following requirements: Brings clarity to the scope of the articles.</p>
response	<p><i>Accepted</i></p> <p>The comment is accepted and the text is amended with 'declaring its activities' for better clarity.</p>
comment	<p>780 <span style="float: right;">comment by: ROMATSA</span></p>
	<p>Comment:</p>

	<p>To make the following additions:  (c) Flight information services providers <b>declaring</b> shall comply with the following requirements:  (d) Flight information service providers <b>declaring</b> shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority.</p> <p>Justification:  Brings clarity to the scope of the articles.</p>
response	<p><i>Accepted</i></p> <p>The comment is accepted and the text is amended with 'declaring its activities' for better clarity.</p>
comment	<p>1015 <span style="float: right;">comment by: ENAV</span></p> <p>There should be a distinction between FIS and Aerodrome Flight Information services (AFIS). These articles should be related only to AFIS services. It is understood that this was the initial intention by those who developed the rule. All related articles should reflect this  The appendix should be accordingly amended</p>
response	<p><i>Not accepted</i></p> <p>Article 7 (former Article 6) implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging comments received relating to declaration and limited certificate, the provisions on 'Application for a limited certificate' and on 'Declaration by flight information service providers' are redrafted aiming at completeness, consistency and clarification on the difference between a limited certificate and a declaration.</p> <p>Furthermore, the template for the declaration is amended and proposed as GM.</p>
comment	<p>1027 <span style="float: right;">comment by: ENAV</span></p> <p>Proposal for rewording  (c) Flight information services providers <b>declaring</b> shall comply with the following requirements:  (d) Flight information service providers <b>declaring</b> shall only start operation after receiving the acknowledgement of receipt of the declaration from the competent authority.  Rationale</p>

	Brings clarity to the scope of the articles.
response	<p><i>Accepted</i></p> <p>The comment is accepted and the text is amended with 'declaring its activities' for better clarity.</p>

comment	<p>1132 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 35  <b>Paragraph No:</b> ATM/ANS.OR.A.025  <b>Comment:</b> It is unclear what type of service provision this paragraph relates to i.e. is this only the provision of temporary services as described in Article 6, as appears to be the intention as described in the explanatory notes, or is this for FIS units providing continuous operations?  <b>Justification:</b> It needs to be clearly stated as to what type of service this paragraph relates to and if this is for temporary service provision only, a reference should be made to the requirements in Article 6.  <b>Proposed Text:</b> '(a) Flight Information service providers, <b>who wish to provide a service in accordance with Article 6, when</b> declaring their activities shall:'</p>
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response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>The intent of the comment is addressed in the amendment of Article 7 (former Article 6) of the draft Regulation.</p> <p>Article 7 implements Article 8b(3) of Regulation (EC) No 216/2008 that provides the possibility that 'Member States may decide that providers of flight information services shall be allowed to declare their capability and means of discharging their responsibilities associated with the services provided'. The criterion proposed by the Agency was drawn from proposals developed by the ATM.001 rulemaking group. As explained in NPA 2013-08, paragraph 41 of the Explanatory Note, they were 'based on the criteria and requirements already existing in Commission Implementing Regulation (EU) No 1035/2011 for FIS providers entitled to apply for derogation of some requirements'. Acknowledging the comments received relating to declaration and limited certificate, the provisions to ATM/ANS.OR.A.010 on 'Application for a limited certificate' and ATM/ANS.OR.A.015 (former ATM/ANS.OR.A.025) on 'Declaration by flight information service providers' are redrafted aiming at completeness, consistency and clarification on the difference between a limited certificate and a declaration.</p>
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comment	<p>1135 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 36  <b>Paragraph No:</b> ATM/ANS.OR.A.025 (d)  <b>Comment:</b> This sub-paragraph states that the 'Flight Information Service provider shall only start service provision after receiving acknowledgement of</p>
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receipt of the declaration from the competent authority'. Annex I of the document does not define on what basis the competent authority will acknowledge receipt.

Considerable clarification is required here as this is implying that the competent authority has to take the receipt of the self declaration form (Appendix 1) as sufficient evidence to allow operations to commence.

The following sub-paragraph (e) defines the criteria for the declaration to remain valid however it appears that there is no requirement placed on the competent authority to ensure that these criteria are met before allowing service provision to commence.

**Justification** There is no clear requirement being placed on the competent authority to ensure that the self declaring service provider is compliant with the applicable legislation before the commencement of operations.

**Proposed Text:** Amend sub-paragraph (d) to read:

'(d) Flight Information service providers shall only **commence operations when they have received acknowledgement from the competent authority that the statements made in the self declaration form (appendix 1) are acceptable and verified.**'

In addition, Annex I should also define the actions required of the competent authority when in receipt of a self declaration.

response

*Partially accepted*

A newly developed provision ATM/ANS.AR.C.045 'Declarations of flight information services providers' is introduced to address this comment.

**ATM/ANS.AR.C.045 Declarations of flight information services providers new**

- (a) Upon receiving a declaration from a provider of flight information services intending to provide such services, the competent authority shall verify that the declaration contains all the information required by ATM/ANS.OR.A.015 and shall acknowledge receipt of the declaration to that service provider.
- (b) If the declaration does not contain the required information, or contains information that indicates non-compliance with the applicable requirements, the competent authority shall notify the provider of flight information services concerned of the non-compliance and request further information. If necessary, the competent authority shall carry out an audit of the provider of flight information services. If the non-compliance is confirmed, the competent authority shall take action as defined in ATM/ANS.AR.C.015.
- (c) The competent authority shall keep a register of the declarations of providers of flight information services under its oversight.

comment

1159

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.OR.A.025 – Declaration - §c.1 (p36):

In accordance to the same arguments than previously explained for ATM/ANS.OR.A.015 - §c, it is suggested to add the requirements of contracted

activities, facilities requirements for declared AFIS providers.

This is the reason why it is suggested to modify the sentence:

« (c) Flight information services providers shall comply with the following requirements:

(1) in this Annex:

(i) this subpart, except ATM/ANS.OR.A.010, ATM/ANS.OR.A.015 and ATM/ANS.OR.A.020;

(ii) ATM/ANS.OR.B.005 Technical and operational competence and capability;

(iii) ATM/ANS.OR.B.010 Organisational structure;

(iv) ATM/ANS.OR.B.015 Management system;

**(v) ATM/ANS.OR.B.020 Contracted activities;**

**(vi) ATM/ANS.OR.B.025 Human resources;**

**(vii) ATM/ANS.OR.B.030 Facilities requirements;**

**(viii) ATM/ANS.OR.B.040 Operations manuals; and**

**(ix) ATM/ANS.OR.C.025 Liability and insurance cover;”**

In order to simplify the reading, another suggestion may be the following:

« (c) Flight information services providers **declaring their activities** shall comply with the following requirements:

(1) in this Annex:

(i) this subpart, except ATM/ANS.OR.A. 010, ATM/ANS.OR.A. 015 and ATM/ANS.OR.A. 020;

**(ii) the subpart B, except ATM/ANS.OR.B.035;**

**(iii) ATM/ANS.OR.C.025 Liability and insurance cover;”**

response Partially accepted

The Agency takes note of the comment.

In reference to the additional requirements to be imposed to FIS providers, the Agency considers that the requirements proposed for the flight information services providers are proportionate and commensurate with the risk posed by such activities.

In reference to the proposal to point (c), based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure the requirements on declaration by FIS providers have been redrafted and the proposals are partially accepted.

comment 1162

comment by: French Civil Aviation Authority (DGAC)

French CAA comment

ATM/ANS.OR.A.025 – Declaration for AFIS - §c.2 (p35):

In accordance to the same arguments than previously explained for ATM/ANS.OR.A.015 - §d, it is suggested to modify the exemptions of part ATS.OR.

« (c) Flight information services providers declaring their activities shall comply with the following requirements:(...)

(2) Annex III, except ~~ATS.OR.205(a)(2)~~, **ATS.OR.205(c)(1)(i)**, ATS.OR.210 and **ATS.OR.215.**”

response *Partially accepted*

The Agency takes the proposal into consideration.

Based on the NPA consultation and the focussed one organised by the Agency after the NPA consultation closure, the requirements on declaration by FIS providers have been redrafted.

Having adopted the ICAO Annex 19 SMS framework into Annex III, all exceptions have been removed.

comment *1164* comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATM/ANS.OR.A.025 – Declaration (p35):

*"(a) Flight information services providers declaring their activities shall:  
(1) provide the competent authority with all relevant information prior to commence operations, using the form established in Appendix I to this Part;"*

A template should not be mandatory, since national requirements and regulation may request other means to issue a certificate. Moreover the national language should also be taken into account. However a template as a GM would be useful in order to harmonize the implementation of these requirements by all Member States.

This is the reason why it is suggested that the Appendix 1 to Annex II should be changed into a GM and modify the sentence, in line with the application for limited certificate as defined in ATM/ANS.OR.A.015:

*"(a) Flight information services providers declaring their activities shall:  
(1) provide the competent authority with all relevant information prior to commence operations, **in a form and manner established by that competent authority;**"*

response *Accepted*

comment *1213* comment by: *Luca Valerio Falessi*

**The "Declaration" does not take into account the need to designate the AFIS provider**

As any ATSP, the AFIS provider needs to be designated. Until 550 article 8 is changed, only certified providers are able to be designated. Therefore the AFIS could not start its operation unless Authority issues a certification.

response *Noted*

The Agency takes note of the comment. It should be noted that the commented Article implements one of the objectives of Regulation (EC) No 216/2008. As

part of the Council compromise when approving the SES II package in 2009, some old SES provisions were left in place and, indeed, these may be contradictory to the new ones contained in Regulation (EC) No 216/2008. After consulting with the Commission, it appears that this problem will be one of the issues rectified in the SES2+ proposal and the work on implementing rules should continue to implement the new EASA framework.

comment

1215

comment by: *Luca Valerio Falessi*

**No safety assessment is required for the establishment and termination of the AFIS service.**

Start and decommissioning of the air traffic services are subject to safety assessment. This need is not reflected in the regulation

The establishment and decommissioning of any ATS service, including AFIS, is subject to a series of procedures, being itself a change of an ATM functional system.

The regulation does not take into consideration this issue.

response

*Noted*

The Agency takes note of the comment.

It is considered that a fully-fledged certification process is disproportionate for less safety sensitive services, such as flight information services. Therefore, the commented provision implements Article 8b(3) of the Basic Regulation and the FIS provider may declare its capability and means of discharging the responsibilities associated with the services provided subject to certain eligibility criteria.

Furthermore, the commented provision requires the FIS providers to comply with Annex IV, which addresses the identification of hazards, risk assessment, and mitigation. More tailored provision on the subject will be reflected into the associated AMC.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS  
(Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS  
(ATM/ANS.OR.A) – ATM/ANS.OR.A.030 Demonstration of compliance**

p. 36

comment

498

comment by: *HungaroControl*

Agreed.

response

*Noted*

comment	<p>622 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.OR.A.030</b></p> <p>Whilst it does vary in the NPA it appears that "ATM/ANS provider" is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules).</p> <p style="text-align: center;"><b>Impact</b></p> <p>Consistency and understanding.</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p>Amend to read "The ATM/ANS provider..."</p>
response	<p><i>Partially accepted</i></p> <p>The text is amended and 'A service provider' is now used instead of 'The ATM/ANS provider'.</p>
comment	<p>992 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>Either there is a restriction set to the data to be used to protect the personal data and other rights on data, or this sentence is removed.</p> <p>Alternative proposal :</p> <p>ATM/ANS.OR.A.030 Demonstration of compliance  ATM/ANS providers shall provide all the relevant evidence to demonstrate compliance with the applicable common requirements at the request of the competent authority. <del>ATM/ANS providers may make full use of existing data.</del></p>
response	<p><i>Accepted</i></p>
comment	<p>1326 <span style="float: right;">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></span></p> <p>proposed amendment:</p> <p>ATM/ANS providers shall provide all the relevant evidence to demonstrate compliance with the applicable common requirements at the request of the competent authority. <del>ATM/ANS providers may make full use of existing data.</del></p> <p>justification:</p> <p>Either there is a restriction set to the data to be used to protect the personal data and other rights on data, or this sentence is removed.</p>
response	<p><i>Accepted</i></p>

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS  
(Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS  
(ATM/ANS.OR.A) – ATM/ANS.OR.A.035 Changes**

p. 36

comment

68

comment by: *ATC the Netherlands*

By including "functions" which may affect its compliance with the applicable requirements almost all changes to the management system need prior approval unless detailed in the procedure under (b). This is not workable nor efficient.

Propose to delete "these changes shall require prior approval by the competent authority".

response

*Accepted*

The text proposed for deletion is amended. ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) has been redrafted to clarify the different types of changes that require prior approval and those that may not. The approved procedure is still the means by which changes that do not require prior approval are notified and managed. The procedure affords the opportunity for not all changes to require the competent authority's approval, reducing, thus, workload and improving efficiency (for both the competent authority and the service provider).

comment

123

comment by: *LFV*

There is a need to define the meaning of "may affect its compliance with applicable requirements or with the conditions attached to the certificate", since these changes require approval prior to implementation.

We are not clear if it should be interpreted as any change affecting *how* requirements are met, including all changes to the management system, or as a change affecting the *possibility* to comply with requirements, thus only meaning major, significant changes that could jeopardize compliance to requirements. The former interpretation could have a major impact on costs for both ANSP and NSA.

An interpretation would be appreciated.

It should be very carefully evaluated what type of changes that really require approval from CA, and what need only notification or can be a part of certification compliance according to the ANSP management system.

This may be cost driving for both ANSP and NSA

response

*Partially accepted*

ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) is redrafted and the text highlighted by the commentator is removed. Furthermore, the subject provision is redrafted to clarify the different types of changes that require prior approval and those that may not require prior approval.

comment	<p data-bbox="352 206 411 241">125</p> <p data-bbox="1203 206 1449 241" style="text-align: right;">comment by: LfV</p> <p data-bbox="352 293 1449 389">It should be very carefully evaluated what type of changes that really require approval from CA, what need only notification or can be a part of certification compliance according to the ANSP management system.</p> <p data-bbox="352 389 1449 553">ANSP have requirement to track changes in the functional system and the link between change and safety relevance is established with the SMS (already in ESARR4). ANSPs already have in regulatory framework and Competent Authority in safety oversight. Objective sought in this paragraph should already be in the safety oversight process. Notification does not require prior approval.</p> <p data-bbox="352 553 1449 680">"Key elements of the provider's management system as..." (ref: AMC1 ATM/ANS.OR.A.035(b) ) can be interpreted very widely by a CA, which may be very cost-driving, and make it difficult to implement improvements to the management system.</p> <p data-bbox="352 680 1449 808">The requirement "any other change shall be notified..." gives a very large scope for information. Also to "define the changes that do not require prior approval by the competent authority before the change is implemented" can be difficult – any typ of change not mentioned require approval, regardless of level of risk.</p> <p data-bbox="352 808 1449 936">The level of information continuously sent to the NSA must not be over regulated, thus giving extra administrative work, both for ANSP and Regulator, without any effect on safety. Regular oversight (audit) should cover this type of changes.</p> <p data-bbox="352 936 624 972">Proposal of change:</p> <p data-bbox="352 972 1449 1135">(a) A certified ATM/ANS provider shall notify the competent authority of planned changes to its provision of services and functions which may affect its compliance with the applicable requirements or with the conditions attached to the certificate. <del>These changes shall require prior approval by the competent authority.</del></p> <p data-bbox="352 1135 1449 1263"><del>(b) Any other change shall be notified and managed following a procedure previously agreed between the ATM/ANS provider and its competent authority. This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.</del></p>
response	<p data-bbox="352 1272 596 1308"><i>Partially accepted</i></p> <p data-bbox="352 1368 1449 1630">ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) is redrafted to clarify the different types of changes that require prior approval and those that may not. The proposed deletion in (a) by the commentator is implemented, (b) is retained, but amended. The approved procedure is still the means by which changes that do not require prior approval are notified and managed. The procedure affords the opportunity for not all changes to require the competent authority's approval, reducing, thus, workload and improving efficiency (for both the competent authority and the service provider).</p>

comment	<p data-bbox="352 1720 411 1756">129</p> <p data-bbox="1203 1720 1449 1756" style="text-align: right;">comment by: LfV</p> <p data-bbox="352 1807 1449 1872">Do not support the proposal to elevate AMC1 ATM/ANS.OR.A.035 to IR level. There could be alternative procedures how the planned changes are addressed.</p>
response	<p data-bbox="352 1883 480 1919"><i>Accepted</i></p> <p data-bbox="352 1980 1449 2013">Considering the outcome of the NPA 2013-08 consultation, the commented AMC</p>

is retained at AMC level.

In reference to a development of an additional AMC on the subject, the Agency takes note of the comment.

comment 203

comment by: *Icelandic Transport Authority*

- This requirement is not clear:
- is a "procedure agreed between the ATM/ANS provider and its CA" required for both (a) (b)?
- does (a) apply to "planned changes" but (b) to changes (not planned but already implemented?) i.e. can you in the case of (b) notify a change that has already been implemented?

The following is suggested in regards to changes, other than changes to the functional system:

- the ANSP shall have a procedure for planned changes, the CA shall approve/accept this procedure
- this procedure shall define how the organisation shall apply for and obtain an approval issued by the competent authority
- this procedure shall stipulate which changes require prior approval and which changes do not require prior approval, and in such cases (not requiring prior approval) the change need not be notified prior to implementation
- prior approval shall at least be required for the following changes:
  - changes to the provision of services and functions which may affect its compliance with requirements and conditions attached to the certificate
  - any of the key elements of the ATM/ANS provider's management system as required in ATM/ANS.OR.B.015(a)
  - any additional elements as found necessary by the ATM/ANS provider in agreement with the competent authority

**New proposal:**

**ATM/ANS.OR.A.035 Changes**

(a) A certified ATM/ANS provider shall establish a procedure for the notification and management of changes. The procedure shall be approved by the appropriate competent authority and shall define the changes that require prior approval by the competent authority before the change is implemented.

(b) Any changes to the provision of services and functions which may affect the ATM/ANS provider's compliance with the applicable requirements or with the conditions attached to the certificate shall require prior approval by the competent authority. For such changes and for changes requiring prior approval in accordance with Regulation (EC) No 216/2008 and its Implementing Rules, the procedure shall define how the organisation shall apply for and obtain an approval issued by the competent authority:

(1) Applications shall be submitted before any such change is made in order to enable the competent authority to determine continued compliance with Regulation (EC) No 216/2008 and its Implementing Rules and also to amend, if necessary, the certificate and related conditions attached to it.

(2) Changes shall only be implemented upon receipt of approval by the competent authority in accordance with the procedure established by that authority.

	<p>(3) The ATM/ANS provider shall operate under the conditions prescribed by the competent authority during such changes, as applicable.  (c) Changes that do not require prior approval by the competent authority may be implemented after notification, or prior to notification as agreed upon in the ATM/ANS providers' procedure for changes.</p>
response	<p><i>Partially accepted</i></p> <p>ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to simplify and clarify the prior approval requirements.</p>

comment	<p>204 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 36 - ATM/ANS.OR.A.035 Changes</b>  Introducing this article together with its proposed AMC instead of the current article 6.2 EC 1035/2011 seems to create quite a heavy additional burden to the ANSPs and CAs, as in a number of set cases the ANSPs are now (and this is new) obliged to wait for the CA's approval before introducing a change (this is in fact also a new requirement for CAs).  See also our comment and proposal concerning AMC - AMC1 ATM/ANS.OR.A.035 (b) on page 18.  This is what we propose for the three types of changes to the provision of services and functions:  (a) Any change:  (1) affecting the scope of the certificate; or  (2) to the management system that affect the provision for which the certificate was granted,  shall require prior approval by the competent authority.  (b) For any changes requiring prior approval:  (1) the operator shall apply for and obtain an approval issued by the competent authority. The application shall be submitted before any such change takes place, in order to enable the competent authority to determine continued compliance with Regulation (EC) No 216/2008 and its Implementing Rules and to amend, if necessary, the certificate.  (2) The operator shall provide the competent authority with any relevant documentation.  (3) The change shall only be implemented upon receipt of formal approval by the competent authority in accordance with ATM/ANS.AR.020(a).  (4) The operator shall operate under the conditions approved by the competent authority during such changes, as applicable.  (c) All changes not requiring prior approval shall be managed and notified to the competent authority as defined in the procedure approved by the competent authority in accordance with ATM/ANS.AR.C.020(c).</p>
response	<p><i>Partially accepted</i></p> <p>ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to simplify and clarify the prior approval requirements.</p>

comment	<p>225 <span style="float: right;">comment by: AIRBUS</span></p>
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	<p>ATM/ANS.OR.A.035 The title of this paragraph “Changes” should be replaced by this one: “<b>Changes to the terms of approval</b>”.</p>
response	<p><i>Not accepted</i></p> <p>Based on the outcome of the NPA 2013-08 consultation, the provision is revised. This issue and the title of the subject provision were also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue.</p>
comment	<p>248 <span style="float: right;">comment by: AENA-NPA2013-08</span></p> <p><b>Page 36, ATM/ANS.OR.A.035 Changes.</b> For changes not requiring prior approval, it is considered enough to submit the procedure developed by the ATM/ANS provider to de competent authority without requiring formal approval, understanding that if there is any problem with the procedure, the competent authority will notify the ATM/ANS provider. Therefore, it is proposed to modify provision ATM/ANS.OR.A.035 (b) as highlighted in red: <i>(b) Any other change shall be notified and managed following a procedure previously <del>agreed-between</del> developed by the ATM/ANS provider <del>and-its competent-authority</del>. This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.</i> Anyway, the wording of provisions ATM/ANS.AR.C.020 (c) and ATM/ANS.OR.A.035 (b) is not consistent, because in ATM/ANS.AR.C.020 (c) it is said that the procedure shall be developed by the ATM/ANS provider and approved by the competent authority, while in ATM/ANS.OR.A.035 (b) it is established that the procedure shall be agreed between ATM/ANS provider and its competent authority, which is not exactly the same.</p>
response	<p><i>Accepted</i></p> <p>Regarding the changes not requiring prior approval, the controlled process proposed is twofold. First, the competent authority needs to approve a procedure developed by the service provider defining the scope of such changes, their management, and notification. This is a safeguard for the service provider such that the service provider has the certainty of knowing (in advance) what changes do require prior approval and which do not. Then, the information provided by the service provider when notifying such changes does not have to be assessed immediately, but within the continuous oversight process. This process strikes a balance between a reasonable amount of oversight by the competent authority on the one hand, and a reasonable amount of ‘freedom to act’ by the service providers on the other hand.</p> <p>The text of ATM/ANS.OR.A.040 (formerly ATN/ANS.OR.A.035) is amended in order to clarify the issue.</p>
comment	<p>269 <span style="float: right;">comment by: HungaroControl</span></p>

	<p>Any other change shall be notified and managed following a procedure <del>previously</del> agreed between the ATM/ANS provider and its competent authority as defined in ATM / ANS.AR.C.020 (c). This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.</p> <p>Since no time-frame is given, the word previously does not give any added value. But the reference to AR leads to clarity in the interpretation of this provision.</p>
response	<p><i>Accepted</i></p> <p>ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted taking into account the proposals made by the commentator.</p>
comment	<p>280 <span style="float: right;">comment by: <i>skyguide Corporate Regulation Management</i></span></p> <p>Throughout the IR it needs to be clarified what changes are meant, whether it is a change to a functional system, whether it is changes to the certificate or whether it is changes to the management system.</p> <p>If, as stated under b), the aim is to have 'any' change subject to oversight then there is a large workload associated with this which will bring little value and does not align with the EASA objective of risk based oversight (as proposed for audit activities).</p> <p>The notion of 'any other change' as cited in (b) which follows a procedure agreed between the provider and the Competent Authority brings into doubt EASA's objective of the having a level playing field as there is no guarantee that each Competent Authority will enforce the same level of oversight.</p>
response	<p><i>Partially accepted</i></p> <p>ATM/ANS.OR.A.035(b) is redrafted to clarify which changes are to be considered. The principle of 'prior approval' is implemented throughout the EASA rules (e.g. ADR.OR.B.040(d)) and is about ensuring a level playing field across all aviation domains. This process strikes a balance between a reasonable amount of oversight by the competent authority on the one hand, and a reasonable amount of 'freedom to act' by the service providers on the other hand.</p>
comment	<p>285 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>Stakeholders are invited to comment whether the proposed 'AMC1 ATM/ANS.OR.A.035(b) Changes' should be elevated to IR level and align it with the requirements being proposed for other fields of aviation such as aerodromes or air traffic controller training organisations and being today applicable in the field of aircraft operations and flight crew license training organisations.</p> <p>AMC is the appropriate level of regulation. However: The AMC (a) to IR ATM/ANS.OR.A.035(b) should be re-designated as the AMC to ATM/ANS.OR.A.035 (a) and amended as follows: (a) <del>The procedure agreed by the ATM/ANS provider and the competent</del></p>

	<p><del>authority should not include Any change affecting</del>  <del>(1) any of the key elements of the ATM/ANS provider’s management system as required in ATM/ANS.OR.B.015(a) should require prior approval.</del>  <del>(2) any additional elements as found necessary by the ATM/ANS provider in agreement with the competent authority and approved by that competent authority.</del>  <del>The changes specified above are changes requiring prior approval.</del>  <del>Certain terms such as “key elements” need to be defined.</del></p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the ‘prior approval’ requirements.</p> <p>However, the commented AMC is retained at AMC level as proposed with the subject NPA.</p> <p>Considering the comments on ‘key elements’, the necessary GM is introduced.</p>
comment	<p>286 <span style="float: right;">comment by: <i>skyguide Corporate Regulation Management</i></span></p> <p>(b) Any other change shall be notified and managed following a procedure <del>previously</del> agreed between the ATM/ANS provider and its competent authority as defined in ATM / ANS.AR.C.020 (c). This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.  Reference to AR lends clarity to the interpretation of this provision.</p>
response	<p><i>Accepted</i></p> <p>ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted taking into account the proposals made by the commentator.</p>
comment	<p>292 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>(b) Any other change shall be <del>notified and</del> managed following a procedure previously agreed between the ATM/ANS provider and its competent authority.  (c) The procedure agreed upon between the CA and the ATM/ANS provider shall define the changes that:  1. Require prior approval  2. Require prior notification  3. Require subsequent notification  Require no action</p> <p>This procedure defines which changes has to be notified. The procedure need to be based on an agreement between the CA and the ATM/ANS provider.</p>
response	<p><i>Partially accepted</i></p>

ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the 'prior approval' requirements. The approved procedure is still the means by which changes that do not require prior approval are notified and managed. The procedure affords the opportunity for not all changes to require the competent authority's approval.

comment

293

comment by: *HungaroControl*

(a) A certified ATM/ANS provider shall notify the competent authority of planned changes to its provision of services, organisation or activities and functions which may affect its compliance with the applicable requirements or with the conditions attached to the certificate. These changes shall require prior approval by the competent authority.  
Using the word function might lead to confusion as it may be misinterpreted as 'functional systems'. The 'activities' will also cover the network management "functions" which do not count as "services".

response

*Partially accepted*

The Agency takes the proposal into consideration.

ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) is redrafted to clarify the different types of changes that require prior approval and those that may not require prior approval. Therefore, the text of (a) has been significantly modified.

comment

314

comment by: *AESA / DSANA*

PART	COMMENT	JUSTIFICATION
Annex II ATM/ANS.OR.A.035 <b>Changes</b>	AESA agrees to the text " <i>certified ATM/ANS provider shall notify the competent authority of planned changes to its provision of services and functions which may affect its compliance with the applicable requirements or with the conditions attached to the certificate</i> " but considers that these changes should be monitored during the on-going oversight instead of requiring a prior approval of these planned changes by the competent authority.	The ANSP is responsible for the management of the planned changes once the procedure to that effect has been approved within the certification process, it makes more sense to include this in the on-going oversight. Otherwise, this would entail a superfluous bureaucratic workload that impinges on the swiftness of the system. Further to this, and in relation to big ANSPs, pray refer to AESA comment on (A) 96 [ATM/ANS.AR.C.020].

response *Noted*

The proposed provision foresees that the provider shall agree with the competent authority on the procedure for managing 'general' changes. This procedure needs to identify the following:

- the changes that need to be notified to the competent authority, and for which prior approval is needed before they can be implemented;
- the changes that need to be notified to the competent authority, but for which prior approval from that authority is not required before they can be implemented; and
- changes that are neither needed to be notified to the competent authority, nor prior approval is needed for them before they can be implemented.

In this respect, ATM/ANS.AR.C.025(c) is amended such that the procedure needs to describe how such changes are managed and included within the ongoing oversight.

comment 445

comment by: CAA-NL

#### **ATM/ANS.OR.A.035 Changes + AMC**

The system for these changes as created by ATM/ANS.OR.A.035 and especially its AMC creates quite a heavy burden compared with the current system as provided by article 6.2 of EC 1035/2011. Whereas under the current system the provider is only required to notify the planned changes, in the system (including the AMC) as proposed by the NPA it is required to wait for approval for almost any change.

Although we acknowledge that the current system could be qualified as somewhat uncontrolled, the proposed system in our opinion over-regulates the changes. Actually, we are strengthened in this belief by our NSA, which has indicated that until now no safety-problems have arisen from the current manner of notifying these changes. Furthermore, the provisions of ATM/ANS.OR.030 always give the Competent Authority/NSA the right to ask for any information it needs for oversight.

In order to make the changes a truly proportional controlled process, tailored to safety needs where they exist in practice, we propose to set-up the requirements along the following alternative lines:

- - Changes affecting the scope of the certificate or its attachment shall always require approval by the Competent Authority (as these are always key-changes), however
- - For the other changes, the types of changes that require prior acceptance shall be established in an agreement between the Competent Authority and the provider. This agreement shall in any case be based on the maturity of the provider's (safety) management system ((S)MS).

By designing the system as proposed, the maturity of the provider's (S)MS becomes the defining factor for establishing which and how many changes require prior approval by the CA. This would in our opinion make the system really proportionate and safety-driven. Furthermore, it might provide providers with an extra incentive to be serious about keeping or getting the maturity of their (S)MS as high as possible.

The incentive for really closing the agreement with the CA is that if it is not possible to close it, all 'serious' changes will require prior approval.

In case that the provider notifies a change that does not require prior approval and the CA would feel the need to come into action anyway, it can (as indicated above) still rely on ATM/ANS.OR.A.030, which states that the provider shall provide all the relevant evidence to demonstrate compliance with the applicable common requirements at the request of the CA. After this, the CA could call upon ATM/ANS.AR.C.025 whenever necessary.

We would suggest to construct the article as follows:

ATM/ANS.OR.035 Changes

(aa) A certified ATM/ANS provider shall notify the competent authority of planned changes to its (safety) management system or provision of services and functions which may affect its compliance with the applicable requirements or with the conditions attached to the certificate.

(bb) Any change affecting the scope of the certificate or its attachment shall require prior approval by the competent authority.

(cc) For all other changes the ATM/ANS provider shall agree with the competent authority the types of changes that require approval by the competent authority. This agreement shall in any case be based on the maturity of the ATM/ANS provider's (safety) management system.

(dd) In case that no agreement can be reached, all changes as described under paragraph (a) shall require prior approval by the competent authority.

(ee) Current NPA-text under its paragraph (b).

AMC

(aa) Could be deleted.

(bb) Could become paragraph (a).

response *Partially accepted*

The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) is redrafted to clarify the different types of changes that require prior approval and those that may not require prior approval. Should the competent authority decide, the maturity of a service provider's (S)MS could be considered as a determinant and that would be reflected in the approved procedure. Other comments impact upon the final text of ATM/ANS.OR.A.040.

comment 526

comment by: DSNA

This part is difficult to assess with the benefit of the content of ATM/ANS.AR.C.030 Oversight of changes to the functional system / ATM/ANS.AR.C.035 Review procedure of the proposed changes which are both reserved.

Draft version of RMT.0469 / RMT.0470 mentions "change to a functional system [...] a change to their functional system or to the services they provide". The

scope of those different parts of IR ATM should be defined from the start.

ANSP have requirement to track changes in the functional system and the link between change and safety relevance is established with the SMS (already in ESARR4). ANSPs already have in regulatory framework and CA in safety oversight. Objective sought in this paragraph should already be in the safety oversight process. Notification does not require prior approval.

Objective of the comment / proposal is to restrict the scope to non-functional system issues that are of interest to NSA and allow ANSP/Competent Authority in the AMC the flexibility to agree on the list of issues covered by notification.

First proposal:

(a) A certified ATM/ANS provider shall notify the competent authority of planned changes to its provision of services and functions which may affect its compliance with the applicable requirements or with the conditions attached to the certificate. ~~These changes shall require prior approval by the competent authority.~~

~~(b) Any other change shall be notified and managed following a procedure previously agreed between the ATM/ANS provider and its competent authority. This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.~~

Second proposal:

~~(b) Any other change shall be notified and managed following a procedure previously agreed between the ATM/ANS provider and its competent authority. This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.~~

response *Partially accepted*

The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. ATM/ANS.OR.A.040(a) (formerly ATM/ANS.OR.A.035(a)) is redrafted to clarify the different types of changes that require prior approval and those that may not require prior approval, thus the provisions (a) and (b) are significantly modified. Other comments impact upon the final text of ATM/ANS.OR.A.040.

comment 582 comment by: *Federal Office of Civil Aviation FOCA*

The subpart (b) refers to "any other change" which inherently includes also "changes to functional systems". It is highly recommended to combine the section ATM/ANS.AR.C.020 and ATM/ANS.OR.A.035. The current separation is artificial and readability and comprehensiveness is strongly compromised.

response *Partially accepted*

The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The completed provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and

the procedures that require to be applied.

comment 623

comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.A.035 (a)**

Given the definition of ATM/ANS provider (the use of the word “providing” in the definition), then the ATM/ANS provider must be certified otherwise it cannot be called an ATM/ANS provider. Additionally certified ATM/ANS provider excludes declared FIS provision from this rule. Is this the intent?

A change to a functional system is covered elsewhere and “functions” is unclear as to what it refers, however, it is thought to be the network manager, request clarification or deletion of “functions”?

The two sentences that form ATM/ANS.OR.A.035 (a) benefit from being combined into a single “shall”. The notion of “notify” is inherent in seeking prior approval.

**Impact**

Clarity

**Suggested Resolution**

Amend to read “(a) A (certified) ATM / ANS provider shall require prior approval by the competent authority for planned changes to its provision of services and functions which may affect its compliance with applicable requirements or with the conditions attached to the certificate.”

response

*Partially accepted*

The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The completed provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified. Other comments impact upon the final text of ATM/ANS.OR.A.040.

Furthermore, it is important to be noted that a flight information services provider may apply for a full certificate, a limited certificate or make a declaration.

comment 625

comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.A.035 (b)**

Whilst this requires the CA to agree a procedure developed by the ATM/ANS provider the corresponding AR (ATM/ANS.AR.C.020 (c)) requires CA approval.

“Previously” does not bring any added value as no time-frame is given.

A reference to the related AR lends clarity to the interpretation of this provision.

**Impact**

Clarity

**Suggested Resolution**

Amend to read “(b) Any other change shall be notified and managed following a procedure previously approved between the ATM/ANS provider and its competent authority as defined in ATM/ANS.AR.C.020 (c). This procedure shall

	define the changes that do not require prior approval by the competent authority before the change is implemented.”
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified and 'previously' is removed. Furthermore, the necessary references to authority requirements are amended.</p>
comment	<p>715 <span style="float: right;">comment by: AENA-NPA2013-08</span></p> <p>ATM/ANS.OR.A.035 Changes. Not only planned functional changes affect safety, organizational changes, too.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified addressing the aspects raised by the commentator.</p>
comment	<p>784 <span style="float: right;">comment by: ROMATSA</span></p> <p>Comment: To modify as follows: (a) A <del>certified</del> ATM/ANS provider shall notify the competent authority of planned changes to its provision of services <del>and functions</del> which may affect its compliance with the applicable requirements <del>or with the conditions attached to the certificate</del>. These changes shall require prior approval by the competent authority. A (certified) ATM / ANS provider shall require prior approval by the CA for changes to its provision of services and functions which may affect the certificate and / or the conditions attached.</p> <p>Justification: Changes to functional systems is covered elsewhere and “functions” is unclear to what it refers, however, it is thought to be the network manager: request clarification. “certified provider” excludes declared FIS provision from this rule. Is this the intent. New wording: to make a clear distinction between a) and b).compliance with the applicable requirements are implicit as we are complying with the</p>

	regulation in order to be certified (or to declare)
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The commented provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified and 'certified' is removed. Other comments impact upon the final text of ATM/ANS.OR.A.040.</p>

comment	<p>785 <span style="float: right;">comment by: <i>ROMATSA</i></span></p> <p>Comment: To add as follows: (b) Any other change shall be notified and managed following a procedure <del>previously</del> agreed between the ATM/ANS provider and its competent authority as defined in ATM / ANS.AR.C.020 (c). This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.</p> <p>Justification: Previously does not bring any added value as no time-frame is given. The reference to AR lends clarity to the interpretation of this provision.</p>
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response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject. The provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified. Furthermore, the necessary references to authority requirements are amended.</p>
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comment	<p>879 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>We would recommend that the formulation of the paragraph should allow an information flow to be set up, rather than requesting a notification process and approval process. (a) An ATM/ANS provider shall inform the competent authority of planned safety relevant changes to its provision of services and functions, including all evidence to demonstrate on-going compliance with the applicable requirements and the conditions attached to the certificate, following a procedure previously agreed between the ATM/ANS provider and its competent authority</p>
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	Propose to delete (b) totally in regards to the new formulation above.
response	<i>Noted</i>
	<p>The Agency takes note of the comment. Based on the NPA 2013-08 consultation outcome and the discussions held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified.</p>

comment	<i>1020</i> <span style="float: right;">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></span>
	<p>The last sentence of sub-para (a) "These changes shall require prior approval by the competent authority" is not included in former Article 6 2. 1035/2011. However we support it, as it lends clarity on the subject of changes that need prior approval besides those related to functional systems. This adds value and clarity to the safety regulatory relevant subjects.</p> <p>However, DFS believes that the remainder of possible changes does not need a bureaucratic treatment as the procedure under (b) proposes.</p> <p>DFS therefore suggests deletion of para (b) - as well as the related AMC to para (b).</p> <p>Alignment with the authority requirements and AMC/GM would be necessary as well.</p>

response	<i>Partially accepted</i>
	<p>The Agency takes the comment into consideration. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the different types of changes and the procedures required to be applied. Thus, the provisions (a) and (b) are significantly modified, and it should be noted that the procedure affords the opportunity for not all changes to require the competent authority's approval. Furthermore, the necessary references to authority requirements are amended.</p>

comment	<i>1031</i> <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span>
	<p>French CAA comment (NSA and rulemaking directorate) Clarify the IR requirements regarding changes notification.</p> <p><u>Rationale:</u> There is no match between what is described in the explanatory note to paragraph 115 and the proposed IR text. The note reads:</p> <p><i>"The proposed provision foresees that the provider shall agree with the competent authority on the procedure for managing such general changes. This procedure needs to identify the following:</i></p>

– the changes that need to be notified to the competent authority and for which prior approval is needed before they can be implemented;  
 – the changes that need to be notified to the competent authority but for which prior approval from that authority is not required before they can be implemented; and  
 – changes that are neither needed to be notified to the competent authority, nor prior approval is needed for them before they can be implemented.”

We support this proposal, however, the IR proposed text is different: it seems to require that all changes must be notified. It is administratively cumbersome and raises also the question of the definition of a change.

**“ATM/ANS.OR.A.035 Changes**

[...]

(b) **Any other change shall be notified** and managed following a procedure previously agreed between the ATM/ANS provider and its competent authority. This procedure shall define the changes that do not require prior approval by the competent authority before the change is implemented.”

Suggestion:

- put the IR in line with the explanatory note n°115 :

“(b) Any other change shall be ~~notified~~ and managed following a procedure previously agreed between the ATM/ANS provider and its competent authority. This procedure shall define the changes that do not require notification to the competent authority and those that do not require prior approval by the competent authority before the change is implemented.”

- the procedure referred should define which changes should be notified, and which should be approved.

response *Partially accepted*

The Agency takes the comment into consideration. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the ‘prior approval’ requirements. The approved procedure is still the means by which changes that do not require prior approval are notified and managed. The procedure affords the opportunity for not all changes to require the competent authority’s approval.

comment 1217

comment by: *Luca Valerio Falessi*

**The NPA should adopt the same philosophy of regulation 1035/2011 (also in 2096/2005) and in ESARR 1, relating the need of prior approval from Authority to the level of risk involved by a change.**

There’s a basic lack of clarity in the definition of changes requiring approval from the Authority.

The major part of changes have the potential to affect the compliance with the applicable requirements.

response *Noted*

The Agency takes note of the comment. Based on the NPA 2013-08 consultation outcome and the discussion held at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the subject, the commented provision ATM/ANS.OR.A.040 (formerly ATM/ANS.OR.A.035) is redrafted to clarify the 'prior approval' requirements.

<b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS (ATM/ANS.OR.A) – ATM/ANS.OR.A.040 Changes to the functional system</b>	p. 36
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comment *130*

comment by: *LFV*

This section is left TBD. When will it become available for stakeholder consultation?

response *Noted*

There will be another NPA relevant to this subject and is to be published for consultation in parallel with CRD to NPA 013-08 during the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

comment *226*

comment by: *AIRBUS*

ATM/ANS.OR.A.040

The missing parts, waiting for the results of RMT 0469 / 0470, is one factor hindering a holistic understanding of the change management process.

response *Noted*

The Agency takes the comment into consideration.

There will be another NPA relevant to this subject and is to be published for consultation in parallel with CRD 2013-08 in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well.

Based on the outcome of the current NPA and the said one, the Agency will

issue a single Opinion as described in the Explanatory Note to this CRD.

comment 344 comment by: *skyguide Corporate Regulation Management*

This is a major and supporting element of any SMS and to ask for comments on this NPA with such important elements missing renders commenting on other sections of this NPA relevant to safety aspects difficult at best, since these comments will have to be reviewed in the context of the results developed under RMT.0469 and RMT.0470. (See our comment on Article 1)

response *Noted*

The Agency takes the comment into consideration.

There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

comment 567 comment by: *CANSO Civil Air Navigation Services Organization*

**ATM/ANS.OR.A.040 Changes to the functional system**

The title to this provision may have to be adapted for clarity.

response *Noted*

There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Therefore, the Agency takes note of the comment at this stage.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

comment 583 comment by: *Federal Office of Civil Aviation FOCA*

	To be developed under RMT.0469 and RMT.0470
response	<i>Noted</i>

comment	755 <span style="float: right;">comment by: <i>AvinorANSP</i></span>
	The title to this provision may have to be adapted for clarity.
response	<i>Noted</i>
	<p>There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Therefore, the Agency takes note of the comment at this stage.</p> <p>Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.</p>

comment	859 <span style="float: right;">comment by: <i>IFATCA</i></span>
	<p>Again we should not have to comment to unfinished NPA, where no further consultation is foreseen.</p> <p>This is not ideal for such an important piece of legislation.</p>
response	<i>Noted</i>
	<p>There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Therefore, the Agency takes note of the comment at this stage.</p> <p>Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.</p>

comment	880 <span style="float: right;">comment by: <i>Belgocontrol</i></span>
	<p>We would propose to reverse the order of A.035 and A.040, this allowing creating a logical sequence for the articles. In our view, the changes to the Functional system with safety relevant aspects should be the first article in the sequence, followed by other "safety relevant changes" and finally for the changes with no safety impact and not on functional systems.</p>
response	<i>Noted</i>

There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Therefore, the Agency takes note of the comment at this stage. Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

comment

1013

comment by: *French Civil Aviation Authority (DGAC)*

Ensure harmonized publication date between IR ATM/ANS and outcome of RMT.0469 / RMT.0470 (safety assessment / software assurance).

Rationale: IR ATM will repeal 1034/1035 regulations once in force. If IR ATM does not include safety assessment and software assurance technical requirements, then those will not be covered by regulation anymore.

In addition, there is at the moment no harmonized understanding for what is considered as a change in IR ATM OR.A.040, ATS.OR.210 and ATS.OR.215 and what is considered as a change in RMT 0469/0470 to be integrated into IR ATM reserved parts.

Related paragraphs: ATM/ANS.OR.A.040, ATS.OR.210 and ATS.OR.215.

Suggestion: entry into force of IR ATM should coincide with the availability of production of RMT.0469 / RMT.0470 for IR reserved parts requirements and AMC/GM. Results of RMT.0469 and of the present NPA should be inserted in the same EASA opinion to the European commission, or at least published in the same commission regulation.

response

*Accepted*

The Agency takes note of the comment.

There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

comment

1136

comment by: *Danish Transport Authority*

ATM/ANS.OR.A.040

It is not possible to assess the text on changes in ATM/ANS.OR.A.035 without the whole picture of the regulation. When can we expect the regulation regarding "Changes to the functional system"?

It is also inappropriate to adopt the regulation without the whole context of changes.

response

*Noted*

The Agency takes consideration of the comment.

There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

comment

1139

comment by: ENAV

The title to this provision may have to be adapted for clarity.

response

*Noted*

There will be another NPA relevant to this subject and is to be published for consultation in the 2nd quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein as well. Therefore, the Agency takes note of the comment at this stage.

Based on the outcome of the current NPA and the said one, the Agency will issue a single Opinion as described in the Explanatory Note to this CRD.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS (ATM/ANS.OR.A) – ATM/ANS.OR.A.045 Facilitation of inspections, audits, and access**

p. 37

comment

69

comment by: ATC the Netherlands

No acces should be given to personal without proper training. Propose to add under b) these persons shall be well trained to perform the tasks at hand.

response

*Not accepted*

The management system of the competent authority regulates the issue raised. ATM/ANS.AR.B.001(a)(2) addresses the need for the competent authority's personnel to be qualified to perform their allocated tasks.

comment

264

comment by: AENA-NPA2013-08

	<p><b>ATM/ANS.OR.A.045 Facilitation of inspections, audits, and access.</b> Further explanation is needed about what is understood by 'qualified entity' in AMC.1 Art. 5(4).</p>
response	<p><i>Not accepted</i></p> <p>The issue is addressed in details in ATM/ANS.AR.B.005 that elaborates the allocation of tasks to qualified entities. Furthermore, Article 3(f) of Regulation (EC) No 216/2008 defines what 'qualified entity' means.</p>
comment	<p>499 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>Agreed.</p>
response	<p><i>Noted</i></p>
comment	<p>672 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p>ATM/ANS providers are not required to allow EASA standardisation inspections access.</p> <p><b>Suggested Resolution</b> Add new c): “(c) ATM/ANS providers shall facilitate EASA standardisation inspections of the member state including, pre-visit questionnaire, site visits and visits without prior notice.”</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It should be noted that Article 55 of Regulation (EC) No 216/2008 empowers the persons authorised to carry out investigation of undertakings.</p>
comment	<p>673 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>ATM/ANS.OR.A.045 (a)</b></p> <p>Whilst it does vary in the NPA it appears that “ATM/ANS provider” is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules).</p> <p><b>Impact</b> Consistency and understanding.</p> <p><b>Suggested Resolution</b></p>

response	<p>Amend to read “The ATM/ANS provider...”</p> <p><i>Partially accepted</i></p> <p>The comment is taken into consideration, and the text is amended. The term ‘service provider’ is used rather than ‘ATM/ANS provider’.</p>
comment	<p>675 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>ATM/ANS.OR.A.045 (b)</b></p> <p>Whilst it does vary in the NPA it appears that “ATM/ANS provider” is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules).</p> <p><b>Impact</b> Consistency and understanding.</p> <p><b>Suggested Resolution</b> Amend to read “The ATM/ANS provider...”</p>
response	<p><i>Partially accepted</i></p> <p>The comment is considered and the text is amended. The term ‘service provider’ is used rather than ‘ATM/ANS provider’.</p>
comment	<p>1218 <span style="float: right;">comment by: <i>Luca Valerio Falessi</i></span></p> <p><b>Modify (a) as follows:</b></p> <p>(a) ATM/ANS providers shall facilitate inspections and audits by the competent authority or by a qualified entity acting on the latter’s behalf, including site visits and visits without prior notice <b><u>in full compliance with security procedures in force.</u></b></p> <p>Qualified entities should be allowed to conduct inspections without prior notification only under strict security conditions.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment, and the commented provision is redrafted.</p>

comment 34 comment by: *Swedavia CNS Safety*

Paragraph (a) will help the safety management to assure the resources for proper safety investigations and get the management attention for safety occurrences. Good paragraph. In line with EUROCONTROLS SOAM methodology.

response *Noted*

The Agency takes note of the comment.

comment 249 comment by: *AENA-NPA2013-08*

**Page 37, ATM/ANS.OR.A.050 Findings and corrective actions.**

The current provision does not permit the ATM/ANS provider to exercise an allegation process regarding findings detected by the authority. Therefore, it is proposed to add a new paragraph in requisite ATM/ANS.OR.A.050 as highlighted in red:

*The ATM/ANS provider may carry out an allegation process regarding findings detected by the authority. For level 2 findings the corrective action implementation period shall start counting once resolved by the authority's the allegation made by the ATM/ANS provider.*

response *Not accepted*

The Agency reviewed the text of the relevant requirements.

Considering that a similar provision is already applicable in other aviation domains (such as air operation, aircrew, aerodrome, etc.), the Agency does not consider appropriate to amend the text as proposed.

comment 676 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.A.050**

The ATM/ANS provider should be given the opportunity to accept the findings or provide a rationale for challenging it as the ATM/ANS provider may be in possession of further relevant information.

**Suggested Resolution**

New test before (a); making it a new (a):

	“(a) shall confirm their acceptance of the findings, or provided rationale to the competent authority for their rejection;”
response	<p><i>Not accepted</i></p> <p>The Agency reviewed the text of the relevant requirements.</p> <p>Considering that a similar provision is already applicable in other aviation domains (such as air operation, aircrew, aerodrome, etc.), the Agency does not consider appropriate to amend the text as proposed.</p>

comment	<p>822 <span style="float: right;">comment by: <i>Irish Aviation Authority</i></span></p> <p><b>Document:</b> B – Implementing Rule  <b>Page No:</b> 27 and 37  <b>Paragraph No:</b> ATM/ANS.AR.C.025.e.2 and ATM/ANS.OR.A.050.b  <b>Comment:</b> ATM/ANS.AR.C.025.e.2 states that the competent authority shall assess the corrective action and implementation plan proposed by the ATM/ANS provider and, if the assessment concludes that they are sufficient to address the non-compliance(s), accept them.  ATM/ANS.OR.A.050.b states that the ATM/ANS provider shall define a corrective action plan that shall be approved by the competent authority  <b>Justification:</b> Legal clarity.  <b>Proposed Text:</b> No text proposed.</p>
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response	<p><i>Noted</i></p> <p>It should be remembered that the corrective action plan defined by the service provider should propose the time frame within which the non-compliance would be rectified. Therefore, the competent authority should assess the corrective action and the implementation plan as well.</p>
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comment	<p>1270 <span style="float: right;">comment by: <i>CAA CZ</i></span></p> <p>It is not clear / time period specified within which it must be determined and agreed upon plan Corrective Actions. Reason: reduce excessive protraction of findings’ handling.</p>
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response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>This particular aspect is for the competent authority to address such time frames in its respective procedures.</p>
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<p><b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS</b> p. 37-38  <b>(Part-ATM/ANS.OR) – SUBPART A – GENERAL COMMON REQUIREMENTS</b></p>
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**(ATM/ANS.OR.A) – ATM/ANS.OR.A.060 Safety reporting**

comment 70 comment by: ATC the Netherlands

We suggest to replace the words report by notify or notification in (a) untill (d). In this case (e) is a report with the analyses. A report and analysis cost more time than 72 hour.

response *Not accepted*

The Agency takes the comment into consideration. However, it should be noted that this is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems.

With regard to paragraph (e), it is only the report that has to be provided within the 72 hours; a follow-up report does not have to be provided within these 72 hours.

comment 131 comment by: LfV

Reporting to entity responsible for the design of system and constituents should be limited to "when relevant".

Proposal:

(b) without prejudice to paragraph (a) ATM/ANS providers shall report to the competent authority, and to the entity responsible for the design of system and constituents *when relevant and* if different from the ATM/ANS provider...

(c) Without prejudice to Regulation (EU) No 996/2010, Directive 2003/42/EC, Commission Regulation (EC) No 1321/20073, and Commission Regulation (EC) No 1330/20074, the reports referred in paragraphs (a) and (b) shall be made ~~in a form and manner~~ *according to an approved process* established by the *ANSP* ~~competent authority~~ and contain all pertinent information about the condition known to the ATM/ANS provider.

~~(d) Reports shall be made as soon as practicable, but in any case within 72 hours of, the ATM/ANS provider identifying the condition to which the report relates, unless exceptional circumstances prevent this.~~

response *Not accepted*

Point (b) provides for a reporting to the entity responsible for the design of system and constituents, in case of malfunction, technical defect, exceeding of technical limitations, occurrence, or other irregular circumstance that has or may have endangered the safety of ATM/ANS and that has not resulted in an accident or serious incident. Therefore, under the above-mentioned circumstances, reporting to the design organisation is considered to be relevant.

With regard to point (c), the Agency has the view that it is for the competent authority to establish the way in which the reporting of all aviation organisations, including service providers, is to be done, in the context of the

implementation of state-wide reporting system. Identical requirements exist in all other aviation domains.

The Agency considers that the proposal for the deletion of point (d), which is a requirement that exists in other aviation domains, is not justified.

comment 185

comment by: AENA-NPA2013-08

**Page 37-38, ATM/ANS.OR.A.060 Safety reporting.**

Currently Spanish regulation fix a 30 days period, so some time is needed to adapt report process to new more restrictive regulation (at least 3 years).

*(e) Where relevant, the ATM/ANS provider shall produce a follow-up report to provide details of actions it intends to take to prevent similar occurrences in the future, as soon as these actions have been identified.*

In this context, "relevant" shall be determined clearly to avoid misinterpretation between NSA and Service Providers. It's more convenient to use occurrences with significant severity, because can be more easily identified and the requisite is more aligned with ATS.OR.205 paragraph c.1.IV.

response *Not accepted*

The Agency has the view that 72 hours provide an adequate period of time to report to the competent authority. Moreover, this requirement applies in all other aviation domains, while there is always the possibility to report after the deadline established by the requirement, provided the circumstances justify such a delay.

With regard to point (e), the meaning of the word 'relevant' does not only relate to the seriousness of the event, but also to the actual need to prevent similar occurrences in the future, taking also into account the frequency of such events. The need for a follow-up report should be agreed with the competent authority.

comment 200

comment by: Icelandic Transport Authority

The "name" of the requirement, "safety reporting" should be changed as the general meaning of the term is quite wide and to limit its meaning to only the reporting of accidents and incidents could be counterintuitive. "Reporting of incidents and accidents" would be a more suitable heading.

It makes sense to require the ATM/ANS providers to report to the entity responsible for the design and manufacturing of the system and constituents but that raises the question of what do we require those entities to do with the information? If we are not going to issue requirements for those entities, it does not make sense to require the ATM/ANS providers to report to them.

A requirement should be added, that the ATM/ANS provider report and provide information to other ATM/ANS providers involved in an incident and to the aircraft operators involved.

response *Partially accepted*

The title of the requirement is changed to 'occurrence reporting' in order to be

aligned with the other domains in which similar requirements exist.

A different rulemaking task addressing the issue of systems and constituents, and the involved organisations, will be launched in the future.

With regard to the reporting of service providers to other organisations, the Agency has added GM1 ATM/ANS.OR.A.065 in order to address the need for such reporting.

comment 281 comment by: *HungaroControl*

It is important to ensure that the provisions of this regulation do not differ from the requirements laid down in the directive 2003/42/EC.

response *Accepted*

Point (c) of the requirement foresees that the provisions of this requirement are without prejudice to Directive 2003/42/EC and its Implementing Regulations (now Regulation (EU) No 376/2014). The Agency continues to follow the ongoing work regarding the development of implementing measures on occurrence reporting.

comment 282 comment by: *HungaroControl*

Replace report with notify and notification throughout the paragraphs (a) to (d). Paragraph (e) is the report with the analysis.

A report includes an analysis of the occurrence and requires more time since it is the outcome of the investigation process and is not necessarily in the hands of the ANSP. (see also definition of preliminary report.) . A notification is better applicable, particularly to minor technical occurrences and can be provided within 72 hours.

response *Not accepted*

This is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.

comment 287 comment by: *skyguide Corporate Regulation Management*

Comment: There is a need to ensure that the text in this regulation does not conflict (or differ) to the requirements in the occurrence reporting directive 2003/42/EC (and the regulation which is to replace it)

response *Accepted*

Point (c) of the requirement foresees that the provisions of this requirement are without prejudice to Directive 2003/42/EC and its implementing Regulations. The Agency follows the ongoing work regarding the proposed Regulation on occurrence reporting.

comment

305 ❖

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.A.015 <b>Immediate reaction to safety problem</b> ATM/ANS.OR.A.060 <b>Safety reporting</b>	The proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on occurrence reporting in civil aviation amending Regulation (EU) No 996/2010 and repealing Directive No 2003/42/EC, Commission Regulation (EC) No 1321/2007 and Commission Regulation (EC) No 1330/2007, which is now under discussion, should be taken into account.	It is important to ensure consistency between the different regulations regarding occurrence reporting.

response

Accepted

Point (c) of the requirement foresees that the provisions of this requirement are without prejudice to Directive 2003/42/EC and its implementing Regulations (now Regulation (EU) No 376/2014).

comment

306 ❖

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex I ATM/ANS.AR.A.020 <b>Safety directives</b> ATM/ANS.AR.C.005 <b>Monitoring of safety performance</b> ATM/ANS.OR.A.060	AESA proposes to include " <i>national supervisory</i> " in these three sections as follows: <i>national supervisory</i> authority.	In order to clarify to which authority reference is being made.

<b>Safety reporting</b>		
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response *Not accepted*

The Agency takes the comment into consideration. However, it should be noted that Article 4 of the Cover Regulation addresses the matter adequately. Therefore, the term used throughout the text of the proposed regulation is “competent authority”.

comment 315

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex II ATM/ANS.OR.A.060 <b>Safety reporting</b>	(b) ...any malfunction, technical defect, exceeding of technical limitations, occurrence, or other irregular circumstance that has or may have endangered the safety of ATM/ANS and that has not resulted in an accident or serious incident. (c) <del>Without prejudice to Regulation (EU) No 996/2012, Directive 2003/42/EC, Commission Regulation (EC) 1321/2007, and Commission Regulation (EC) No 1330/2007, †</del> The reports referred in paragraphs (a) and (b) shall be made in a form and manner established by the competent authority and contain all pertinent information about the condition known to the ATM/ANS provider.	Occurrences are taken into account in paragraph (a). On the other hand, occurrences reports should be made in the form and manner established in the corresponding regulation (Directive 2003/42/EC, future regulation on occurrence reporting). Further to this, it is relevant to distinguish between occurrences (for which there is specific regulation) and other information (malfunction, technical defect...).

response *Not accepted*

The proposed Regulation does not intend to impact either Regulation (EU) No 996/2010 or Directive 2003/42/EC or related implementing Commission Regulations (now Regulation (EU) No 376/2014), while the term 'occurrence', as defined in Directive 2002/43/EC, is also applicable to the events defined in point (b).

comment 363 comment by: Finnish Transport Safety Agency

Finnish Transport Safety Agency would like to propose that GM be developed particularly relating to clarifying what exactly is meant by the "where relevant"-statement in the text. Otherwise Finnish Transport Safety Agency would like to commend on a good text, and support the maintenance of the text in the final implementing rule.

response *Noted*

The Agency takes note of the comment. The meaning of the word 'relevant' does not only relate to the seriousness of the event, but also to the actual need to prevent similar occurrences in the future, taking also into account the frequency of such events. The need for a follow up report should be agreed with the competent authority.

comment 446 comment by: CAA-NL

**ATM/ANS.OR.A.060(a) + AMC1**

Please change the title in 'Occurrence reporting' consistent with the Parts OR in other domains.

response *Accepted*

The title of the requirement is changed to 'occurrence reporting', in order to be aligned with the other domains in which similar requirements exist.

comment 542 comment by: CANSO Civil Air Navigation Services Organization

**ATM/ANS.OR.A.060  
Safety reporting**

There is a need to ensure that the text in this regulation does not conflict (or differ) to the requirements in the occurrence reporting directive 2003/42/EC (and the regulation which is to replace it)

**ATM/ANS.OR.A.060  
Safety reporting (a)**

Replace report with notify and

A report includes an analysis of the occurrence. A notification

<p>- (d)</p>	<p>notification throughout the paragraphs (a) to (d). Paragraph (e) is the report with the analysis.</p>	<p>does not as much and is better adapted, particularly to minor technical occurrences and can be provided within 72 hours. A report requires more time since it is the outcome of the investigation process and is not necessarily in the hands of the ANSP. (see also definition of preliminary report.)</p>
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response *Partially accepted*

In reference to the first comment, it should be noted that point (c) of the requirement foresees that the provisions of this requirement are without prejudice to Directive 2003/42/EC and its implementing Regulations (now Regulation (EU) No 376/2014).

In reference to the second comment The Agency takes the comment into consideration. The submission of a report within 72 hours is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.

comment 551

comment by: *DSNA*

There is no need to report within 72 hours. The reports under (b) are not serious incidents. Suggest rewording of (c) and deleting (d). The process should also define the timeframes.

The difference between (a) and (b) is unclear. Another proposal is to delete (b) as it is covered in (a). Otherwise we need a clear distinction between the incidents in (a) and the occurrences in (b).

Reporting to the manufacturer should not be under the safety reporting, but they should be informed during or after the investigation.

Proposal

option 1:

(c) Without prejudice to Regulation (EU) No 996/2010, Directive 2003/42/EC, Commission Regulation (EC) No 1321/20073, and Commission Regulation (EC) No 1330/20074, the reports referred in paragraphs (a) and (b) shall be made in a form and manner according to an approved process established by the ANSP competent authority and contain all pertinent information about the condition known to the ATM/ANS provider.

~~(d) Reports shall be made as soon as practicable, but in any case within 72 hours of, the ATM/ANS provider identifying the condition to which the report relates, unless exceptional circumstances prevent this~~

option 2:  
 Replace "report" with "notify" and "notification" throughout the paragraphs (a) to (d).  
 Paragraph (e) is the report with the analysis.  
 ATM/ANS.OR.A.060 Safety reporting  
 (a) ATM/ANS providers shall ~~report~~ **notify** to the competent authority or to any other entity required by the Member State where the ATM/ANS provider is providing ATM/ANS, any occurrence as defined in Regulation (EU) No 996/2010 2 and Directive 2003/42/EC, notably accidents, serious incidents and incidents.  
 (b) Without prejudice to paragraph (a), ATM/ANS providers shall ~~report~~ **notify** to the competent authority and to the entity responsible for the design of system and constituents, if different from the ATM/ANS provider, any malfunction, technical defect, exceeding of technical limitations, occurrence, or other irregular circumstance that has or may have endangered the safety of ATM/ANS and that has not resulted in an accident or serious incident.  
 (c) Without prejudice to Regulation (EU) No 996/2010, Directive 2003/42/EC, Commission Regulation (EC) No 1321/2007 3 , and Commission Regulation (EC) No 1330/2007 4 , the **notifications** ~~reports~~ referred in paragraphs (a) and (b) shall be made in a form and manner established by the competent authority and contain all pertinent information about the condition known to the ATM/ANS provider.  
 (d) **Notifications** ~~Reports~~ shall be made as soon as practicable, but in any case within 72 hours of the ATM/ANS provider identifying the condition to which the **notification** ~~report~~ relates, unless exceptional circumstances prevent this.  
 (e) Where relevant, the ATM/ANS provider shall produce a follow-up report to provide details of actions it intends to take to prevent similar occurrences in the future, as soon as these actions have been identified.

response

*Not accepted*

The submission of a report within 72 hours is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.

Moreover, the Agency has the view that it is for the competent authority to establish the way in which the reporting of all aviation organisations, including service provider, is to be done, in the context of the implementation of state-wide reporting system. Identical requirements exist already in all other aviation domains.

comment

584

comment by: *Federal Office of Civil Aviation FOCA*

FOCA supports the intention to oblige not only personnel but also the ANSP to report.  
 The meaning of "follow-up report" and "relevant" should be further detailed.

response

*Noted*

The meaning of the word 'relevant' does not only relate to the seriousness of the event, but also to the actual need to prevent similar occurrences in the future, taking also into account of the frequency of such events. The Agency has the view that the draft requirements already describe the purpose of a follow-up report.

comment

650

comment by: PANSA

Replace "report" with "notify" and "notification" throughout the paragraphs (a) to (d). Paragraph (e) is the report with the analysis.

**Justification:**

*A notification of the occurrence can be provided within 72 hours. However, a report requires more time since it is the outcome of the investigation process and is not necessarily in the hands of the ANSP. (see also definition of the preliminary report).*

response

Not accepted

The submission of a report within 72 hours is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.

comment

665

comment by: AENA-NPA2013-08

**Page 37, ATM/ANS.OR.A.060 Safety reporting (b).**

Further clarifications are needed on who is 'the responsible for the design of systems and constituents'. It is understood that this responsible should be the Services Provider signing the Declaration of Conformity.

response

Accepted

GM1 ATM/ANS.OR.A.065(b) provides guidance for the implementation of this provision.

comment

679

comment by: NATS National Air Traffic Services Limited

**ATM/ANS.OR.A.060**

The related AMC and GM are titled "Occurrence reporting" rather than safety reporting.

(a) through (d): A report includes an analysis of the occurrence. A notification does not as such and is better adapted, particularly to minor technical occurrences and can be provided within 72 hours. A report requires more time since it is the outcome of the investigation process and is not necessarily in the hands of the ANSP. Paragraph (e) is the report with the analysis.

	<p style="text-align: center;"><b>Suggested Resolution</b></p> <p>Amend title of ATM/ANS.OR.A.060 to read: "Occurrence reporting". Replace "report" with "notify" or "notification" throughout the paragraphs (a) to (d).</p>
response	<p><i>Partially accepted</i></p> <p>The title of the requirement is changed to "occurrence reporting", in order to be aligned with the other domains in which similar requirements exist.</p> <p>The term 'report' used in the requirement is common in all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.</p>
comment	<p>680 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>ATM/ANS.OR.A.060 (a)</b></p> <p>Whilst it does vary in the NPA it appears that "ATM/ANS provider" is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules). The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p><b>Impact</b> Consistency and understanding.</p> <p><b>Suggested Resolution</b> Amend to read "The ATM/ANS provider shall report to the competent authority or to any other entity required by the Member State any occurrence as defined in Regulation (EU) No 996/2010 and Directive 2003/42/EC, notably accidents, serious incidents and incidents."</p>
response	<p><i>Accepted</i></p> <p>The Agency has made the necessary changes to remove any ambiguity.</p>
comment	<p>681 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.OR.A.060 (b)</b></p> <p>Whilst it does vary in the NPA it appears that "ATM/ANS provider" is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules). The term "ATM/ANS" is misleading as the scope is ATM/ANS providers.</p>

	<p>Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p style="text-align: center;"><b>Impact</b> Consistency and understanding.</p> <p style="text-align: center;"><b>Suggested Resolution</b> Amend to read "...the ATM/ANS provider..."</p>
response	<p><i>Accepted</i></p> <p>The Agency has made the necessary changes to remove any ambiguity.</p>
comment	<p>756 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>There is a need to ensure that the text in this regulation does not conflict (or differ) to the requirements in the occurrence reporting directive 2003/42/EC (and the regulation which is to replace it)</p>
response	<p><i>Accepted</i></p> <p>Point (c) of the requirement foresees that the provisions of this requirement are without prejudice to Directive 2003/42/EC and its implementing Regulations (now Regulation (EU) No 376/2014).</p>
comment	<p>757 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Replace report with notify and notification throughout the paragraphs (a) to (d). Paragraph (e) is the report with the analysis.</p> </div> <p>A report includes an analysis of the occurrence. A notification does not as much and is better adapted, particularly to minor technical occurrences and can be provided within 72 hours. A report requires more time since it is the outcome of the investigation process and is not necessarily in the hands of the ANSP. (see also definition of preliminary report.)</p>
response	<p><i>Not accepted</i></p> <p>The submission of a report within 72 hours is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.</p>

comment	781	comment by: ROMATSA
	<p>Comment: The text of the Article shall be reworded in order to include requirements for entities responsible for the design of system and constituents.</p> <p>Justification: The regulation has to apply also to the entities responsible for the design of system and constituents. These have to be certified by the competent authority.</p>	
response	<i>Not accepted</i>	
	<p>The issue of systems and constituents, and the involved organisations will be addressed through a different rulemaking task, in the future.</p>	

comment	976	comment by: Météo-France
	<p><b>ATM/ANS.OR.A.060 Safety reporting</b> What is covered by this requirement should be clearly defined in a GM: ATM/ANS providers concerned and a list of the incidents to be reported to the competent authority. In France, when a meteorological sensor is out of order, a NOTAM is issued by the MET service provider towards the aviation users only (pilots, airlines, ATC services). The competent authority (NSA) is not directly provided by a report about this incident. <u>Suggestion</u>: it is suggested to elaborate a GM in order to precise the list of incidents to be reported and the ATM/ANS providers concerned by the requirement.</p>	
response	<i>Noted</i>	
	<p>The Agency takes note of the comment. This requirement applies to all relevant service providers. AMC1 ATM/ANS.OR.A.065(a) and GM1 ATM/ANS.OR.A.065(b) provide the necessary information as to what needs to be reported.</p>	

comment	1022	comment by: DFS Deutsche Flugsicherung GmbH
	<p>paragraph (b): The reporting to the "entity responsible for the design of system and constituents" is only beneficial when a failure requires additional analysis and/or corrective action by the manufacturer. Therefore the reporting to the manufacturer should not be mandatory and made by discretion of the ATM/ANS after the initial assessment of the failure. <b>DFS proposal:</b> Delete from para (b) "Without prejudice to paragraph (a) ATM/ANS providers shall report to the competent authority <del>and to the entity responsible for the design of system and constituents, if different from the</del></p>	

	ATM/ANS provider, any malfunction,...”.
response	<p><i>Not accepted</i></p> <p>Point (b) provides for the reporting to the entity responsible for the design of system and constituents, in case of malfunction, technical defect, exceeding of technical limitations, occurrence, or other irregular circumstance that has or may have endangered the safety of service provided and that has not resulted in an accident or serious incident. Therefore, under the above-mentioned circumstances, reporting to the design organisation is considered to be relevant.</p>
comment	<p>1025 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span></p> <p>paragraph (d) in relation with (b), (c) and (e):        Most technical malfunctions currently considered as “may have endangered the safety” are “normal” outages of systems and constituents e.g. the outage of a VOR. It seems unnecessary to <u>report</u> these outages within 72 hours, meaning to provide detailed information about the reason for the outage and its further analysis.        These outages could be summarised on a monthly basis.        However, we agree, that any malfunction, which has endangered the safety should be <u>notified</u> as soon as practicable.        In order to emphasize the difference between the short-term notification and a detailed report, we suggest to change the wording as follows:</p> <p>(b)        Without prejudice to paragraph (a), ATM/ANS providers shall <b>notify</b> <del>report</del> to the competent authority any malfunction....</p> <p>(c)        ...the reports <b>and notifications</b> referred in paragraphs (a) and (b) shall be made in a form and manner...</p> <p>(d)  <b>Notifications</b> <del>Reports</del> shall be made <b>for any failure that has endangered the safety of ATM/ANS</b> as soon as practicable, but in any case within 72 hours of the ATM/ANS provider identifying the condition to which the <b>notification</b> <del>report</del> relates, unless exceptional circumstances prevent this. <b>Failures which may have endangered the safety of ATM/ANS shall be notified monthly.</b></p> <p>(e)        Where relevant, the ATM/ANS provider shall produce a <del>follow-up</del> report to provide details....</p>
response	<p><i>Not accepted</i></p> <p>The submission of a report within 72 hours is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should ‘contain all pertinent information about the condition known to the service provider’.</p>

comment	1052	comment by: ENAV
	There is a need to ensure that the text in this regulation does not conflict (or differ) to the requirements in the occurrence reporting directive 2003/42/EC (and the regulation which is to replace it)	
response	<i>Accepted</i>	
	Point (c) of the requirement foresees that the provisions of this requirement are without prejudice to Directive 2003/42/EC and its implementing Regulations (now Regulation (EU) No 376/2014).	

comment	1053	comment by: ENAV
	Refer to <b>ATM/ANS.OR.A.060 Safety reporting (a) – (d)</b> We propose to replace report with notify and notification throughout the paragraphs (a) to (d). Paragraph (e) is the report with the analysis. A report includes an analysis of the occurrence. A notification does not as much and is better adapted, particularly to minor technical occurrences and can be provided within 72 hours. A report requires more time since it is the outcome of the investigation process and is not necessarily in the hands of the ANSP. (see also definition of preliminary report.)	
response	<i>Not accepted</i>	
	The submission of a report within 72 hours is a horizontal requirement for all aviation domains. Moreover, the provisions of the recently adopted ICAO Annex 19 provide for reporting systems. The report to be submitted to the competent authority within 72 hours should 'contain all pertinent information about the condition known to the service provider'.	

comment	1137	comment by: UK CAA
	<p><b>Page No:</b> 37  <b>Paragraph No:</b> ATM/ANS.OR.A.060  <b>Comment:</b> There is no requirement for this paragraph to be included other than perhaps to make reference to the Directive 2003/42/EC or the forthcoming regulations on this subject.  <b>Justification:</b> These requirements exist elsewhere. There is no need for duplication.  <b>Proposed Text:</b> Replace entire paragraph with:  <b>'ATM/ANS providers are to ensure that the requirements of Commission Implementing Regulation XXXXXX on safety reporting are complied with.'</b></p>	
response	<i>Noted</i>	
	It is unclear which paragraph of the requirement the comment refers to, and,	

therefore, no answer may be provided in a precise manner. In any case, the Agency continues to follow the ongoing work regarding the development of implementing measures on occurrence reporting.

comment 1182 comment by: *French Civil Aviation Authority (DGAC)*

French CAA / Meteo France comment:

What is covered by this requirement should be clearly defined in a GM: a list of the incidents to be reported to the competent authority.

In France, when a meteorological sensor is out of order, a NOTAM is issued by the MET service provider towards the aviation users only (pilots, airlines, ATC services). The competent authority (NSA) is not directly provided by a report about this incident.

Suggestion: it is suggested to elaborate a GM in order to precise the list of incidents to be reported.

response *Noted*

The Agency takes note of the comment. This requirement applies to all relevant service providers. AMC1 ATM/ANS.OR.A.065(a) and GM1 ATM/ANS.OR.A.065(b) provide the necessary information as to what needs to be reported.

comment 1230 comment by: *Air Navigation Services of the Czech Republic*

In paragraph (c), we propose to reword the text "... the reports referred in paragraphs (a) and (b) shall be made in a form and manner ~~established~~ **agreed between the competent authority and the ATM/ANS provider** and ..."

response *Not accepted*

The Agency is of the opinion that it is for the competent authority to establish the way in which the reporting of all aviation organisations, including service providers, is to be done, in the context of the implementation of state-wide reporting system. Identical requirements exist in all other aviation domains.

comment 1246 comment by: *ENAV*

Proposal for rewording

....

(b) Without prejudice to paragraph (a), ATM/ANS providers shall report to the competent authority and to the entity responsible for the design of system and constituents, if different from the ATM/ANS provider, any relevant malfunction, technical defect, exceeding of technical limitations, occurrence, or other irregular circumstance that has or may have endangered the safety of ATM/ANS

	<p>and that has not resulted in an accident or</p> <p>.....</p> <p>Rationale</p> <p>With regard to point (B), whereas not all the malfunctions may be of interest to the supplier, we suggest to replace the term "<b>any</b>" with "<b>relevant</b>".</p>
response	<p><i>Not accepted</i></p> <p>Point (b) provides for the reporting to the entity responsible for the design of system and constituents, in case of malfunction, technical defect, exceeding of technical limitations, occurrence, or other irregular circumstance that has or may have endangered the safety of services provided and that has not resulted in an accident or serious incident. Therefore, under the above-mentioned circumstances, reporting to the design organisation is considered to be relevant.</p>
comment	<p>1290 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Comment:</p> <p>The text of the Article shall be reworded in order to include requirements for entities responsible for the design of system and constituents.</p> <p>Justification:</p> <p>The regulation has to apply also to the entities responsible for the design of system and constituents. These have to be certified by the competent authority.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comment into consideration. However, the issue on systems and constituents, and the involved organisations will be addressed at a later stage through a different rulemaking task.</p>

<p><b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) – ATM/ANS.OR.B.005 Technical and operational competence and capability</b></p>	<p>p. 38</p>
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comment	<p>205 <span style="float: right;">comment by: <i>Icelandic Transport Authority</i></span></p> <p>What is meant by "sustainable manner". Guidance material is required for that requirement.</p>
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response

*Not accepted*

The Agency takes the comment into consideration.

It is important to be noted that the commented provision is a transposition of point 1 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment

258

comment by: AENA-NPA2013-08

**Page 38, ATM/ANS.OR.B.005 Technical and operational competence and capability**

To clarify where the requirements related to 'technical and operational competence and capability' of ATM systems are included. To clarify if it is included in the Annex III (related to specific requirements for the provision of ATS), in the Annex VII (related to specific requirements for the provision of CNS services), or in the Annex V (related to specific requirements for the provision of Data providers).

From Aena point of view, it should be included like a new service, and have the same specific requirements as CNS providers.

response

*Noted*

It is important to be noted that the commented provision is a transposition of point 1 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

Furthermore, the requirements for the ATM/ANS systems and constituents are outside of the scope of the commented NPA. The development of such requirements will be considered by the Agency in the future through (a) separate rulemaking task(s). This NPA proposes provisions for service provider organisations only.

comment

316

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex II ATM/ANS.OR.B.005 <b>Technical and operational competence and capability</b>	Some guidance on how providers should comply with this requirement should be given within document section (C) AMC/GM of this NPA, in particular for CNS service providers.	Although for ATS services providers the understanding of " <i>technical and operational capacity</i> " is clear, this is not the case for CNS services providers.

	<p>For CNS service providers, AESA would like to know if this should be understood as the configuration of systems to support the services.</p> <p>Further to this, AESA would like to know if it would be enough to show compliance with the rest of the regulation to ensure compliance with this requirement.</p>	
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response *Noted*

It is important to be noted that the commented provision is sourced from point 1 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

Furthermore, the development of detailed requirements for the CNS providers will be considered by the Agency in the future through separate rulemaking tasks. This NPA, with regard to CNS, transposes the current existing ones only.

comment 317

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>Annex II ATM/ANS.OR.B.005 <b>Technical and operational competence and capability</b></p>	<p>AESA would request that AMC/GM be developed for this requirement, which is a very overall requirement. The material could include or make reference to the current Eurocontrol guidance material.</p>	<p>This would set a level playing field and would harmonise/standardise the way to proceed with the assessment of the technical and operational competence and capability.</p>

	From the current wording, it could be construed that the provider would comply with this requirement <u>only if it complies with all requirements.</u>	
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response *Not accepted*

It is important to be noted that the commented provision is sourced from point 1 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment

500

comment by: *HungaroControl*

Agreed.

response

*Noted*

comment

683

comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.B.005**

Whilst it does vary in the NPA it appears that "ATM/ANS provider" is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules).

**Impact**

Consistency and understanding.

**Suggested Resolution**

Amend to read "...the ATM/ANS provider..."

response

*Partially accepted*

The Agency takes the comment into consideration. 'ATM/ANS provider' is replaced by 'Service provider'.

comment	1029	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	<p>As of experience with Regulation 1035/2011 resp. 2096/2005 this requirement does not require any evidence beyond those existing to fulfil other requirements. We suggest deletion of this requirement.</p>	
response	<i>Not accepted</i>	
	<p>As correctly pointed out by the commentator, the commented provision is sourced from point 1 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.</p>	

<p><b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) – ATM/ANS.OR.B.010 Organisational structure</b></p>	p. 38
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comment	361	comment by: <i>HungaroControl</i>
	<p>(b) The organisational structure shall define: (1) the authority, duties, and responsibilities of the nominated post holders, in particular of the management personnel in charge of operational, technical, safety, quality, security, finance, and human resources-related functions;</p>	
response	<i>Not accepted</i>	
	<p>The commented provision is sourced from point 2 of Annex I to the existing Regulation (EU) No 1035/2011. Based on the NPA consultation, ATM/ANS.OR.B.025 is removed and this aspect is addressed into the newly introduced provision on 'Personnel requirements'. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. Following this principle, the comment is not accepted.</p>	

comment	585	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	<p>It should be considered whether "post holders" should be further detailed (who can be a post holder? A supervisor? Or only member of the senior staff?). Furthermore, the organizational structure should - in addition to the definition of responsibilities - also include the definition of accountabilities.</p>	
response	<i>Partially accepted</i>	

The commented provision is sourced from point 2 of Annex I to the existing Regulation (EU) No 1035/2011.

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed and the issues raised into the commented provision are addressed into the newly introduced one on 'Personnel requirements'. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment

636

comment by: *Jan Sondij*

NPA 2013-08 explains perfectly in GM1 ATM/ANS.OR.B.015 Management system, why there is no specific safety management requirement for MET ANSPs. A MET provider can still affect the safety of the flight through functions or services they provide but this will always be influenced by the way in which the ATS provider or airspace user are using those functions or services. Therefore MET providers have a management system which manages the performance of service rather than safe use of their services for flight navigation and control which is beyond the managerial control of the service provider.

ATM/ANS.OR.B.010 provides some general principles for ANSPs including safety. In particular (b) 1. **There is evidence that this clause has resulted in findings by the EASA ATM/ANS Standardisation Inspections in several countries.** There EASA has the opinion that a MET ANSP should have a Safety Management System (SMS) in place.

**This is a contradiction within EASA rulemaking and regulations.**

From a MET ANSP perspective it is even with an SMS not possible for a MET ANSP to evaluate the safety impact of a change. As such, a proper management system describing interfaces with users, and change management procedures in place, should be sufficient in line with GM1 ATM/ANS.OR.B.015 Management system.

As a solution it is proposed to refer to GM1 ATM/ANS.OR.B.015 Management system in ATM/ANS.OR.B.010 in order to overcome inconsistencies in EASA rulemaking and make it perfectly clear that an SMS is not applicable for MET ANSPs.

response

*Partially accepted*

The Agency takes the comment into consideration.

It is important to be pointed that the whole Subpart B (ATM/ANS.OR.B) addresses the different aspects of the service provider's management.

The commented provision is sourced from point 2 of Annex I to the existing Regulation (EU) No 1035/2011.

However, based on the NPA consultation, ATM/ANS.OR.B.010 is removed and a newly developed provision on 'Personnel requirements' is introduced.

comment	684	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p><b>ATM/ANS.OR.B.010 (a)</b>          Whilst it does vary in the NPA it appears that "ATM/ANS provider" is used in the singular and not plural when stating a specific requirement (the use of singular appears to be the norm in other EASA rules).          The term "ATM/ANS" is misleading as the scope is ATM/ANS providers.          Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p><b>Impact</b>          Consistency and understanding.</p> <p><b>Suggested Resolution</b>          Amend to read "The ATM/ANS provider..."</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration. 'ATM/ANS provider' is replaced by 'Service provider'.</p>	

comment	1166	comment by: <i>French Civil Aviation Authority (DGAC)</i>
	<p>French CAA comment</p> <p>ATM/ANS.OR.B.010 - Organisational structure (p38)</p> <p>Due to the possible exemptions, and depending of the service provided, security management may be not required. This is the reason why it is suggested to modify the sentence:  <i>"(a) ATM/ANS providers shall set up and manage their organisation according to a structure that supports the safe, efficient and continuous provision of ATM/ANS.</i>  <i>(b) The organisational structure shall define:</i>  <i>(1) the authority, duties, and responsibilities of the nominated post holders, in particular of the management personnel in charge of safety, quality, security, finance, and human resources-related functions, <b>as applicable</b>;"</i></p>	
response	<i>Accepted</i>	
	<p>The commented provision is sourced from point 2 of Annex I to the existing Regulation (EU) No 1035/2011. Based on the NPA consultation, ATM/ANS.OR.B.025 is removed and the issues raised into the commented provision are addressed into the newly introduced one (see ATM/ANS.OR.B.020) on 'Personnel requirements'.</p>	

**(Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) –  
ATM/ANS.OR.B.015 Management system**

comment 35 comment by: Swedavia CNS Safety

(f) note.

The paragraph is not necessary. The aerodrome have their own regulation and oversight from competent authorities.

response *Not accepted*

It is important to be noted that this is a mirroring and complementary requirement to the one laid down in ADR.OR.B.005 of the Aerodrome Regulation (Regulation (EU) No 139/2014).

comment 71 comment by: ATC the Netherlands

c) the compliance function could be different to the auditing function. Change c) into functions.

response *Not accepted*

It is important to be noted that paragraph (c) concerns only the compliance monitoring which is different from the auditing function. The safety auditing by a service provider is further specified in the newly numbered AMC2 ATM/ANS.OR.B.010(a)(3).

comment 132 comment by: LfV

Keep AMC1 ATM/ANS.OR.B.015 stating that ISO 9001 compliance (certificate) is an AMC

response *Accepted*

The Agency takes the comment into consideration and the AMC is retained.

comment	<p data-bbox="351 212 406 246">133</p> <p data-bbox="1197 212 1457 246" style="text-align: right;">comment by: LfV</p> <p data-bbox="351 302 1457 358">We would appreciate not referring to "the policy", since several policies may exist.</p> <p data-bbox="351 369 598 403">Proposed change:</p> <p data-bbox="351 403 909 436">ATM/ANS.OR.B.015 Management system</p> <p data-bbox="351 436 1457 492">(a) The ATM/ANS provider shall implement and maintain a management system that includes:</p> <p data-bbox="351 504 383 537">...</p> <p data-bbox="351 537 1457 627">(2) a description of the overall philosophies and principles of the ATM/ANS provider with regard to safety, quality, and security of its services, as applicable, referred to as the policy, signed by the accountable manager;</p>
response	<p data-bbox="351 638 598 672"><i>Partially accepted</i></p> <p data-bbox="351 728 1037 761">The Agency takes the comment into consideration.</p> <p data-bbox="351 772 1457 940">This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to formulate the subject requirement. As a result, the term 'collectively constituting' is added to allow for more than one policy or a single policy, if required.</p>
comment	<p data-bbox="351 1030 406 1064">134</p> <p data-bbox="1197 1030 1457 1064" style="text-align: right;">comment by: LfV</p> <p data-bbox="351 1120 670 1153">ATM/ANS.OR.B.015 (c)</p> <p data-bbox="351 1153 1457 1243">Is the role "function to monitor compliance of the organisation with the relevant requirements and the adequacy of the procedures" different from Quality, Safety, Security Manager mentioned in ATM/ANS.OR.B.010(b)?</p>
response	<p data-bbox="351 1265 438 1299"><i>Noted</i></p> <p data-bbox="351 1355 1457 1579">There is a difference between the two above-mentioned requirements. ATM/ANS.OR.B.010(b) deals with the organisational structure and its definition, whereas ATM/ANS.OR.B.015 (c) deals with the requirement to have a specific compliance monitoring function. It needs to be mentioned that ATM/ANS.OR.B.010 is removed and amalgamated with ATM/ANS.OR.B.025 which is renumbered and renamed as ATM/ANS.OR.B.020 'Personnel requirements'.</p>
comment	<p data-bbox="351 1668 406 1702">164</p> <p data-bbox="1037 1668 1457 1702" style="text-align: right;">comment by: EUROCONTROL</p> <p data-bbox="351 1758 1252 1792"><b>Page 39 (ATM/ANS.OR.B.015 Management System (a)) (6)</b></p> <p data-bbox="351 1792 1457 1848">We recommend a text rewording to avoid the misconception that competence is acquired via training only. Proposed text:</p> <p data-bbox="351 1848 1457 1915"><i>A <b>competency</b> programme that ensures personnel are trained and competent to perform their duties.</i></p> <p data-bbox="351 1915 1457 1982">The proposed text is in line with AMC1ATM/ANS.OR.B.015(a)(6), which speaks first of competence than training. Training is only one element of competency.</p> <p data-bbox="351 1982 1457 2016">A definition of <i>competency (competence)</i> should be added in NPA 2013-8 (B)</p>

response	<p>Article 2 Definitions.</p> <p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>'Training programme' is deleted and the term 'formal process' is amended. The Agency does not consider that a definition for 'competency' is necessary.</p>
comment	<p>186 <span style="float: right;">comment by: AENA-NPA2013-08</span></p>
response	<p><b>Page 39, ATM/ANS.OR.B.015 Management system.</b></p> <p>ATM/ANS provider capability to manage safety hazards with other stakeholders is quite limited, taking into consideration it is possible that no legal bound between stakeholders exist or ATM/ANS Service Provider can be in a disadvantage position (eg Airlines are stakeholders, but also customers).</p> <p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Furthermore, the Agency has decided to clarify the intent of the point which is amended.</p>
comment	<p>206 <span style="float: right;">comment by: Icelandic Transport Authority</span></p>
response	<p>(a)(4) Guidance as to what constitutes a change in these terms would be preferable.</p> <p>(d) Guidance for this requirement is needed, for the management system to be "proportionate to the size of the organisation". What is the meaning and reason for this? There is a requirement for nominated postholders, particularly for certain functions. What is added with this requirement?</p> <p>(f) ATM/ANS providers might be into many kinds of other businesses, some of which require a different certification from the ATM/ANS certification. Why are aerodromes specifically mentioned here? this is like saying "if the company has to fulfill other regulations it shall do so". It the need to iterate this has been identified, it should be done within the AMC or GM.</p> <p><i>Partially accepted</i></p> <p>Based on the NPA consultation, ATM/ANS.OR.B.005 (formerly ATM/ANS.OR.B.015)(a)(4) is amended for the sake of clarity over 'changes'.</p> <p>In reference to ATM/ANS.OR.B.005(e) (formerly ATM/ANS.OR.B.015), associated AMC/GM are proposed that explain which service providers are considered as complex. The proposed text as amended now is better aligned with ICAO Annex 19 Safety Management, Chapter 4 Paragraph 4.1.1 (b). Whilst Chapter 4 is especially concerned with Safety Management Systems, the Agency considers that a similar proportionality should be afforded to</p>

management systems.

In reference to ATM/ANS.OR.B.005(g) (was ATM/ANS.OR.B.015(f)), it should be noted that this is a mirroring/complementary requirement to the one in ADR.OR.D.005(e) of the Aerodrome Regulation (Regulation (EU) No 139/2014).

comment 250

comment by: AENA-NPA2013-08

**Page 38, ATM/ANS.OR.B.015 Management system.**

To avoid misunderstandings and ensure a common interpretation of provision ATM/ANS.OR.B.015 (e), it is necessary to define the terms “*formal interfaces*” and “*relevant stakeholders*”. Therefore, it is proposed to add these aspects in guidance material GM1 ATM/ANS.OR.B.015

response *Partially accepted*

The Agency takes the comment into consideration.

Whilst ‘formal interfaces’ is retained, ‘stakeholders’ is replaced by ‘service providers and aviation undertakings’ to better scope the interfaces.

comment 353

comment by: HungaroControl

Management systems

Propose to add to GM: “The compliance monitoring function may be combined with the internal audit function”

The compliance and audit function need to be separated from each other to avoid controlling their own compliance implementation activities.

response *Noted*

The Agency takes note of the comment.

The comment is not understood as the supporting text appears to contradict the proposed additional text (‘combined’ versus ‘separated’). The requirements do not preclude the possibility of combining the monitoring and internal audit functions.

comment 447

comment by: CAA-NL

**ATM/ANS.OR.B.015(a)(2)**

Please delete the word ‘safety’ here because this is part of the SMS-system. A SMS-system is as stated in ICAO annex 19 only required for certain providers but not for all. This is the generic part of the management system applicable to all providers. Some providers like MET cause no direct safety threat. Their products must meet the appropriate standards, so quality and security are appropriate for all, safety not. This is regulated for those where applicable under ATS.OR.205.

response *Not accepted*

It is important to be noted that the provision says 'with regard to safety, quality, and security of its services, *as applicable*' in order to address the issue raised by the commentator.

comment 448 comment by: CAA-NL

**ATM/ANS.OR.B.015(e)(1)**

Please delete this paragraph here because this is part of the SMS-system. A SMS-system is as stated in ICAO annex 19 only required for certain providers but not for all. This is the generic part of the management system applicable to all providers. Some providers like MET cause no direct safety threat. Their products must meet the appropriate standards, so quality and security are appropriate for all, safety not. This is regulated for those where applicable under ATS.OR.205.

response *Not accepted*

The Agency has decided to clarify the intent of the provision and has amended it. Furthermore, a newly developed GM on the subject is introduced to further clarify what 'aviation safety hazards' means especially for providers other than ATSP.

comment 605 comment by: *CANSO Civil Air Navigation Services Organization*

ATM/ANS.OR.B.015 Management systems	There is a need to review this provision in light of the comment on art.2. 46 Definitions
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response *Noted*

comment 635 comment by: *Jan Sondij*

NPA 2013-08 explains perfectly in GM1 ATM/ANS.OR.B.015 Management system, why there is no specific safety management requirement for MET ANSPs. A MET provider can still affect the safety of the flight through functions or services they provide but this will always be influenced by the way in which the ATS provider or airspace user are using those functions or services. Therefore MET providers have a management system which manages the performance of service rather than safe use of their services for flight navigation and control which is beyond the managerial control of the service provider.

ATM/ANS.OR.B.015 provides some general principles for ANSPs including safety. In particular (a) 2 and (e) 1. **There is evidence that these clauses have resulted in findings by the EASA ATM/ANS Standardisation Inspections in several countries.** There EASA has the opinion that a MET ANSP should have a Safety Management System (SMS) in place.

**This is a contradiction within EASA rulemaking and regulations.**

From a MET ANSP perspective it is even with an SMS not possible for a MET ANSP to evaluate the safety impact of a change. As such, a proper management system describing interfaces with users, and change management procedures in place, should be sufficient in line with GM1 ATM/ANS.OR.B.015 Management system.

As a solution it is proposed to refer to GM1 ATM/ANS.OR.B.015 Management system in ATM/ANS.OR.B.015 in order to overcome inconsistencies in EASA rulemaking and make it perfectly clear that an SMS it not applicable for MET ANSPs.

response *Not accepted*

The provisions for safety management system are placed in Annex IV (Part-ATS) and as such they do not apply to MET providers. As stated by the commentator, GM1 ATM/ANS.OR.B.015 (now ATM/ANS.OR.B.005) makes this clear as does the table in GM1 ATM/ANS.OR.A.001.

comment 685 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.B.015**

The requirement for a Management System for all ATM/ANS providers is fully supported to ensure quality and "fitness for purpose" of the services provided.

response *Noted*

comment 686 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.B.015 (a)(1)**

The text refers to "including a direct accountability of the accountable Manager"; however there does not appear to be any requirement for an ATM/ANS provider to have an accountable manger.

**Suggested Resolution**

Add requirement such as "The ATM/ANS provider shall appoint an accountable manager, who has the authority for ensuring that all activities can be financed and carried out in accordance with the applicable requirements. The accountable manager shall be responsible for establishing and maintaining an effective management system." at ATM/ANS.OR.B.025.

response *Accepted*

The proposed text is included and it should be noted that, based on the subject NPA consultation, the commented provision is itself amended and retitled to 'Personnel Requirements'.

comment	<p>687 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.OR.B.015 (a)(3)</b></p> <p>The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p style="text-align: center;">Delete "in relation to the provision of ATM/ANS" as it is superfluous text.</p>
response	<p><i>Accepted</i></p>

comment	<p>688 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.OR.B.015 (a)(4)</b></p> <p>The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p>
response	<p><i>Accepted</i></p> <p>Based on the NPA 2013-08 consultation, the Agency has taken the opportunity to better align the text with the similar requirements laid down for other aviation domains. It should be noted that 'ATM/ANS provider' is replaced by 'service provider'.</p>

comment	<p>689 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATM/ANS.OR.B.015 (a)(5)</b></p> <p>The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p style="text-align: center;">Delete "in ATM/ANS" as it is superfluous text.</p>
response	<p><i>Accepted</i></p>

comment 691 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.B.020 (b)**

As the term "organisation" is used to mean an ATM/ANS provider elsewhere in the rule. Does this mean that when the contracted organisation, if an ATM/ANS provider, still comes under the contracting ATM/ANS provider's certificate and not its own?

ATM/ANS.OR.B.020 (a) refers to "external organisations" whereas (b) only refers to "organisation"; presumably they could be the same organisation? As such "external" needs to be added.

**Suggested Resolution**

Amend to read, "... activity to an external organisation..."

response *Partially accepted*

The Agency amended all instances of where 'organisation' is used to mean 'service provider'. Furthermore, it should be noted that 'ATM/ANS provider' is replaced by 'service provider'.

The organisation in point (b) is the same as in (a).

Point (a) considers the need to comply with the applicable requirements, whereas point (b) requires the contracted organisation to work under the approval and oversight of the service provider.

comment 758 comment by: *AvinorANSP*

Recommend rewording the text to avoid the misconception that competence is acquired via training only. Proposed text:

*A **competency** programme that ensures personnel are trained and competent to perform their duties.*

The proposed text is in line with AMC1ATM/ANS.OR.B.015(a)(6), which speaks first of competence than training. Training is only one element of competency.

response *Partially accepted*

The Agency takes the comment into consideration.

'Training programme' is deleted and replaced by the term 'formal process'.

comment 782 comment by: *ROMATSA*

	<p>Comment: To include also: (x) a description of the overall ATM/ANS provider's organization and its functional system</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Another NPA relevant to the subject on functional system is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose requirements to amend ATM/ANS.OR.B.005(a)(5) (only placeholder for the time being) and on Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule .</p> <p>Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p> <p>In reference to the organisational structure, the Agency considers that the issue is already addressed in ATM/ANS.OR.B.005(4) (formerly ATM/ANS.OR.B.015) as in order for a formal process to identify changes within the service provider's organisation which may affect established processes, procedures and services, as prerequisite 'a description of the overall service provider's organization' would be required.</p>
comment	<p>882 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>7.</p> <p>The paragraph is extremely prescriptive on individuals. The second part of the article is not deemed necessary in the context here. We would propose following:</p> <p>(7) <del>format</del> means for communication that ensure that all personnel are fully aware of the management system topics relevant for their duties, <del>to convey critical information, and explain why particular actions are taken and why procedures are introduced or changed.</del></p> <p>c.</p> <p>The second sentence is very prescriptive and should be transferred to the AMC level.</p> <p>(c) The ATM/ANS provider shall establish a function and a process to monitor compliance of the organisation with the relevant requirements, <del>and the adequacy of the procedures. Compliance monitoring shall include a feedback system of findings to the accountable manager to ensure effective implementation of corrective actions as necessary.</del></p> <p>d.</p> <p>It is not possible to set a standard of "size of the organisation". The proportion to the size of the organisation is very hard to regulate; when is it right ? Should it rather be "the complexity"?</p> <p>e.</p>

response

is a duplication of the contents of Annex III further down. We would propose to remove it.

*Partially accepted*

In reference to point (a)(7), the issue was discussed at the focussed thematic meetings organised, which provided the Agency with further valuable advice on how to proceed. The comment is not accepted as it provides details at a level that would facilitate the uniform implementation.

The requirements in point (c) aim at ensuring that the service provider continuously complies with the applicable requirements (i.e. compliance monitoring system as essential element of the management system). It is a standardised provision across the aviation rules. Towards harmonisation, whenever possible, and minimisation of the variability of the rules, the comment is not accepted. For example, if an aerodrome operator is also an air traffic service provider, then having harmonised management system requirements improves efficiency (please refer to (b)(11) of ADR.OR.D.005 'Management system' of the Aerodrome Regulation).

In reference to point (d), the concern over complexity is accepted. Whilst this requirement concerns the management system (as opposed to the safety management system), it is considered that a similar approach (and wording) to that in ICAO Annex 19, Safety Management, Chapter 4 paragraph 4.1.1 b) is appropriate and the text is amended.

Point (e) applies to all service providers whereas Annex III (new Annex IV) only applies to ATS providers. Thus, point (e) is not a duplication in terms of applicability and needs to be retained.

comment

889

comment by: *NATS National Air Traffic Services Limited*

### **ATM/ANS.OR.B.015**

With regards to the question....."Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management system' should be kept or removed and to provide justifications for it."

NATS has reviewed the relevant AMC and believe that the statement should be retained. We will have already demonstrated compliance to the accreditation body, therefore it should be unnecessary to demonstrate it again.

response

*Accepted*

The Agency takes the comment into consideration and the AMC is retained.

comment

955

comment by: *EUROCONTROL Safety Team*

Page 39 (ATM/ANS.OR.B.015 Management System (a)) (6)

Recommend rewording the text to avoid the misconception that competence is acquired via training only. Proposed text:

*A **competency** programme that ensures personnel are trained and competent*

	<p><i>to perform their duties.</i> The proposed text is in line with AMC1ATM/ANS.OR.B.015(a)(6), which speaks first of competence than training. Training is only one element of competency.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. 'Training programme' has been deleted and replaced by the term 'formal process'.</p>
comment	<p>1030 <span style="float: right;">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></span></p>
	<p>(a) (4) The process of identification and handling of changes to the functional system is exclusively evident for changes affecting the provision of ATM/ANS. Organisational changes should not be made relevant for an identification process. We propose to delete these following words: (4) a formal process to identify changes within the ATM/ANS provider's <del>organisation and its</del> functional system which may affect the provision of ATM/ANS;</p>
response	<p><i>Not accepted</i></p> <p>Organisational changes may have a direct impact upon the services of a service provider, e.g. disestablishing a post and ensuring that any responsibilities of that post are duly allocated to ensure no responsibilities are lost unless they are no longer needed and a rationale is provided.</p>
comment	<p>1141 <span style="float: right;">comment by: <i>Danish Transport Authority</i></span></p>
	<p>ATM/ANS.OR.B.015 (c) The requirements need clarity, and should be explained in more details.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment. It is important to be noted that associated AMC/GM to the subject requirement are proposed.</p>
comment	<p>1292 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p>
	<p>Proposal:</p> <p>To include also: (x) a description of the overall ATM/ANS provider's organization and its functional system.</p>

response *Partially accepted*

The Agency takes the comment into consideration.

Another NPA relevant to the subject on functional system is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose requirements to amend ATM/ANS.OR.B.005 (a)(5) (only placeholder for the time being) and on Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule.

Based on the outcome of the current NPA and the forthcoming one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

In reference to the organisational structure, the Agency considers the issue is already addressed in ATM/ANS.OR.B.005(4) (formerly ATM/ANS.OR.B.015) as in order for a formal process to identify changes within the service provider's organization which may affect established processes, procedures and services, as prerequisite 'a description of the overall service provider's organization' would be required.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS  
(Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) –  
ATM/ANS.OR.B.020 Contracted activities**

p. 39

comment 72

comment by: *ATC the Netherlands*

It is not possible to have a contracted organisation work "under the certificate of the ATM/ANS" provider. The certificate of the ATM/ANS provider is based on its own procedures. A contracted organisation will work in a different way where the certificate cannot provide coverage for.

Propose to delete b) or (b) as an organisation the ATM/ANS provider shall use the appropriate procedures within its managing system dealing with the effective purchasing services or products.

response *Partially accepted*

The Agency takes the comment into consideration. Taking into account the subject, the necessary GMs are developed to explain the various combinations of contacted and purchased activities. Additionally, the text is modified such that it now reads '...the contracted organisation shall work under the approval and oversight of the service provider.' rather than 'under the certificate'.

comment 167

comment by: *EUROCONTROL*

**Page 39 - ATM/ANS.OR.B.020**

The NPA 2013-8 (A) Explanatory Note and the Requirements in NPA 2013-8 (B) page 39 are not consistent because:

- NPA 2013-8 (A) Explanatory Note speaks of subcontractors,

	<ul style="list-style-type: none"> <li>• ATM/ANS.OR.B.020 refers to contracted organisations without specifying if they are primary contractors or sub-contractors,</li> <li>• ATS.OR.225 makes reference to subcontracted organisations.</li> <li>•</li> </ul>
response	<p><i>Partially accepted</i></p> <p>The Agency takes note of the comment.</p> <p>The necessary amendments are made to align the terminology.</p>

comment	<p>207 <span style="float: right;">comment by: <i>Icelandic Transport Authority</i></span></p> <p>(a) The sentence sounds incorrect, ie. "...purchasing any part of its activity to external organisations..." It needs to be included in the provisions, that not only shall the ATM/ANS providers ensure that the applicable requirements are conformed with, they shall be able to demonstrate compliance to the competent authority. It is unclear how this requirements relates to the provision of (EU) 550/2004, Article 10 Relations between service providers, or if not at all. If not at all the same thing, some words to that effect might be useful, either in the provision or the GM.</p>
response	<p><i>Partially accepted</i></p> <p>It should be noted that point (b) of the commented provision requires the service provider to give access to the competent authority to the contracted organisation, to determine continued compliance with the applicable requirements. Furthermore, ATM/ANS.OR.A.035 regulates the demonstration of compliance with the applicable common requirements by the service provider; addressing the issue raised by the commentator. Therefore, the Agency does not consider necessary to further specify the subject. Taking into consideration the comment, additional GMs are developed.</p>

comment	<p>240 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 39 - ATM/ANS.OR.B.20 - Contracted activities</b> Further clarification is needed to define contracted or purchased activity, system, or constituent. Are e.g. power supply and telephone lines part of contracted activities? Contract agreements need to be made and it is for the ANSP to provide evidence that all requirements have been met and not the intention for the CA to go and audit the supplier. We therefore propose: It is proposed to keep the original requirement from EU 1035 related to external services and supply. 3.1.2 (e) ensure adequate justification of the safety of the externally provided</p>
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	<p><i>services and supplies, having regard to their safety significance within the provision of its services (external services and supplies);</i></p>
response	<p><i>Partially accepted</i></p> <p>Taking into account the comment, the Agency proposes additional GMs on the subject in order to avoid any ambiguities.</p> <p>Having regard to the ICAO Annex 19 SMS framework, the Agency does not consider appropriate to incorporate the proposed text as an additional SMS requirement.</p> <p>ATM/ANS.OR.B.025(a) addresses point 3.1.2 (e) by requiring compliance with all applicable requirements.</p>

comment 251 comment by: AENA-NPA2013-08

**Page 39, ATM/ANS.OR.B.020 Contracted activities.**

It shall be clarified the concept “part of its activity” in provisions ATM/ANS.OR.B.020 (a) and ATM/ANS.OR.B.020 (b), establishing for example if power supply and air conditioning are or not part of its activity.

Furthermore, it is proposed to delete last sentence of provision ATM/ANS.OR.B.020 (b) because it has no sense and may be illegal that, as established in paragraph 125 of document NPA 2013-08 (A), “*is necessary to ensure that the competent authority is provided access to the subcontractors’ facilities and data for oversight purposes (e.g. this could be done by the ATM/ANS providers by including such requirement in the contract with the organisation)*”. The ATM/ANS provider is the one who shall ensure continued compliance with the applicable requirements.

*(a) When contracting or purchasing any part of its activity to external organisations, ATM/ANS providers shall ensure that the contracted or purchased activity, system, or constituent conforms to the applicable requirements.*

*(b) When an ATM/ANS provider contracts any part of its activity to an organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider. ~~The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.~~*

response	<p><i>Partially accepted</i></p> <p>Partially accepted.</p> <p>Taking into account the comment the Agency proposes two associated GMs on the subject in order to avoid any ambiguities.</p> <p>Notwithstanding that the service provider retains responsibilities to ensure continued compliance with the applicable requirements; the commented provision puts an obligation to the service provider to ensure access to the competent authority to verify that the service provider meets the applicable requirements.</p>
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comment 254 comment by: AENA-NPA2013-08

**Page 39, ATM/ANS.OR.B.020 Contracted activities.**

Further explanations about how to apply ATM/ANS.OR.A.020 to telecom companies are needed.

response *Accepted*

Taking into account the comment, the Agency proposes additional GMs on the subject in order to avoid any ambiguities.

comment 318 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex II ATM/ANS.OR.B.020 <b>Contracted activities</b>	<p>AESA would welcome further detail about what should be understood by "contracted activities": only the ones directly related to the provision of any of the services or also the provision of services like clima and power supplies needed for the provision of CNS/ATM services?</p> <p>More detailed information in this requirement would be helpful.</p>	<p>This is a recurring issue encountered by AESA whilst carrying out supervisory activities that should be treated throughout to avoid potential degradation in the safety chain.</p>

response *Accepted*

Taking into account the comment, the Agency proposes additional GMs on the subject in order to avoid any ambiguities.

comment 319 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex II	NPA (A) AMC should give some	The breadth and depth of

<p>ATM/ANS.OR.B.020 <b>Contracted activities</b></p>	<p>guidance about the limit of contracted activities allowed. (Not necessary in number).</p> <p>Limitations should be established for (1) those activities liable to be contracted and (2) the number and depth of the possible contractors.</p> <p>It must be remembered that the certified ANSP is and will always be the ultimate responsible for the safety of the service provision. In particular, this applies to the identification of risks and hazards associated to the service provided.</p>	<p>contracting activities should be limited in order to ensure that accountability and associated liability is not spread and, ultimately, lost. Reference to article 10 of Regulation (CE) No 550/2004 has to be included in the wording in order to establish a check on the contracting breadth and depth.</p>
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response *Not accepted*

Taking into account the comment, the Agency proposes additional GMs on the subject in order to avoid any ambiguities.

However, the Agency does not consider appropriate to limit the activities that could be contracted as it remains the service provider’s responsibility (as correctly pointed by the commentator) to ensure that the applicable requirements continue to be met regardless of the contractual arrangements.

comment 354

comment by: *HungaroControl*

(a) When contracting or purchasing any part of its activity to external organisations, ATM/ANS providers shall ensure that the contracted or purchased activity, **system**, or constituent conforms to the applicable requirements of this regulation.

(b) When an ATM/ANS provider contracts any part of its activity to a **non certified** organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider.

(c) When an ATM/ANS provider contracts any part of its activity to a certified organisation, the contract shall specify under which certificate the work is being performed.

(d) The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.

	<p><u>Clarification needed: functional system; equipment and software?</u>  <u>Clarification needed: which certification is in question? (ISO or SES?)</u></p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the proposal into consideration</p> <p>Based on the NPA consultation, the subject provision is amended aiming at better clarity and the Agency proposes additional GMs on the subject in order to avoid any ambiguities.</p>
comment	<p>451 <span style="float: right;">comment by: CAA-NL</span></p> <p><b>ATM/ANS.OR.B.020(b)</b>  Please indicate in how far this paragraph is legally valid in the light of articles 7 and 10 of EC 550/2004 (Service Provision Regulation). Please also indicate if it is the intention to modify these articles of EC 550/2004. If not, this paragraph – including its AMC and GM- may have to be deleted.  <i>Rationale:</i>  If 'activity' points to (parts of) the services that are being provided under the ANSP's certificate, these services may only be contracted to organizations which are in possession of their own certificate, based on article 7 and 10 of EC 550/2004. Under these articles, subcontracting of service provision to a non-certificated organization is prohibited.</p>
response	<p><i>Noted</i></p> <p>This provision is necessary for all service providers in order to manage the activities they contract out to other organisations (which may, or may not, be certified to carry out such activities). The provision is necessary to ensure that the contracted activities are also performed in accordance with the applicable requirements.</p> <p>Already today, in accordance with Regulation (EU) No 1035/2011, it is allowed to use 'operating organisation' to subcontract part of their activities. With the introduction of this requirement, the term 'operating organisation' is replaced and the need to assess the safety implications of the use of external services or suppliers under paragraph 3.1.2(e) of Annex II to Regulation (EU) No 1035/2011 is addressed by the commented provision.</p> <p>Furthermore, it is important to be pointed out that the ultimate responsibility for the product or service provided by contracted organisations shall always remain with the service provider.</p>
comment	<p>586 <span style="float: right;">comment by: Federal Office of Civil Aviation FOCA</span></p> <p>add "service" to [...]contracted or purchased activity, system, or constituent conform to the applicable requirements.  The final responsibility has to be clearly defined. The GM1 ATM/ANS.OR.B.020 8 (a) in regard to hazard identification and risk assessment shall be under the responsibility of the ATM / ANS provider.</p>

response

*Not accepted*

To be addressed the issue raised by the commentator. The commented provision is amended.

GM3 ATM/ANS.OR.B.015(a) limits the need for hazard identification and risk management to ATS providers in accordance with ATS.OR.200(a)(2).

comment

598

comment by: *CANSO Civil Air Navigation Services Organization*

**ATM/ANS.OR.B.020  
Contracted activities**

(a) When contracting or purchasing any part of its activity to external organisations, ATM/ANS providers shall ensure that the contracted or purchased activity, system, or constituent conforms to the applicable requirements of this regulation.

(b) When an ATM/ANS provider contracts any part of its activity to a non certified organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider.

(c) When an ATM/ANS provider contracts any part of its activity to a certified organisation, the contract shall specify under which certificate the work is being performed.

(d) The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.

This re-wording lends clarity and avoids apparent duplication of the provisions.

response

*Partially accepted*

Taking into account the comment, the Agency proposes associated GM on the subject in order to avoid any ambiguities. However, it should be noted that the commented subjects are already proposed into the newly numbered AMC1 ATM/ANS.OR.B.015 (b) and (c).

comment	<p data-bbox="352 206 411 241">657</p> <p data-bbox="1161 206 1445 241" style="text-align: right;">comment by: PANSA</p> <p data-bbox="352 293 1445 421">(a) When contracting or purchasing any part of its activity to external organisations, ATM/ANS providers shall ensure that the contracted or purchased activity, system, or constituent conforms to the applicable requirements of this regulation.</p> <p data-bbox="352 423 1445 517">(b) When an ATM/ANS provider contracts any part of its activity to a <b>non certified</b> organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider.</p> <p data-bbox="352 519 1445 613">(c) When an ATM/ANS provider contracts any part of its activity to a certified organisation, the contract shall specify under which certificate the work is being performed.</p> <p data-bbox="352 616 1445 710">(d) The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.</p> <p data-bbox="352 712 555 748"><b><u>Justification:</u></b></p> <p data-bbox="352 750 1445 813"><i>Modified text seems to be more clear, misinterpretation and duplication of the provisions can be avoided.</i></p>
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response *Partially accepted*

Taking into account the comment, the Agency proposes associated GM on the subject in order to avoid any ambiguities. However, it should be noted that the commented subjects are already proposed into the newly numbered AMC1 ATM/ANS.OR.B.015 (b) and (c).

comment	<p data-bbox="352 1137 411 1173">759</p> <p data-bbox="1093 1137 1445 1173" style="text-align: right;">comment by: AvinorANSP</p> <p data-bbox="352 1225 1445 1288">The following re-wording lends clarity and avoids apparent duplication of the provisions.</p> <p data-bbox="352 1290 1445 1417">(a) When contracting or purchasing any part of its activity to external organisations, ATM/ANS providers shall ensure that the contracted or purchased activity, system, or constituent conforms to the applicable requirements <b>of this regulation</b>.</p> <p data-bbox="352 1420 1445 1514">(b) When an ATM/ANS provider contracts any part of its activity to a <b>non certified</b> organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider.</p> <p data-bbox="352 1516 1445 1610">(c) <b>When an ATM/ANS provider contracts any part of its activity to a certified organisation, the contract shall specify under which certificate the work is being performed.</b></p> <p data-bbox="352 1612 1445 1706">(d) The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.</p>
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response *Partially accepted*

Taking into account the comment, the Agency proposes associated GM on the subject in order to avoid any ambiguities. However, it should be noted that the commented subjects are already proposed into the newly numbered AMC1 ATM/ANS.OR.B.015 (b) and (c).

comment 760 comment by: AvinorANSP

The NPA 2013-8 (A) Explanatory Note and the Requirements in NPA 2013-8 (B) page 39 are not consistent because:

- NPA 2013-8 (A) Explanatory Note speaks of subcontractors,
- ATM/ANS.OR.B.020 refers to contracted organisations without specifying if they are primary contractors or sub-contractors,

ATS.OR.225 makes reference to subcontracted organisations.

response *Partially accepted*

The Agency takes note of the comment.

The necessary amendments are made to align the terminology

comment 783 comment by: ROMATSA

Comment:

ATM/ANS provider can subcontract part of its activities only from a certified ATM/ANS provider.

response *Noted*

Based on the NPA consultation, the Agency proposes an associated GM on the subject in order to avoid any ambiguities. Furthermore, the issue is already addressed into the newly numbered AMC1 ATM/ANS.OR.B.020.

comment 883 comment by: Belgocontrol

*The NPA 2013-8 (A) Explanatory Note and the Requirements in NPA 2013-8 (B) page 39 are not consistent because:*

- *NPA 2013-8 (A) Explanatory Note speaks of subcontractors,*
  - *ATM/ANS.OR.B.020 refers to contracted organisations without specifying if they are primary contractors or sub-contractors,*
- ATS.OR.225 makes reference to subcontracted organisations*

response *Partially accepted*

The Agency takes note of the comment.

The necessary amendments are made to align the terminology

comment	884 <span style="float: right;">comment by: <i>Belgocontrol</i></span>
	<p>We are not sure how the contracted entity can operate under the certificate of the ATM/ANS Provider. For this reason we propose to change (b) to read:          (b) <del>When an ATM/ANS provider contracts any part of its activity to an organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider.</del> The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.</p>
response	<i>Partially accepted</i>
	<p>The proposed text for deletion has been rewritten to remove the phrase 'under the certificate of'. Furthermore, taking into account the comment, the Agency proposes an associated GM on the subject in order to avoid any ambiguities. However, it should be noted that the commented subjects are already addressed into the newly numbered AMC1 ATM/ANS.OR.B.020.</p>
comment	956 <span style="float: right;">comment by: <i>EUROCONTROL Safety Team</i></span>
	<p>Page 39 ATM/ANS.OR.B.020          The NPA 2013-8 (A) Explanatory Note and the Requirements in NPA 2013-8 (B) page 39 are not consistent because:</p> <ul style="list-style-type: none"> <li>• NPA 2013-8 (A) Explanatory Note speaks of subcontractors,</li> <li>• ATM/ANS.OR.B.020 refers to contracted organisations without specifying if they are primary contractors or sub-contractors,</li> </ul> <p>ATS.OR.225 makes reference to subcontracted organisations.</p>
response	<i>Partially accepted</i>
	<p>The Agency takes note of the comment.</p> <p>The necessary amendments are made to align the terminology</p>
comment	993 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span>
	<p>ETF expresses deep concerns about this provision without limitations. It seems like a door open to the absence of certification of part of the activity.          The objective should be to have every contributor to the safety chain certified with exceptions for punctual interventions in a limited time frame.</p>
response	<i>Noted</i>
	<p>The Agency takes note of the comment.</p> <p>However, it should be noted that the purpose of the subject provision is to ensure that all service providers manage the activities they contract out to other organisations (which may, or may not, be certified to carry out such activities) in a controlled manner. The requirement is necessary to guarantee that the contracted activities are also carried out under the approval and</p>

oversight of the certified service provider in accordance with the applicable requirements, and to ensure that the competent authority is provided access to the contractors' facilities and data for oversight purposes. The associated AMC and GM further clarify the intent of the commented provision.

comment

1034

comment by: *DFS Deutsche Flugsicherung GmbH*

Although we see the intend to capture the safety related aspects of contracted activities as given by EASA in explanation EN 125, which is fully supported, we do not agree to the way it is proposed with these two sub-paragraphs:

While paragraph (a) is written in a style that contributes to the intend of the EN, paragraph (b) is written in a style that could only be applied on contractors of activities that are related to the provision of services but not on contractors of activities which may be outside the regulatory scope of this regulation but having interfaces (=supplies) to services, such as telecommunications lines or power supplies.

We therefore recommend a separation of those two kinds of contracted activities or deletion of para (b) second sentence in a whole:

(b) When an ATM/ANS provider contracts any part of its activity to an organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider. ~~The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.~~

response

*Partially accepted*

Taking into consideration of the comment, the Agency proposes an associated GM which elaborates the different types of contracted activities.

comment

1140

comment by: *UK CAA***Page No:** 39**Paragraph No:** ATM/ANS.OR.B.020(a)

**Comment:** This paragraph is referring to contracting out of some of the ATM/ANS provider's activities. It is not clear what these activities are.

For example when an ATM/ANS avails itself of the services of another ATM/ANS provider for CNS provision, is this a contracted activity? Is the provider a contracted organisation?

**Justification:** The scope of the contracted out activities needs to be defined, i.e. the contracted activities that the competent authority would be interested in are those activities defined within the provider's certification and no other, and what is a contracted organisation?

**Proposed Text:** Amend paragraph (a) to read:

'When contracting or purchasing any part of **the activities defined in the ATM/ANS providers certificate, the provider** shall ensure that the contracted or purchased activity, system or constituent conforms to the applicable requirements.'

In addition, the terms 'Contracted Activities' and 'Contracted Organisation' need to be defined in Article 2.

response	<p><i>Not accepted</i></p> <p>Taking into account the comments, the Agency proposes an associated GM which elaborates the different types of contracted activities and clarifies the ambiguities.</p>
comment	<p><i>1144</i> <span style="float: right;"><i>comment by: Danish Transport Authority</i></span></p> <p>ATM/ANS.OR.B.020 (b)  The text states that contracted organisations <u>shall</u> work under the certificate of the ATM/ANS provider. We interpret this as the contracted organisation cannot have its own certificate. However the GM1 ATM/ANS.OR.B020 (b) states that the contracted organisation itself can be certified.  Propose that the IR is changed so it includes both certified and non certified contracted organisations.  Is it possible for an organisation holding a declaration of provision of FIS/AFIS to subcontract certified or non certified providers? If the answer is yes, how does the competent authority ensure access to these contracted organisations to determine continued compliance with the applicable requirements?</p>
response	<p><i>Noted</i></p> <p>An associated GM explains that the contracted organisation could be certified itself or work under the service provider's certificate regardless of the status of the contracted organisation.</p> <p>The Agency proposes an associated GM on the subject in order to avoid any ambiguities. However, it should be noted that the commented subjects are already proposed into the newly numbered AMC1 ATM/ANS.OR.B.015 (b) and (c).</p> <p>In reference to the question on how the competent authority would ensure oversight of declared organisation, it should be noted that the issue is addressed in ATM/ANS.AR.C.005. Furthermore, the newly numbered ATM/ANS.OR.A.035 requires the service providers to provide the necessary evidence to demonstrate compliance.</p>
comment	<p><i>1148</i> <span style="float: right;"><i>comment by: UK CAA</i></span></p> <p><b>Page No:</b> 39  <b>Paragraph No:</b> ATM/ANS.OR.B.020(b)  <b>Comment (1):</b> This paragraph states that when the ATM/ANS provider contracts out some of its activities the contracted organisation shall work under the certificate of the ATM/ANS provider. It is not clear how a non-certified organisation can work under a certificate granted to another organisation. The ATM/ANS provider is responsible for ensuring the contractor carries out its operations in line with the applicable requirements but the contractor does not receive any certificated status.  <b>Justification (1):</b> The competent authority issues certificates to the ATM/ANS provider and that certificate is limited to that provider and cannot be extended to suppliers or contractors.</p>

**Comment (2):** This paragraph states that when the ATM/ANS provider contracts out some of its activities the ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation to determine compliance with the applicable requirements.

This would considerably increase the workload of the competent authority and would no doubt require a change in national law to enable the competent authority inspectors a 'right of access' to organisations not covered under the certification process.

**Justification (2):** The competent authority issues certificates to the ATM/ANS provider and it is the ATM/ANS provider's responsibility to ensure that the services they provide are compliant with the applicable requirements regardless of whether or not some of those services are contracted out. It is not the responsibility of the competent authority to audit contractors or suppliers. They can only audit those to whom a certificate has been granted.

**Proposed Text:** Replace paragraph (b) with the following:

'When an ATM/ANS provider contracts any part of its activity to an organisation, **the ATM/ANS provider shall ensure that the work carried out by the contracted organisation conforms to the applicable requirements as defined within the ATM/ANS provider's certificate.**'

response

*Not accepted*

In reference to comment 1, the necessary amendments are made in paragraph (b) of the commented provision by clarifying that when a service provider contracts any part of its activity to an organisation, the contracted organisation shall work under the approval and oversight of the subject provider.

In reference to comment 2, the Agency does not consider necessary that the national law needs to be changed as the subject Rule will be directly binding within the Member States. The Agency does acknowledge that the overseeing organisation is the certified service provider, therefore, any possible non-compliance would be raised against the service provider as it is its responsibility to ensure that it continuous to meet the applicable requirements.

comment

1241

comment by: ENAV

Proposal for rewording

(a) When contracting or purchasing any part of its activity to external organisations, ATM/ANS providers shall ensure that the contracted or purchased activity, system, or constituent conforms to the applicable requirements of this regulation.

(b) When an ATM/ANS provider contracts any part of its activity to a non certified organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider.

(c) When an ATM/ANS provider contracts any part of its activity to a certified organisation, the contract shall specify under which certificate the work is being performed.

(d) The ATM/ANS provider shall ensure that the competent authority is given access to the contracted organisation, to determine continued compliance with the applicable requirements.

Rationale

response

This re-wording lends clarity and avoids apparent duplication of the provisions.

*Partially accepted*

Taking into account the comment, the Agency proposes associated GM on the subject in order to avoid any ambiguities. However, it should be noted that the commented subjects are already proposed into the newly numbered AMC1 ATM/ANS.OR.B.015 (b) and (c).

The issue on giving assess by the competent authority to the contracted organisation is addressed in the provision on 'Facilitation of inspections, audits, and access'.

comment

1293

comment by: *Romanian Civil Aviation Authority*

Proposed text:

(b) When an ATM/ANS provider contracts any part of its activity to an organisation, the contracted organisation shall work under the certificate of the ATM/ANS provider. The ATM/ANS provider shall obtain all evidences from contracted organisation in order to be provided to the competent authority to verify the continued compliance with the applicable requirements.

Justification:

More clarification is required to know if "its activity" is referred to one service of ATM/ANS or external activity in the sense specified in Regulation 1035/2011. We support external activity in the sense specified in Regulation 1035/2011. The competent authorities do not have responsibilities over external organizations. The responsibility to check the compliance with applicable requirements belongs to ANSPs since they conclude agreements in this respect. The external organizations may refuse the acceptance of verification from Competent Authorities side even at ANSP's request. External organizations are business oriented and they regularly accept only empowered entities to verify their activities.

response

*Partially accepted*

Taking into account the comment, the Agency amended the commented provision and proposes associated GM on the subject in order to avoid any ambiguities.

comment

1327

comment by: *comments provided on behalf of FIT/CISL italian trade union*

FIT CISL expresses deep concerns about this provision without limitations. It seems like a door open to the absence of certification of part of the activity. The objective should be to have every contributor to the safety chain certified

	with exceptions for punctual interventions in a limited time frame.
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>However, it should be noted that the purpose of the subject provision is to ensure that all service providers manage the activities they contract out to other organisations (which may, or may not, be certified to carry out such activities) in a controlled manner. The requirement is necessary to guarantee that the contracted activities are also carried out under the approval and oversight of the certified service provider in accordance with the applicable requirements, and to ensure that the competent authority is provided access to the contractors' facilities and data for oversight purposes. The associated AMCs and GMs further clarify the intent of the commented provision.</p>

<p><b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) – ATM/ANS.OR.B.025 Human resources</b></p>	p. 39
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comment	<p>135 <span style="float: right;">comment by: LfV</span></p> <p>Training is only one element of competency. Recommend rewording the text to avoid the misconception that competence is acquired via training only.</p>
response	<p><i>Partially accepted</i></p> <p>The content of the commented provision is merged with the newly numbered ATM/ANS.OR.B.005(a)(8) because a degree of overlap was identified. For further clarity, the associated AMC makes it clear that training or other actions are necessary to achieve competency, where applicable.</p>
comment	<p>208 <span style="float: right;">comment by: Icelandic Transport Authority</span></p> <p>The meaning of "sustainable" is unclear. It is our view that either this requirement is kept unchanged or the ATM/ANS.OR.B.015(a) be revised to include a provision on the recruitment and employment of appropriately skilled personnel.</p>
response	<p><i>Partially accepted</i></p> <p>ATM/ANS.OR.B.025 is sourced from point 5 of Annex I to the existing Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. However, based on the NPA consultation, the text from ATM/ANS.OR.B.025 has been amalgamated into the newly numbered</p>

ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015). The aspects raised by the commentator are addressed therein.

comment 252

comment by: AENA-NPA2013-08

**Page 39, ATM/ANS.OR.B.025 Human resources.**

Answering to EASA's question, it is proposed to delete the provision ATM/ANS.OR.B.025 as it is considered redundant taking into account the requirements introduced in the management system ATM/ANS.OR.B.015 (a) (6).

response *Accepted*

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)). ATM/ANS.OR.B.025 is sourced from point 5 of Annex I to the existing Regulation (EU) No 1035/2011, and, at the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment 289

comment by: HungaroControl

Stakeholders are invited to comment whether the proposed AMC1 ATM/ANS.OR.B.015 'Management system' should be kept or removed and to provide justifications for it.

ATM/ANS.OR.B.025 is proposed to be deleted and ATM/ANS.OR.B.015(a)(6) to be re-worded as follows:

*A management system that includes...*

a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established.

All subsequent GM and AMC and other references need to be updated accordingly.

response *Accepted*

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with slight improvement of the wording.

comment 692

comment by: NATS National Air Traffic Services Limited

**ATM/ANS.OR.B.025**

There is overlap between this provision and that in ATM/ANS.OR.B.015 (a) (6).

**Suggested Resolution**

Whilst it is recognised that ATM/ANS.OR.B.025 currently exists in the Common Requirements it should be removed and re-word ATM/ANS.OR.B.015(a)(6) as follows:

“a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established.”

All subsequent GM and AMC and other references need to be updated accordingly.

response

*Accepted*

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with slight improvement of the wording.

comment

761

comment by: *AvinorANSP*

Stakeholders are invited to comment whether the proposed ATM/ANS.OR.B.025 'Human resources' should be kept or removed taking into account the requirements introduced in the management system ATM/ANS.OR.B.015(a)(6) and in ATS.OR.220 and the justification for it.

We propose to delete ATM/ANS.OR.B.025 and re-word ATM/ANS.OR.B.015(a)(6) as follows:

*A management system that includes...*

a training programme that ensures that personnel are trained and competent to perform their duties to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. In this context, policies for the recruitment and training of personnel shall be established.

All subsequent GM and AMC and other references need to be updated accordingly.

response

*Accepted*

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) as proposed by the commentator with slight improvement of the wording.

comment	994 comment by: <i>European Transport Workers Federation - ETF</i>
	This provision could be removed on the condition that EASA commits to continue working on developing the competence requirements for all kinds of staff (especially non ATCOs, non ATSEPs).
response	<i>Accepted</i>
	Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).
comment	1036 comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	See also our comment on EN 126: We propose to delete this requirement.
response	<i>Accepted</i>
	Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)) with slight improvement of the wording.
comment	1231 comment by: <i>SINCTA - Portuguese Air Traffic Controllers' Union</i>
	<b>ATM/ANS.OR.B.025 Human resources</b>
	SINCTA supports the IR and proposes an AMC to define what can be considered “appropriately skilled personnel” when it refers to ATCOs.
	Proposal: <u>AMC1 ATM/ANS.OR.B.025 - Human Resources - ATCOs</u>
	<u>“Personnel’s skills will be guaranteed following the training requirements stated in the Annex I, Part ATCO”</u>
response	<i>Not accepted</i>
	Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).
	Furthermore, it is important to be noted that the requirements on the air traffic services providers to ensure that air traffic controllers are properly licensed and hold a valid medical certificate in accordance with the subject Regulation are defined in the newly numbered ATS.OR.215.

comment	<p data-bbox="355 210 427 246">1315</p> <p data-bbox="1142 210 1445 246">comment by: ATCEUC</p> <p data-bbox="355 297 925 333"><b>ATM/ANS.OR.B.025 Human resources</b></p> <p data-bbox="355 362 1445 461"><i>ATM/ANS provider shall employ appropriately skilled personnel to ensure the provision of ATM/ANS in a safe, efficient, continuous and sustainable manner. [...]</i></p> <p data-bbox="355 492 563 515">*****</p> <p data-bbox="355 557 1445 622">ATCEUC strongly supports this IR and proposes a new AMC to define what can be considered "appropriately skilled personnel".</p> <p data-bbox="355 651 748 687"><b><u>AMC1 ATM/ANS.OR.B.025</u></b></p> <p data-bbox="355 716 1445 784"><b><u>"Regarding ATCOs, personnel's skills will be guaranteed following the requirements stated in the Annex I, Part ATCO"</u></b></p>
response	<p data-bbox="355 795 534 840"><i>Not accepted</i></p> <p data-bbox="355 891 1445 990">Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).</p> <p data-bbox="355 1052 1445 1182">Furthermore, it is important to be noted that the requirements on the air traffic services providers to ensure that air traffic controllers are properly licensed and hold a valid medical certificate in accordance with the subject Regulation are defined in the newly numbered ATS.OR.215.</p>
comment	<p data-bbox="355 1288 427 1323">1328</p> <p data-bbox="517 1265 1445 1344">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></p> <p data-bbox="355 1395 1445 1494">This provision could be removed on the condition that EASA commits to continue working on developing the competence requirements for all kinds of staff (especially non ATCOs, non ATSEPs).</p>
response	<p data-bbox="355 1512 480 1547"><i>Accepted</i></p> <p data-bbox="355 1599 1445 1697">Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).</p>
comment	<p data-bbox="355 1836 427 1872">1346</p> <p data-bbox="1177 1836 1445 1872">comment by: USCA</p> <p data-bbox="355 1955 925 1991"><b>ATM/ANS.OR.B.025 Human resources</b></p>

USCA strongly supports that IR and propose the following AMC to define what can be considered “appropriately skilled personnel”

AMC1 ATM/ANS.OR.B.025

“Personnel’s skills will be guaranteed following the training requirements stated in the Annex I Subpart D of the NPA on ATCO licensing”

response *Not accepted*

Based on the NPA consultation, ATM/ANS.OR.B.025 is removed, but the requirements are amalgamated into the newly numbered ATM/ANS.OR.B.005(a)(8) (formerly ATM/ANS.OR.B.015(a)(6)).

Furthermore, it is important to be noted that the requirements on the air traffic services providers to ensure that air traffic controllers are properly licensed and hold a valid medical certificate in accordance with the subject Regulation are defined in the newly numbered ATS.OR.215.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) – p. 39**  
**ATM/ANS.OR.B.030 Facilities requirements**

comment 187

comment by: AENA-NPA2013-08

**Page 39, ATM/ANS.OR.B.030 Facilities requirements.**

Depending on national regulations and kind of contracts, some facilities needed to provide the service can be out of the scope of the Service Provider (eg Airport infrastructure).

response *Noted*

The Agency takes the comment into consideration.

comment 449

comment by: CAA-NL

**ATM/ANS.OR.B.030**

Please exchange the current paragraph for the following text, this proposal has to be read in conjunction with the comments on ATS.OR.025 and ATSEP.OR.005:

**ATM/ANS.OR.B.030 Facilities and equipment requirements**

(a) The ATM/ANS providers shall ensure that there are adequate and appropriate facilities and equipment to perform and manage all tasks and activities in accordance with the applicable requirements.

(b) The ATM/ANS provider shall identify through their management system equipment critical to the service provided.

(c) THE ATM/ANS provider shall in respect to equipment identified under (b) demonstrate that their equipment is regularly maintained and, where required,

	<p><b>calibrated;</b>  <i>Rationale:</i>  The ATM/ANS provider shall not just have facilities, but also the proper equipment to perform its tasks. The ATM/ANS provider also has to assure that the equipment will always fulfil its intended functions at the appropriate level.</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes note of the comment.</p> <p>It should be noted that the aim of the commented provision is to implement point 5(a) of the Essential Requirements in Annex Vb to the Basic Regulation. It is already covered as an element of the quality management system of the organisation. However, it is not intended to cover the technical requirements for the equipment that could be subject of another rulemaking task.</p>
comment	<p>501 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>Agreed.</p>
response	<p><i>Noted</i></p>

<b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) – ATM/ANS.OR.B.035 Record keeping</b>	p. 40
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comment	<p>36 <span style="float: right;">comment by: <i>Swedavia CNS Safety</i></span></p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Swedavia suggest that a paragrah (d) is inserted; "Operational data such as voice recordings, radar plots etc. should be stored for a least 30 days".</p> </div>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>However, the Agency considers that the revised wording of record keeping (the newly numbered ATM/ANS.OR.B.030) adequately foresees the possibility for such data to be retained, if so warranted.</p>

comment	73	comment by: <i>ATC the Netherlands</i>
	<p>Requiring to keep all records is an enormous administrative burden for an ANSP. Define the word record.  or The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability the elements indicated in the ATM/ANS.OR.B.015 and other records as agreed upon with the CA.  The period 5 years could be very costly and has no added benefit for safety.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration. The newly numbered AMC1 ATM/ANS.OR.B.030 addresses the subject. Furthermore, the Agency considers that the revised wording of record keeping adequately foresees the possibility for such data to be retained, if so warranted.</p>	

comment	136	comment by: <i>LFV</i>
	<p>Need to define what is or is not a record "of all its activities". Is operational data included in this? Keeping operational data for 5 years would be very costly for no added benefit or safety. Propose rewording to allow for less than 5 years for operational data.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration. The newly numbered AMC1 ATM/ANS.OR.B.030 addresses the subject.</p>	

comment	256	comment by: <i>AENA-NPA2013-08</i>
	<p><b>Page 40, ATM/ANS.OR.B.035 Record keeping.</b>  It is necessary to describe the scope of 'recording'. In the case that it is related to the voice and data recording specified in ICAO Annexes 10 and 11, five years is a too long period for keeping the records. ICAO establishes a period of 30 days. Depending on the site, the structure needed to keep this recording is too huge.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency takes the comment into consideration. The associated AMC/GM to the subject provision on 'record keeping' address the subject.</p>	

comment	270	comment by: <i>HungaroControl</i>
	<p>The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of <del>all its activities, covering in particular</del> all the elements indicated in the ATM/ANS.OR.B.015 and other</p>	

	<p>records as agreed upon with the CA. 'All its activities' need to be defined. Operational data is covered in other provisions. The new wording lends clarity. Another possible regulatory technique would be to create a list/excursions of the records that need to be kept in AMC/GM.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency considers that the revised wording of record keeping (the newly numbered ATM/ANS.OR.B.030) adequately addresses the proposal by the commentator.</p> <p>Furthermore, the aim of the associated AMC is to further define the subject.</p>
comment	<p>345 <span style="float: right;">comment by: <i>skyguide Corporate Regulation Management</i></span></p> <p>There is a need to clarify that the record keeping requirement doesn't apply to operational data, e.g. flight plan data, ATS legal recording, etc., so as to remain aligned with the ICAO framework, which requires that operational data is retained for 30 days (Annex 10: telecom and AFTN = 30 days, ICAO: PANS ATM: operational records kept for 30 days).</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration. The associated AMC/GM to the subject provision on 'record keeping' address the subject.</p>
comment	<p>513 <span style="float: right;">comment by: <i>DSNA</i></span></p> <p>(b)The records shall be kept for a period of at least 5 years unless otherwise specified by the competent authority.</p> <p>Could conflict with national law and other international provisions such as ICAO provisions for the operational data. Keeping operational data for 5 years would be very costly for no added benefit or safety. Rewording allows for less than 5 years if so required by the CA. Operational data is retained according to e.g. Annex 10: telecom and AFTN = 30 days. ICAO: PANS ATM: operational records kept for 30 days.</p> <p>Suggest to reword to: (b) The records shall be kept for a period as specified by the competent authority. Should there be no specified period, then they shall be kept for at least 5 years. <del>unless otherwise specified by the competent authority</del></p>
response	<p><i>Partially accepted</i></p> <p>The Agency considers that the revised wording of record keeping (the newly numbered ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator.</p>

The associated AMC/GM to ATM/ANS.OR.B.030 further define the subject.

comment

515

comment by: DSNA

Definition of records.

Need to define what is or is not a record (e.g. radar data). Difference between personal data and legal recording / operational data for the purposes of investigation. If operational data is considered as records, then different times shall apply.

This should be defined in accordance with the competent authority.

response

*Partially accepted*

The Agency takes the comment into consideration.

The Agency considers that the revised wording of record keeping (the newly numbered ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator.

The associated AMC/GM to ATM/ANS.OR.B.030 further define the subject.

comment

519

comment by: DSNA

ATM/ANS.OR.B.035 Record keeping (a)

Requiring all records to be kept is an administrative burden that brings no additional value. We suggest to keep the records pertaining to the management system as being sufficient. Operational records should be kept according to the relevant legislation (for example directive on occurrence reporting, and other).

Proposal

(a) The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of ~~all its activities~~ ~~evidence proving compliance~~ with ~~covering in particular~~ all the requirements of ATM/ANS.OR.B.015.

response

*Partially accepted*

The Agency takes the comment into consideration and the newly numbered AMC1 ATM/ANS.OR.B.030 addresses the subject. Furthermore, an additional GM is developed to clarify the issue.

comment

534

comment by: Prospect ATCOs' Branch UK

Although accurate record keeping is of course a necessity, this provision is quite vague with respect to 'all its activities' and the time period of 5 years seems very arbitrary as it might be more relevant to have differing time periods for different records. We would request that this rule is enhanced in detail and perhaps provision is made to allow more flexibility depending on the type of information stored.

response

*Accepted*

The Agency takes the comment into consideration and the newly numbered AMC1 ATM/ANS.OR.B.030 addresses the subject. Furthermore, additional AMC/GM are developed to further define the issue.

comment

537

comment by: *CANSO Civil Air Navigation Services Organization*

**ATM/ANS.OR.B.035 (a) record keeping**

The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of all its activities, covering in particular all the elements indicated in the ATM/ANS.OR.B.015.

The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of ~~all its activities, covering in particular~~ all the elements indicated in the ATM/ANS.OR.B.015 and other records as agreed upon with the CA. Need to define what "all its activities" covers. Operational data is covered in other provisions. Lends clarity with the new wording. Another option would be to list the records that need to be kept or list the exclusions in AMC.

response

*Partially accepted*

The Agency considers that the revised wording of record keeping (the newly numbered ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator.

The associated AMC/GM to ATM/ANS.OR.B.030 further define the subject.

comment

587

comment by: *Federal Office of Civil Aviation FOCA*

A list of records has to be established in the SMS and approved by the Competent Authority; this requirement is only mentioned in the EXP Note, but not in the hard law.

response

*Noted*

The Agency takes note of the comment.

It should be noted that the newly numbered AMC1 ATM/ANS.OR.B.030 addresses the subject.

comment

647

comment by: PANSA

The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of ~~all its activities, covering in particular~~ all the elements indicated in the ATM/ANS.OR.B.015 and other records as agreed upon with the CA.

**Justification:**

*With modified text we avoid the need to define what "all its activities" covers and bring more clarity. Operational data is covered in other provisions. Alternatively the list of required records (or exclusions) may be provided.*

response

*Partially accepted*

The Agency considers that the revised wording of record keeping (the newly numbered ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.

comment

666

comment by: AENA-NPA2013-08

**Page 40, ATM/ANS.OR.B.035 Record keeping.**

It is necessary to describe the scope of 'recording'. In the case that it is related to the voice and data recording specified in ICAO Annexes 10 and 11, five years is a too long period for keeping the records. ICAO establish a period of 30 days. Depending on the site, the structure needed to keep this recording is too huge.

response

*Partially accepted*

It should be noted that the subject is addressed in the associated AMC (new AMC1 ATM/ANS.OR.B.030). Considering the comment, additional AMC/GM are introduced.

comment

693

comment by: NATS National Air Traffic Services Limited

**ATM/ANS.OR.B.035 (a)**

It is unclear what "all its activities" covers. Operational data is covered in other provisions.

Another option would be to list the records that need to be retained or list the exclusions in related AMC.

**Suggested Resolution**

Amend to read "The ATM/ANS provider shall establish a system of record

response	<p>keeping that allows adequate storage and reliable traceability of the elements indicated in ATM/ANS.OR.B.015 and other records as agreed with the competent authority.”</p> <p><i>Partially accepted</i></p> <p>The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.</p>
comment	<p>762 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>Need to define what “all its activities” covers. Operational data is covered in other provisions. Lends clarity with the new wording. Another option would be to list the records that need to be kept or list the exclusions in AMC.</p> <p>Suggested text: The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of <del>all its activities, covering in particular</del> all the elements indicated in the ATM/ANS.OR.B.015 <b>and other records as agreed upon with the CA.</b></p>
response	<p><i>Partially accepted</i></p> <p>The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.</p>
comment	<p>786 <span style="float: right;">comment by: <i>ROMATSA</i></span></p> <p>Comment: To modify the text as follows: The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of <del>all its activities, covering in particular</del> all the elements indicated in the ATM/ANS.OR.B.015 <b>and other records as agreed upon with the CA.</b></p> <p>Justification: Need to define what “all its activities” covers. Operational data is covered in other provisions. Lends clarity with the new wording. Another option would be to list the records that need to be kept or list the exclusions in AMC.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.</p>

comment	<p data-bbox="355 212 411 241">885</p> <p data-bbox="1083 212 1445 241">comment by: <i>Belgocontrol</i></p> <p data-bbox="355 297 879 327">"all its activities" is too large as scope.</p> <p data-bbox="355 360 1445 488">Our understanding is that this solely applied to the documents resulting from the Management System and not the relevant radar tracks and voice tracks. For these, the currently applicable time frames of 30 or 60 days are deemed to be applied.</p> <p data-bbox="355 495 1015 524">This is also valid for MET SPs, cfr. MET.OR.105.a</p> <p data-bbox="355 557 1445 618">We see (c) as superfluous as it is implicitly contained in (b) and it is already a requirement from ISO9001 or Quality Mamangement System</p>
response	<p data-bbox="355 645 437 674"><i>Noted</i></p> <p data-bbox="355 730 1445 826">The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue. Furthermore, the associated AMC/GM further clarify the subject.</p>
comment	<p data-bbox="355 918 411 947">888</p> <p data-bbox="687 918 1445 947">comment by: <i>NATS National Air Traffic Services Limited</i></p> <p data-bbox="751 1003 1046 1066" style="text-align: center;"><b>ATM/ANS.OR.B.035 Paragraph (b)</b></p> <p data-bbox="355 1099 1445 1258">NATS wishes to have clarification over the rationale for the retention of records for at least 5 years. To date we have had the freedom to take internal decisions with regards to our retention periods, in line with ISO 9001. The requirement to retain for a minimum of 5 years will incur significant cost and thus should only be introduced if on the basis of a sound business case and reasoning</p>
response	<p data-bbox="355 1283 480 1312"><i>Accepted</i></p> <p data-bbox="355 1368 1445 1464">The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.</p>
comment	<p data-bbox="355 1556 416 1585">995</p> <p data-bbox="633 1556 1445 1585">comment by: <i>European Transport Workers Federation - ETF</i></p> <p data-bbox="355 1641 1445 1738">It's much longer than now,... It seems difficult and not accurate enough, room for proportionality should be left.</p> <p data-bbox="355 1771 655 1800">Alternative proposal :</p> <div data-bbox="355 1809 1445 2011" style="border: 1px solid black; padding: 5px;"> <p data-bbox="355 1816 1366 1944">(a) The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of the <b>activities as approved by the competent authority</b> <del>all its activities</del>, covering in particular all the elements indicated in ATM/ANS.OR.B.015.</p> <p data-bbox="355 1944 1342 2004">(b) Records shall be stored in a manner that ensures protection against damage, alteration, and theft.</p> </div>

response *Partially accepted*

The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.

comment 1021

comment by: ENAV

**Proposal for rewording**

(a) The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of ~~all its activities, covering in particular~~ all the elements indicated in the ATM/ANS.OR.B.015 and other records as agreed upon with the CA.

**Rationale**

Need to define what "all its activities" covers. Operational data is covered in other provisions. Lends clarity with the new wording.

Another option would be to list the records that need to be kept or list the exclusions in AMC.

response *Partially accepted*

The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.

comment 1039

comment by: DFS Deutsche Flugsicherung GmbH

This requirement contradicts international requirements (e.g. ICAO) for storage period of operational data.

Still, this conflicts with current national laws on data storage.

Suggest not to prescribe any storage period.

response *Partially accepted*

The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject. In addition, it should be noted that the EU law is directly binding to the Member States and hierarchically is above the national law.

comment 1234 comment by: SINCTA - Portuguese Air Traffic Controllers' Union

**ATM/ANS.OR.B.035 Record keeping**

Some documents shall be kept for several years (while the employees exercise their job) as already stated.

ATCO.AR.B.015

(c) Records shall be kept for a minimum period of five years and with regard to the licence holders at least during their working span, subject to the applicable data protection law.

Proposal: (b) The records shall be kept for a period of at least 5 years, unless otherwise specified by the competent authority. Regarding ATCO licence holders records shall be kept at least during their working span.

response *Noted*

The comment addresses a rule which is subject of another proposal (the Agency's Opinion No 11/2013).

comment 1248 comment by: ENAV

Proposal for rewording

....

(b)The records shall be kept for a period of at least 5 years unless otherwise specified by the competent authority.

....

new proposal

The records shall be kept for a period as specified by the CA. Should there be no specified period, then they shall be kept for at least 5 years.

Rationale

Could conflict with national law and other international provisions such as ICAO provisions for the operational data. Keeping operational data for 5 years would be very costly for no added benefit or safety. Rewording allows for less than 5 years if so required by the CA.

Operational data is retained according to e.g. Annex 10: telecom and AFTN = 30 days. ICAO: PANS ATM: operational records kept for 30 days

response *Partially accepted*

The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject. In addition, it should be noted that the EU law is directly binding to the Member States and hierarchically is above the national law.

comment	<p data-bbox="354 210 427 241">1316</p> <p data-bbox="1142 210 1445 241" style="text-align: right;">comment by: ATCEUC</p> <p data-bbox="354 297 895 329"><b>ATM/ANS.OR.B.035 Record keeping</b></p> <p data-bbox="354 360 1445 490">As ATCO.AR.B.015 states, some records shall be kept for a bigger period of time (<b>ATCO.AR.B.015 - (c)</b> <i>Records shall be kept for a minimum period of five years and with regard to the licence holders at least during their working span, subject to the applicable data protection law</i>)</p> <p data-bbox="354 521 967 553">So ATCEUC proposes this change to the text:</p> <p data-bbox="354 584 895 616"><b>ATM/ANS.OR.B.035 Record keeping</b></p> <p data-bbox="354 620 1445 714">(a) The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of all its activities, covering in particular all the elements indicated in ATM/ANS.OR.B.015.</p> <p data-bbox="354 719 1445 813">(b) The records shall be kept for a period of at least 5 years, unless otherwise specified by the competent authority, and with regard to the licence holders, at least during their working span, as stated in ATCO.AR.B.015 (c)</p> <p data-bbox="354 844 1445 907">(c) Records shall be stored in a manner that ensures protection against damage, alteration, and theft.</p>
response	<p data-bbox="354 931 437 963"><i>Noted</i></p> <p data-bbox="354 1016 1445 1079">The comment addresses a rule which is subject of another proposal (the Agency's Opinion No 11/2013).</p>

comment	<p data-bbox="354 1191 427 1223">1330</p> <p data-bbox="517 1173 1445 1240" style="text-align: right;">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></p> <p data-bbox="354 1294 663 1326">proposed amendment:</p> <p data-bbox="354 1357 1445 1487">(a) The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability of the <b>activities as approved by the competent authority <del>all its activities</del></b>, covering in particular all the elements indicated in ATM/ANS.OR.B.015.</p> <p data-bbox="354 1491 1445 1554">(c) Records shall be stored in a manner that ensures protection against damage, alteration, and theft.</p> <p data-bbox="354 1585 523 1617">justification:</p> <p data-bbox="354 1648 1445 1747">It's much longer than now,... It seems difficult and not accurate enough, room for proportionality should be left.</p>
response	<p data-bbox="354 1771 596 1803"><i>Partially accepted</i></p> <p data-bbox="354 1856 1445 1955">The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.</p>

comment	<p>1347</p> <p style="text-align: right;">comment by: USCA</p> <p><b>ATM/ANS.OR.B.035 Record keeping</b></p> <p><i>(a) The ATM/ANS provider shall establish a system of record keeping that allows adequate storage and reliable traceability <del>of all its activities, covering in particular all of the elements indicated in ATM/ANS.OR.B.015. and other records as agreed upon with the CA</del></i></p> <p>We propose to remove “all its activities” because it is a concept too broad. EASA should define the activities it is referring to.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency considers that the revised wording of record keeping (new ATM/ANS.OR.B.030) adequately addresses the issue raised by the commentator. Furthermore, the associated AMC/GM further clarify the subject.</p>

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART B – MANAGEMENT (ATM/ANS.OR.B) –** p. 40  
**ATM/ANS.OR.B.040 Operations manuals**

comment	<p>137</p> <p style="text-align: right;">comment by: LfV</p> <p>Need to clarify if Operations Manuals refer to the collection of processes and procedures needed to reflect the requirements of ATM/ANS.OR.B015 (a)(7) and (b) or only to the manuals/procedures for the operational units (ATC/ATS). What would constitute operations manual in providers such as MET, AIS, CNS, NM and ASD?</p>
response	<p><i>Noted</i></p> <p>The commented provision is sourced from point 3.3 of Annex I to the existing Regulation (EU) No 1035/2011.</p> <p>At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p>Thus, existing means of compliance will continue to be valid when this rule comes into force.</p>

comment	<p>169</p> <p style="text-align: right;">comment by: EUROCONTROL</p> <p><b>Page 40 - ATM/ANS.OR.B.040</b></p> <p>The content of ATM/ANS.OR.B.040 does not reflect the title as the requirement seems to be limited to operational units:</p>
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*operations manual contains the operational procedures to be used by the operational personnel for the provision of the services.*  
 Additionally this requirement is in Annex II which mandates the requirements for all providers (ATN/ANS) and not just for ANSPs.  
 What is meant by operational personnel? Is it referring only to ATCOs?  
 All staff need to have up-to-date manuals.

response

*Noted*

The commented provision is sourced from point 3.3 of Annex I to the existing Regulation (EU) No 1035/2011.

At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.

Thus ,existing means of compliance will continue to be valid when this rule comes into force.

comment

243

comment by: EUROCONTROL

**Page 40 - ATM/ANS.OR.B.040 - Operations manuals**

What is the definition of operations personnel? Does this only mean staff working in the operations room (e.g. ATCO's) or does this include technical and engineering personnel?

We recommend that a definition of operations personnel is provided or additional guidance on whom is considered operations personnel is given.

response

*Noted*

The commented provision is sourced from point 3.3 of Annex I to the existing Regulation (EU) No 1035/2011.

At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.

Thus, existing means of compliance would continue to be valid when this rule comes into force.

comment

320

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex II ATM/ANS.OR.B.040 <b>Operations manuals</b>	AESA would request that AMC/GM be developed for this requirement.	This would set a level playing field and would harmonise/standardise the way to handle the operations manuals.

response *Not accepted*

The commented provision is sourced from point 3.3 of Annex I to the existing Regulation (EU) No 1035/2011.

At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.

Thus, existing means of compliance would continue to be valid when this rule comes into force.

comment 502

comment by: *HungaroControl*

Agreed.

response *Noted*

comment 541

comment by: *Prospect ATCOs' Branch UK*

ATM/ANS.OR.B.040 (b)(3)

When changes to the operations manual are made it is important that sufficient attention is given to whether or not the changes require training of personnel involved in the outcome of any changes. We would like to propose a change to (b)(3) below:

(b)(3) the operations personnel are informed of amendments to the operations manual applying to their duties in a manner that enables their application as of their entry into force. **ATM/ANS providers shall provide all necessary training to operations personnel as required in respect of the amendments made.**

response *Not accepted*

The Agency takes note of the comment. However, it should be noted that the subject is already addressed in the newly numbered ATM/ANS.OR.B.005(a)(8) that requires the service provider to implement and maintain a management system that includes a programme to ensure that personnel are trained and competent to perform their duties. This includes the operational personnel as well. Therefore, it is not considered necessary for the proposed provision to be included.

comment	<p>588 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>It might be considered to add an obligation to the ANSP to store out of date manuals for a certain time. This would allow to retrace changes. FOCA suggests to clearly state whether manuals shall be "accepted" or "approved" by the competent authority.</p>
response	<p><i>Not accepted</i></p> <p>In reference to the comment on storage out-of-date manuals, it should be noted that as operation manuals are considered to be a part of the management system, the subject is addressed by the record keeping provision.</p> <p>In reference to the comment on acceptance/approval of the manuals, it should be noted that, upon an initial certification, the competent authority would need to verify compliance with the applicable requirements, including operation manuals. Furthermore, any subsequent amendment to the operation manuals would be considered as a change and is covered by the changes provisions and, therefore, would be overseen by the competent authority which is another means to validate them. Having in mind the above-mentioned, the Agency does not consider necessary to further amend the subject provision.</p>
comment	<p>957 <span style="float: right;">comment by: <i>EUROCONTROL Safety Team</i></span></p> <p>Page 40 ATM/ANS.OR.B.040 The content of ATM/ANS.OR.B.040 does not reflect the title as the requirement seems to be limited to operational units: <i>operations manual contains the operational procedures to be used by the operational personnel for the provision of the services.</i> Additionally this requirement is in Annex II which mandates the requirements for all providers (ATN/ANS) and not just for ANSPs. What is meant by operational personnel? Is it referring only to ATCOs? Or are operations personnel any kind of specialist personnel involved in the delivery of any of the services provided by ATM/ANS providers and also the support of such services e.g. ATCO, ATSEP, AIS/AIM staff, etc.? All kinds of staff need to have up-to-date manuals.</p>
response	<p><i>Noted</i></p> <p>This requirement is derived from paragraph 3.3 'Operations Manual' of Annex I to Regulation (EU) No 1035/2011. It is considered very important as the operations manual contains the operational procedures to be used by all the operational personnel for the provision of the relevant services. Furthermore, the ANSP should comply with the commented provision today and there is no desire to amend it.</p>
comment	<p>996 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>ATM/ANS.OR.B.040 (b)(3) : ETF is of the opinion that information may not be sufficient to preserve safety</p>

	<p>when there is a modification of operations manuals.</p> <p>Alternative proposal : add an AMC to ATM/ANS.OR.B.040 (b)(3) Amendments to the operations manuals are changes of the functional system and therefore the safety assessment of the change should include training of operations personnel whenever needed.</p>
response	<p><i>Not accepted</i></p> <p>The revised ATM/ANS.OR.B.005(a)(8) which originates from the original ATM/ANS.OR.B.025 and ATM/ANS.OR.B.015 (a)(6) covers the needs of training for personnel.</p> <p>Furthermore, Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>
comment	<p>1235 comment by: <i>SINCTA - Portuguese Air Traffic Controllers' Union</i></p> <p><b>ATM/ANS.OR.B.040 Operations manuals</b></p> <p>The operations personnel should not only be informed but also trained if needed.</p> <p>Proposal: (3) the operations personnel are informed <u>and trained, if appropriate</u>, of amendments to the operations manual applying to their duties in a manner that enables their application as of their entry into force.</p>
response	<p><i>Not accepted</i></p> <p>The newly numbered ATM/ANS.OR.B.005(a)(8) is revised and has amalgamated the requirements from the former ATM/ANS.OR.B.025 and ATM/ANS.OR.B.015(a)(6). This provision covers the needs of training for personnel.</p>
comment	<p>1317 comment by: <i>ATCEUC</i></p> <p><b>ATM/ANS.OR.B.040 Operations manuals</b></p> <p>ATCEUC would like to explicitly include operations personnel training. So we propose the following text:</p> <p><i>(3) the operations personnel are informed, <u>and trained if appropriate necessary</u>, of amendments to the operations manual applying to their duties in a manner that enables their application as of their entry into force.</i></p>
response	<p><i>Not accepted</i></p> <p>The newly numbered ATM/ANS.OR.B.005(a)(8) is revised and has amalgamated</p>

the requirements from the former ATM/ANS.OR.B.025 and ATM/ANS.OR.B.015(a)(6). This provision covers the needs of training for personnel.

comment

1332

comment by: *comments provided on behalf of FIT/CISL italian trade union*

AMC to ATM/ANS.OR.B.040 (b)(3)

Amendments to the operations manuals are changes of the functional system and therefore the safety assessment of the change should include training of operations personnel whenever needed.

justification:

FIT CISL is of the opinion that information may not be sufficient to preserve safety when there is a modification of

response

Noted

The Agency takes note of the comment.

The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes and the provisions of the proposed rule. The final outcome from the consultation of NPA 2013-08 and of the mentioned NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

comment

1348

comment by: *USCA*

### **ATM/ANS.OR.B.040 Operations manuals**

USCA would like to explicitly include operations personnel training.

*(3) the operations personnel are informed, and trained if appropriate necessary, of amendments to the operations manual applying to their duties in a manner that enables their application as of their entry into force.*

response

Not accepted

The newly numbered ATM/ANS.OR.B.005(a)(8) is revised and amalgamated the requirements from the former ATM/ANS.OR.B.025 and ATM/ANS.OR.B.015(a)(6). This provision covers the needs of training for personnel.

**MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.005 Scope**

comment	<p>170 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 40 - Subpart C</b> Why should these requirements be applicable to all providers and not just to providers of ANS, ATFM and Network Manager?</p>
response	<p><i>Noted</i></p> <p>The requirements laid down in Annex II (new Annex III) are derived from Annex I of the existing Regulation (EU) No 1035/2011 to cover all service providers. However, during the rule development not all requirements contained in the present Annex I to the mentioned Regulation were considered appropriate to be made applicable to all providers, and therefore, the applicability of some of them were limited to ANSPs, ATFM providers and NM only. Furthermore, based on the outcome of the discussion within the rulemaking groups and considering the current regulatory framework applicable to the Network Manager, especially Regulation (EU) No 677/2011, as explained in paragraph 131 of the Explanatory Note to NPA 2013-08, the proposal is to apply the same requirements laid down in Subpart D (formerly Subpart C) to ATFM providers as well. As a result, the proposed rule maintains the established regulatory coverage to apply these requirements to all ANSPs and the Network Manager, but extends them to apply to providers of tactical ATFM on national level (which aspect is covered by point 2(g) of Annex Vb to the Basic Regulation).</p>
comment	<p>294 <span style="float: right;">comment by: HungaroControl</span></p> <p>This Subpart establishes the requirements to be met by air navigation services (ANS), and air traffic flow management (ATFM) providers and the Network Manager with respect to additional responsibilities in addition to those established in Subparts A and B. ANS providers subject to the performance regulation 390/2103 shall be exempted from paragraphs ATM/ANS.OR.C.010, 020, 025 and 040.</p> <p>The application of these provisions to ANS providers leads to duplication of requirements stemming from this future regulation and the performance regulation 390/2013. To avoid the establishment of different reporting lines for the same issue, it is suggested that any compliance proof provided for the performance regulation be accepted as means of compliance for these provisions.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes the comment into consideration provided.</p> <p>This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications and</p>

in order to be avoided, the text could be refined. However, the proposal to remove the provisions on 'Business, annual, and performance plan', 'Financial strength', 'Liability and insurance cover' and 'Reporting requirements' for ANSP subject to the Performance scheme regulation is not considered appropriate since these requirements such as the Business plan, liability and insurance cover are not covered by the performance plans.

comment

570

comment by: *CANSO Civil Air Navigation Services Organization*

**ATM/ANS.OR.C.005  
Scope**

This Subpart establishes the requirements to be met by air navigation services (ANS), and air traffic flow management (ATFM) providers and the Network Manager with respect to additional responsibilities in addition to those established in Subparts A and B. ANS providers subject to the performance regulation 390/2013 shall be exempted from paragraphs ATM/ANS.OR.C.010, 020, 025 and 040,

By excluding the ANS providers who are subject to the performance regulation 390/2013, we avoid duplication of requirements and different reporting lines for the same issues. Should this not be accepted, we suggest that provision be made to ensure that any compliance proof provided for the performance regulation be accepted as means of compliance for these provisions.

response

*Partially accepted*

The Agency takes the comment into consideration provided.

This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications and in order to be avoided the text could be refined. However, the proposal to remove the provision on 'Business, annual, and performance plan', 'Financial strength', 'Liability and insurance cover' and 'Reporting requirements' for ANSP subject to the Performance scheme regulation is not considered appropriate since these requirements such as the Business plan, liability and insurance cover are not covered by the performance plans.

comment 694 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.C.005**

This Subpart establishes the requirements to be met by air navigation services (ANS), and air traffic flow management (ATFM) providers and the Network Manager with respect to additional responsibilities in addition to those established in Subparts A and B. ANS providers and network functions subject to the performance regulation 390/2013 should be exempted from paragraphs ATM/ANS.OR.C.010, 020, 025 and 040.

By excluding the ANS providers and network functions who are subject to the performance regulation 390/2013, duplication of requirements and different reporting lines for the same issues is avoided.

Should this not be accepted, it is suggested that provision be made to ensure that any compliance proof provided for the performance regulation be accepted as means of compliance for these provisions.

response *Partially accepted*

The Agency takes the comment into consideration provided.

This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications and in order to be avoided the text could be refined. However, the proposal to remove the provisions on 'Business, annual, and performance plan', 'Financial strength', 'Liability and insurance cover' and 'Reporting requirements' for ANSP subject to the Performance scheme regulation is not considered appropriate since these requirements such as the Business plan, liability and insurance cover are not covered by the performance plans.

comment 764 comment by: *AvinorANSP*

This Subpart establishes the requirements to be met by air navigation services (ANS), and air traffic flow management (ATFM) providers and the Network Manager with respect to additional responsibilities in addition to those established in Subparts A and B. **ANS providers subject to the performance regulation 390/2013 shall be exempted from paragraphs ATM/ANS.OR.C.010, 020, 025 and 040.**

By excluding the ANS providers who are subject to the performance regulation 390/2013, we avoid duplication of requirements and different reporting lines for the same issues.

Should this not be accepted, we suggest that provision be made to ensure that any compliance proof provided for the performance regulation be accepted as means of compliance for these provisions.

response *Partially accepted*

The Agency takes the comment into consideration provided.

This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications and in order to be avoided the text could be refined. However, the proposal to remove the provisions on 'Business, annual, and performance plan', 'Financial strength', 'Liability and insurance cover' and 'Reporting requirements' for ANSP subject to the Performance scheme regulation is not considered appropriate since these requirements such as the Business plan, liability and insurance cover are not covered by the performance plans.

comment 806

comment by: EUROCONTROL

**Page 40 - Annex II Subpart C**

Subpart C applies to ANS and ATFM only. Hence the identifier used for this part (ATM/ANS...) could be misleading. An identifier such as "ANS/ATFM..." would better reflect the scope of this subpart, although it would not be consistent with the general title of this part (ATM/ANS.OR).

response *Not accepted*

The requirements laid down in Annex II (new Annex III) are derived from Annex I of the existing Regulation (EU) No 1035/2011 and aim at covering all service providers. However, during the rule development, not all requirements contained in the present Annex I to the mentioned Regulation were considered appropriate to be made applicable to all providers, and, therefore, the applicability of some of them were limited to ANSPs, ATFM providers and NM only. These are the provisions on Specific organisational requirements for ANS and ATFM providers and the Network Manager.

Taking into account the comment, the Agency considers that changing the convention would lead to unnecessary complications and more misleadingness, and, therefore, it is preferable the numbering of ATM/ANS.OR.C (new ATM/ANS.OR.D) to be retained in a uniform manner in coherence with the general Part ATM/ANS.OR convention.

comment 886

comment by: Belgocontrol

This does not seem to fit into the structure of the preceding chapters. There is no regulation contained in the article. We would propose removing it.

response *Not accepted*

The requirements laid down in Annex II (new Annex III) are derived from Annex I of the existing Regulation (EU) No 1035/2011 and aim at covering all service providers. However, during the rule development, not all requirements contained in the present Annex I to the mentioned Regulation were considered

appropriate to be made applicable to all providers, and therefore, the applicability of some of them were limited to ANSPs, ATFM providers and NM only. These are the provisions on Specific organisational requirements for ANS and ATFM providers and the Network Manager.

comment

1065

comment by: *DFS Deutsche Flugsicherung GmbH*

Provisions regarding ATM/ANS Performance as from Regulation (EU) 390/2013 might not have been respected when drafting this NPA. Requirements on business plans (ATM/ANS.OR.C.010), financial strength (ATM/ANS.OR.C.020), liability (ATM/ANS.OR.C.025) and reporting (ATM/ANS.OR.C.040) are contained already in Regulation (EU) 390/2013. Double Regulation and overlap should be prevented.

However, appropriate evidences with regard to economic performance for those organisations, that do not fall under the Performance Regulation, e.g. due to their size, shall be required.

Change proposal:

This Subpart establishes the requirements to be met by air navigation services (ANS) and air traffic flow management (ATFM) providers and the Network Manager with respect to additional responsibilities in addition to those established in Subparts A and B. **ATM/ANS.OR.C.010, 020, 025 and 040 are not applicable for those ATM/ANS provider which are covered under the Performance scheme according to Regulation (EC) 390/2013.**

response

*Partially accepted*

The Agency takes the comment into consideration provided.

This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications and, in order to be avoided, the text could be refined. However, the proposal to remove the provisions on 'Business, annual, and performance plan', 'Financial strength', 'Liability and insurance cover' and 'Reporting requirements' for ANSP subject to the Performance scheme regulation is not considered appropriate since these requirements such as the Business plan, liability and insurance cover are not covered by the performance plans.

comment

1155

comment by: *ENAV*

Proposal for rewording

This Subpart establishes the requirements to be met by air navigation services (ANS), and air traffic flow management (ATFM) providers and the Network Manager with respect to additional responsibilities in addition to those established in Subparts A and B. **ANS providers subject to the performance regulation 390/2013 shall be exempted from paragraphs ATM/ANS.OR.C.010, 020, 025 and 040,**

By excluding the ANS providers who are subject to the performance regulation 390/2013, we avoid duplication of requirements and different reporting lines for the same issues.

Should this not be accepted, we suggest that provision be made to ensure that

	any compliance proof provided for the performance regulation be accepted as means of compliance for these provisions
response	<i>Partially accepted</i>
	The Agency takes the comment into consideration provided. This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications and, in order to be avoided, the text could be refined. However, the proposal to remove the provisions on 'Business, annual, and performance plan', 'Financial strength', 'Liability and insurance cover' and 'Reporting requirements' for ANSP subject to the Performance scheme regulation is not considered appropriate since these requirements such as the Business plan, liability and insurance cover are not covered by the performance plans.

comment	1258	comment by: <i>NATS National Air Traffic Services Limited</i>
	ANNEX II - Subpart C	
	NATS fully supports limiting Subpart C to ANS, ATFM and Network Manager as to do otherwise would be disproportionate to other ATM/ANS providers leading to unnecessary cost and regulatory burden for minimal safety benefit.	
response	<i>Noted</i>	

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.010 Business, annual, and performance plans** p. 40-41

comment	78	comment by: <i>ATC the Netherlands</i>
	Business plans are regulated via EU 691/2010. Unclear why this is addressed in this NPA with a risk of losing coherence between the 2 regulations	
response	<i>Noted</i>	
	It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans; security management; financial strength; liability and insurance cover; open and transparent provision of services; contingency plans and reporting requirements.	

This issue was tabled and also discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 cover only for performance areas. Therefore, the proposal to remove 'Business, annual, and performance plan' for ANSP subject to the Performance scheme regulation is not considered appropriate.

comment

188

comment by: AENA-NPA2013-08

**Page 40/41, ATM/ANS.OR.C.010 Business, annual, and performance plans.**

Service Provider targets shall be aligned with NSA targets required by EU Regulation. If no NSA safety targets are provided, no sense to request them to Service Providers.

response

Noted

At the moment, the targeting process at both ANSP and State levels is regulated by the performance scheme Regulation (EU) No 390/2013. The commented provision gives opportunity to the competent authority to establish additional safety performance indicators which are not foreseen in the performance scheme Regulation. The additional performance indicators should be established case by case and should be based on the particular operations of the relevant ANSP.

comment

189

comment by: AENA-NPA2013-08

**Page 41, ATM/ANS.OR.C.010 B iii).**

A mention is done to the safety plan which has not been defined before.

response

Accepted

The Agency takes the comment into consideration and the reference to safety plan is removed.

comment

376

comment by: HungaroControl

(a) BUSINESS PLAN

(1) (ii) contain ~~appropriate~~ performance targets in terms of safety, capacity, environment, and cost-efficiency, as may be applicable.

(2) The information listed in points (i) and (ii) shall be ~~consistent~~ **aligned** with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 and, as far as safety data is concerned, ~~consistent~~ **aligned** with the State Safety Programme referred to in Standard 2.27.1 of Annex 11 to the Convention on International Civil Aviation, Amendment 47B from 20 July 2009 as applicable.

(3) Air navigation services and air traffic flow management providers shall ~~produce~~ **consider** safety and business justifications for major investment projects including, where relevant, the estimated impact on the appropriate performance targets referred to in point (1)(ii) and identifying investments stemming from the legal requirements associated with the implementation of the Single European Sky ATM Research Programme (SESAR).

The provisions of this part do not explicitly explain the respective responsibilities of the involved parties: the European Commission, PRB, EASA, States and NSA.

The risk is that under the respective regulations (proposed IR ATM and (EC) No 549/2004) various and contradictory demands are made (safety on one side, performance including safety on the other side).

There is no AMC / GM for this part.

EASA extends requirements for the business plan already existing in 691/2010? This might lead to incoherence between the 2 regulations.

A solution would be to delete cross-reference or at least delete requirements such as "appropriate", "be consistent" for which there is not any guidance provided.

response *Partially accepted*

It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.

So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission.

It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 covers only the four performance areas. Therefore, the Business plan and the performance plan should be aligned. The Agency does not consider that there are contradictory requirements between the SES implementing rules and the implementing rules to the Basic Regulation.

The editorial proposals made by the commentator for the commented provision (formerly ATM/ANS.OR.C.010) (a)(1) and (2) are accepted.

The editorial proposal for (3) is taken into account and the verb 'produce' is replaced by 'provide'. Once safety and business justifications are provided, they will be considered by the competent authority.

comment 524

comment by: DSNA

Rationale: +

The requirements detailed in this part do not explicitly explain the respective responsibilities of the involved parties: the European Commission, PRB, EASA, States and NSA.

The risk is that under the respective regulations (proposed IR ATM and (EC) No 549/2004) various and contradictory demands are made (safety on one side, performance including safety on the other side).

There is no AMC / GM for this part.  
EASA extends requirements for the business plan already required and transmitted as per 691/2010? Why is 691/2010 insufficient and needs further elaboration in this NPA with the risk of losing coherence between the 2 regulations.

Suggest to delete cross-reference or at least delete requirements such "appropriate" "be consistent" for which no guidance exists and which could induce a non-harmonised approach to compliance between member states and undue time and efforts to justify those items.

First proposal: delete ATM/ANS.OR.C.010

Second proposal:

(a) BUSINESS PLAN

(1) (ii) contain ~~appropriate~~ performance targets in terms of safety, capacity, environment, and cost-efficiency, as may be applicable.

(2) The information listed in points (i) and (ii) shall be ~~consistent~~ **aligned** with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 and, as far as safety data is concerned, ~~consistent~~ **aligned** with the State Safety Programme referred to in Standard 2.27.1 of Annex 11 to the Convention on International Civil Aviation, Amendment 47B from 20 July 2009 as applicable.

(3) Air navigation services and air traffic flow management providers shall ~~produce~~ **consider** safety and business justifications for major investment projects including, where relevant, the estimated impact on the appropriate performance targets referred to in point (1)(ii) and identifying investments stemming from the legal requirements associated with the implementation of the Single European Sky ATM Research Programme (SESAR).

response *Partially accepted*

It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.

So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission.

It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 covers only the four performance areas. Therefore, the Business plan and the performance plan should be aligned. The Agency does not consider that there are contradictory requirements between the SES implementing rules and the implementing rules to the Basic Regulation.

The editorial proposals made by the commentator for the commended provision (formerly ATM/ANS.OR.C.010) (a)(1) and (2) are accepted.

The editorial proposal for (3) is taken into account and the verb 'produce' is replaced by 'provide'. Once safety and business justifications are provided, they will be considered by the competent authority.

comment 573

comment by: *CANSO Civil Air Navigation Services Organization*

**ATM/ANS.OR.C.010  
Business, annual, and  
performance plans**  
(Should the comment  
requesting that ANS  
providers subject to the  
performance regulation  
not be accepted)

(a) BUSINESS PLAN  
(1) (ii) contain ~~appropriate~~  
performance targets in  
terms of safety, capacity,  
environment, and cost-  
efficiency, as may be  
applicable.  
(2) The information listed  
in points (i) and (ii) shall  
be ~~consistent~~ aligned with  
the national or functional  
airspace block  
performance plan referred  
to in Article 11 of  
Regulation (EC) No  
549/2004 and, as far as  
safety data is concerned,  
~~consistent~~ aligned with the  
State Safety Programme  
referred to in Standard  
2.27.1 of Annex 11 to the  
Convention on  
International Civil  
Aviation, Amendment 47B  
from 20 July 2009 as  
applicable.  
(3) Air navigation services  
and air traffic flow  
management providers  
shall ~~produce~~ consider  
safety and business  
justifications for major  
investment projects  
including, where relevant,  
the estimated impact on  
the appropriate  
performance targets  
referred to in point (1)(ii)  
and identifying  
investments stemming  
from the legal  
requirements associated  
with the implementation of  
the Single European Sky  
ATM Research Programme  
(SESAR).

Rationale: The  
requirements detailed in  
this part do not  
explicitly explain the  
respective  
responsibilities of the  
involved parties: the  
European Commission,  
PRB, EASA, States and  
NSA.  
The risk is that under  
the respective  
regulations (proposed IR  
ATM and (EC) No  
549/2004) various and  
contradictory demands  
are made (safety on one  
side, performance  
including safety on the  
other side).  
There is no AMC / GM  
for this part.  
EASA extends  
requirements for the  
business plan already  
required and  
transmitted as per  
691/2010? Why is  
691/2010 insufficient  
and needs further  
elaboration in this NPA  
with the risk of losing  
coherence between the  
2 regulations.  
Suggest to delete cross-  
reference or at least  
delete requirements  
such as "appropriate",  
"be consistent" for  
which no guidance  
exists and which could  
induce a non-  
harmonised approach to  
compliance between  
member states and  
undue time and efforts  
to justify those items.

response *Partially accepted*

It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.

So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission.

It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 covers only the four performance areas. Therefore, the Business plan and the performance plan should be aligned. The Agency does not consider that there are contradictory requirements between the SES implementing rules and the implementing rules to the Basic Regulation.

The editorial proposals made by the commentator for the commented provision (formerly ATM/ANS.OR.C.010) (a)(1) and (2) are accepted.

The editorial proposal for (3) is taken into account and the verb 'produce' is replaced by 'provide'. Once safety and business justifications are provided, they will be considered by the competent authority.

comment

695

comment by: *NATS National Air Traffic Services Limited*

#### **ATM/ANS.OR.C.010**

The requirements detailed do not explicitly explain the respective responsibilities of the involved parties: the European Commission, PRB, EASA, States and CA.

The risk is that under the respective regulations (proposed IR ATM/ANS providers and No 549/2004) various and contradictory demands are made (safety on one side, performance including safety on the other side).

There is no AMC / GM for this part. EASA extends requirements for the business plan already required and transmitted as per 691/2010? Why is 691/2010 insufficient and needs further elaboration in this NPA with the risk of losing coherence between the two regulations.

Suggest deleting cross-reference, or at least deleting requirements such as "appropriate", be consistent for which no guidance exists and which could induce a non-harmonised approach to compliance between member states and undue time and efforts to justify those items.

#### **Suggested Resolution**

Amend ATM/ANS.OR.C.010 to read:

(a) BUSINESS PLAN

(1) (ii) contain performance targets in terms of safety, capacity, environment, and cost-efficiency, as may be applicable.

(2) The information listed in points (i) and (ii) shall be aligned with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 and, as far as safety data is concerned, aligned with the State Safety Programme referred to in Standard 2.27.1 of Annex 11 to the Convention on International Civil Aviation, Amendment 47B from 20 July

	<p>2009 as applicable.</p> <p>(3) Air navigation services and air traffic flow management providers shall consider safety and business justifications for major investment projects including, where relevant, the estimated impact on the appropriate performance targets referred to in point (1)(ii) and identifying investments stemming from the legal requirements associated with the implementation of the Single European Sky ATM Research Programme (SESAR).</p>
response	<p><i>Partially accepted</i></p> <p>It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.</p> <p>So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission.</p> <p>It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 covers only the four performance areas. Therefore, the Business plan and the performance plan should be aligned. The Agency does not consider that there are contradictory requirements between the SES implementing rules and the implementing rules to the Basic Regulation.</p> <p>The editorial proposals made by the commentator for the commented provisions (formerly ATM/ANS.OR.C.010) (a)(1) and (2) are accepted.</p> <p>The editorial proposal for (3) is taken into account and the verb 'produce' is replaced by 'provide'. Once safety and business justifications are provided, they will be considered by the competent authority.</p>

comment	<p>696 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>ATM/ANS.OR.C.010 (a)(2)</b> By the time of publication of these rules ICAO will have published Annex 19; as such this will supersede the reference to Annex 11.</p> <p><b>Suggested Resolution</b> Amend text to read "...referred to in Standard 3.1.1 of Annex 19..."</p>
response	<p><i>Accepted</i></p>

comment	<p>768 <span style="float: right;">comment by: <i>AvinorANSP</i></span></p> <p>(Should the comment requesting that ANS providers subject to the performance regulation not be accepted) (a) BUSINESS PLAN (1) (ii) contain appropriate performance targets in terms of safety, capacity, environment, and cost-efficiency, as may be applicable.</p>
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(2) The information listed in points (i) and (ii) shall be ~~consistent~~ **aligned** with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 and, as far as safety data is concerned, ~~consistent~~ **aligned** with the State Safety Programme referred to in Standard 2.27.1 of Annex 11 to the Convention on International Civil Aviation,

(3) Air navigation services and air traffic flow management providers shall ~~produce~~ **consider** safety and business justifications for major investment projects including, where relevant, the estimated impact on the appropriate performance targets referred to in point (1)(ii) and identifying investments stemming from the legal requirements associated with the implementation of the Single European Sky ATM Research Programme (SESAR).

Amendment 47B from 20 July 2009 as applicable.

Rationale: The requirements detailed in this part do not explicitly explain the respective responsibilities of the involved parties: the European Commission, PRB, EASA, States and NSA.

The risk is that under the respective regulations (proposed IR ATM and (EC) No 549/2004) various and contradictory demands are made (safety on one side, performance including safety on the other side).

There is no AMC / GM for this part.

EASA extends requirements for the business plan already required and transmitted as per 691/2010? Why is 691/2010 insufficient and needs further elaboration in this NPA with the risk of losing coherence between the 2 regulations.

Suggest to delete cross-reference or at least delete requirements such as "appropriate", "be consistent" for which no guidance exists and which could induce a non-harmonised approach to compliance between member states and undue time and efforts to justify those items.

response *Partially accepted*

It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.

So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission.

It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 covers only the four performance areas. Therefore, the Business plan and the performance plan should be aligned. The Agency does not consider that there are contradictory requirements between the SES implementing rules and the implementing rules to the Basic Regulation.

The editorial proposals made by the commentator for the commented provisions (formerly ATM/ANS.OR.C.010) (a)(1) and (2) are accepted.

The editorial proposal for (3) is taken into account and the verb 'produce' is

replaced by 'provide'. Once safety and business justifications are provided, they will be considered by the competent authority.

comment	787	comment by: ROMATSA
	<p>Comment To delete as follows: <b>(a) (2)</b> The information listed in points (i) and (ii) shall be consistent with the <del>national</del> or functional airspace block performance plan....</p> <p>Justification: The IR will be published (2015) during the RP2 when only FAB performance plan will be developed.</p>	
response	<i>Accepted</i>	

comment	788	comment by: ROMATSA
	<p>Comment: ATM/ANS.OR.C.010(b) (2)(iii) to be deleted.</p> <p>Justification: To be deleted as no AMC was foreseen.</p>	
response	<i>Partially accepted</i>	
	<p>The Agency further evaluated the provision, and the reference to the 'safety plan' is removed.</p>	

comment	789	comment by: ROMATSA
	<p>Comment: Text incomplete. Annex II, Sub-part C applies also for the Network Manager. The Network Manager shall have in place both Business Plan and Annual Plan as provisioned for ANS and ATFM providers. Same remark for performance.</p> <p>Justification: As per Article 4 (2) from Cover Regulation, `Air Navigation Service (ANS) Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.`</p>	
response	<i>Noted</i>	

This Subpart laid down requirements for ATS and ATFM providers and for the Network Manager as well. However, it should be remembered that the Network Manager is further regulated with Regulation (EU) No 677/2011 where these aspects are already addressed.

comment

887

comment by: *Belgocontrol*

It is important to line-up the contents of the following articles with the Performance and Charging IRs – EC Regulations 390/2013 and 391/2013. We would see the time as more than opportune to align the requirements with the current environment and take into consideration the evolution towards a performance driven SES.

response

*Noted*

The Agency takes note of the comment.

It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.

So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission as the matter has also economic regulation implications.

comment

890

comment by: *Belgocontrol*

c. performance part of the plans

In our understanding, the performance relevant parts of the Business plan are communicated by the ANSP to the Competent Authority.

In turn the Competent Authority transmits the collated information from all the national service providers to the Commission.

response

*Noted*

comment

1026

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment (NSA and rulemaking directorate)

1) The introduction in the IR of the requirement to establish performance targets in the business plan may introduce confusion for ATS providers.

2) The period covered by the business plan should be the same as that of the performance plan period.

Rationale:

1) ATM/ANS.OR.C.010 reads: « The business plan shall contain **appropriate**

**performance targets** in terms of safety, capacity, environment and cost efficiency, as may be applicable. » For ATS providers, performance targets are defined by the commission as required by the Performance IR (regulation N°691/2010 and 390/2013). It should be clear that the IR does not require new safety targets for them.

2) For ATS providers, the performance targets are set by the commission for the 2015-2019 period. The ATSP business plan for a five years period should also be established for the same period.

Related paragraphs: ATM/ANS.OR.C.010

Suggestion:

modify ATM/ANS.OR.C.010 (a) (1) (ii) : "The business plan shall contain appropriate performance targets in terms of safety, capacity, environment and cost efficiency, as may be applicable **in the context of regulations N°691/2010 and N°390/2013.**"

response *Accepted*

comment 1165

comment by: ENAV

proposal for rewording

(a) BUSINESS PLAN

(1) (ii) contain ~~appropriate~~ performance targets in terms of safety, capacity, environment, and cost-efficiency, as may be applicable.

(2) The information listed in points (i) and (ii) shall be ~~consistent~~ **aligned** with the national or functional airspace block performance plan referred to in Article 11 of Regulation (EC) No 549/2004 and, as far as safety data is concerned, ~~consistent~~ **aligned** with the State Safety Programme referred to in Standard 2.27.1 of Annex 11 to the Convention on International Civil Aviation, Amendment 47B from 20 July 2009 as applicable.

(3) Air navigation services and air traffic flow management providers shall ~~produce~~ **consider** safety and business justifications for major investment projects including, where relevant, the estimated impact on the appropriate performance targets referred to in point (1)(ii) and identifying investments stemming from the legal requirements associated with the implementation of the Single European Sky ATM Research Programme (SESAR).

Rationale

The requirements detailed in this part do not explicitly explain the respective responsibilities of the involved parties: the European Commission, PRB, EASA, States and NSA.

The risk is that under the respective regulations (proposed IR ATM and (EC) No 549/2004) various and contradictory demands are made (safety on one side, performance including safety on the other side).

There is no AMC / GM for this part.

EASA extends requirements for the business plan already required and transmitted as per 691/2010 Why is 691/2010 insufficient and needs further elaboration in this NPA with the risk of losing coherence between the 2 regulations

Suggest to delete cross-reference or at least delete requirements such as "appropriate", "be consistent" for which no guidance exists and which could induce a non-harmonised approach to compliance between member states and undue time and efforts to justify those items.

response *Partially accepted*

It should be noted that all the articles in this subpart (ATM/ANS.OR.D (formerly ATM/ANS.OR.C)) originate from Regulation (EU) No 1035/2011, including requirements for business, annual, and performance plans.

So far, the Agency was not aware that the requirements would necessitate further amendments, but will nevertheless bring this comment to the attention of the European Commission.

It is acknowledged that there are some duplications, but Business plan shall cover all the activities of the relevant ANPS while the performance plan as defined in Regulation (EU) No 691/2010 and Regulation (EU) No 390/2013 covers only the four performance areas. Therefore, the Business plan and the performance plan should be aligned. The Agency does not consider that there are contradictory requirements between the SES implementing rules and the implementing rules to the Basic Regulation.

The editorial proposals made by the commentator for (formerly ATM/ANS.OR.C.010) (a)(1) and (2) are accepted.

The editorial proposal for (3) is taken into account and the verb 'produce' is replaced by 'provide'. Once safety and business justifications are provided, they will be considered by the competent authority.

comment 1294

comment by: *Romanian Civil Aviation Authority*

Comment:

Text incomplete. Annex II, Sub-part C applies also for the Network Manager. The Network Manager shall have in place both Business Plan and Annual Plan as provisioned for ANS and ATFM providers. Same remark for performance.

Justification:

As per Article 4 (2) from Cover Regulation, `Air Navigation Service (ANS) Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.`

response *Noted*

This Subpart laid down requirements for ATS and ATFM providers and for the Network Manager as well. However, it should be remembered that the Network Manager is further regulated with Regulation (EU) No 677/2011 where these aspects are addressed.

<p><b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK</b></p>	<p>p. 41-42</p>
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<b>MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.015 Security management</b>
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comment	209	comment by: <i>Icelandic Transport Authority</i>
	Security management is an issue that needs extensive guidance for both ANSPs and NSAs. AMC and GM is necessary for these requirements	

response	<i>Noted</i>	
	The Agency sees the rationale of the comment and, therefore, tabled this issue at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed. It is considered that developing AMC/GM by EASA to security management requirements would necessitate more detailed understanding of the difficulties encountered by the regulated organisation. The Agency could foresee a separate rulemaking activity, depending on the support and prioritisation of stakeholders. Therefore, the commentator is kindly invited also to consider whether a more detailed rulemaking proposal on the issue would be possible and the Agency would take appropriate action to initiate such a task.	

comment	504	comment by: <i>HungaroControl</i>
	Agreed.	

response	<i>Noted</i>
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comment	589	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	FOCA suggests to add "tests" in the following sentence: "...should establish a schedule of audits, inspections AND TESTS...". Furthermore "security" shall also be added ("...should take into account the safety AND SECURITY performance ...").	

response	<i>Not accepted</i>
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	It should be noted that the text referred to by the commentator is sourced from point 4 of Annex I to Regulation (EU) No 1035/2011. At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.	
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comment	891	comment by: <i>Belgocontrol</i>
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	<p>We note the contents of the following articles address only the physical and facility security issues. It would be opportune to extend this article (or to create a specific article) to cyber security.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>This issue was thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed. The Agency sees the rationale of the proposal and, therefore, it could support it by proposing a new provision to the subject.</p>
comment	<p>1176 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 41  <b>Paragraph No:</b> ATM/ANS.OR.C.015  <b>Comment:</b> The Guidance Material and AMC provided in NPA 2013-08(C) do not provide information relating to security management and the integrating of security management into the Management System. UK CAA suggests that this should be included.  <b>Justification:</b> Clear guidance and methods of compliance are required for security management.</p>
response	<p><i>Noted</i></p> <p>The Agency sees the rationale of the comment and, therefore, tabled this issue at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed. It is considered that developing AMC/GM by the Agency to security management requirements would necessitate more detailed understanding of the difficulties encountered by the regulated organisation. The Agency could foresee a separate rulemaking activity, depending on the support and prioritisation of stakeholders. Therefore, the commentator is kindly invited also to consider whether a more detailed rulemaking proposal on the issue would be possible and the Agency would take appropriate action to initiate such a task.</p>
comment	<p>1211 <span style="float: right;">comment by: AENA-NPA2013-08</span></p> <p>It is established an assurance requirement about operational data security which are received, produced and used by us, in such a way that their access is limited only to authorized personnel. To do so, we should have to approve a Technical Instruction of access protection to systems and operational data related to Air Navigation.</p>
response	<p><i>Noted</i></p>

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.020 Financial strength**

p. 42

comment 590

comment by: *Federal Office of Civil Aviation FOCA*

It should be specified whether the economic and financial capacity of an ANSP needs to be verified by the oversight authority on a yearly basis or only on the occasion of the provision of an ANS certificate.

It needs to be considered that an ANSP could be owned or controlled by the state (or even be part of the federal organisation) which is also responsible for the application of the regulation 1035/2011. Accordingly, it should be considered that Member States have the possibility to opt out from the obligation to check the economic and financial capacity under this Regulation (or to limit the scope of the economic and financial oversight) if it is by majority owned or controlled by the State.

As referred to in point 2.2.2 the ANSP shall produce an annual plan for the forthcoming year including its expected short-term financial position as well as any changes or impacts on the business plan.

Besides the possible conflicts which could result under the aspects of the corporate governance, the conditions related to the economic and financial capacity and its oversight should be differentiated since a Member State could be able to guarantee the financial strength of the ANSP even if the annual or 5 year plan would show a negative balance .

response *Noted*

It is important to be noted that the commented provision originates from point 6 of Annex I to Regulation (EU) No 1035/2011. So far, the Agency was not aware that the requirements would necessitate further amendments, but assumes that the subject is more suitable to be tabled during the Comitology, therefore, the commentator is invited to consider a more detailed rulemaking proposal. However, the Agency takes note of the comment and will, nevertheless, bring it to the attention of the European Commission.

comment 790

comment by: *ROMATSA*

Comment:

Text incomplete. Annex II, Sub-part C applies also for the Network Manager.

As the case may be, the Network Manager shall demonstrate its financial strength, using therefore an accounting system, mandatory condition for providing ATM/ANS services.

Justification:

As per Article 4 (2) from Cover Regulation, `Air Navigation Service (ANS) Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.`

response *Noted*

As correctly mentioned by the commentator, the subject Subpart lays down requirements for ANS and ATFM providers and for the Network Manager as well. However, it should be remembered that the Network Manager is further regulated with Regulation (EU) No 677/2011, where these aspects raised are addressed.

comment 892

comment by: *Belgocontrol*

we are not sure that EASA should take this competence on board. If any oversight is to be provided it should focus on the small entities

response *Noted*

It should be remembered that the tasks of the Agency with regard to ATM/ANS are defined in Article 22a of Regulation (EC) No 216/2008.

comment 1295

comment by: *Romanian Civil Aviation Authority*

Comment:

Text incomplete. Annex II, Sub-part C applies also for the Network Manager. As the case may be, the Network Manager shall demonstrate its financial strength, using therefore an accounting system, mandatory condition for providing ATM/ANS services.

Justification:

As per Article 4 (2) from Cover Regulation, `Air Navigation Service (ANS) Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.`

response *Noted*

As correctly mentioned by the commentator, the subject Subpart lays down requirements for ANS and ATFM providers and for the Network Manager as well. However, it should be remembered that the Network Manager is further regulated with Regulation (EU) No 677/2011, where these aspects raised are addressed.

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.025 Liability and insurance**

p. 42

## cover

comment 709 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.C.025 (a)**

The Primary duty rests with the air navigation service provider to identify assess, manage control and mitigate the risks associated with its activities.

Use of insurance as the key financial risk transfer mechanism to address potential liability that is beyond the financial means of the air navigation service provider (catastrophic risk).

response *Noted*

The Agency takes note of the comment provided.

However, it is important to note that the commented provision originates from point 7 of Annex I to Regulation (EU) No 1035/2011. So far, the Agency was not aware that the requirements would necessitate further amendments, but will, nevertheless, bring this comment to the attention of the European Commission as the matter has also economic regulation implications.

comment 713 comment by: *NATS National Air Traffic Services Limited*

**ATM/ANS.OR.C.025 b)**

The availability and price of aviation liability insurance is subject to peaks and troughs (hard and soft markets). ANPS's operating under government indemnity are cushioned/distanced from the impacts of the commercial insurance market.

**Suggested Resolution**

Regulators must track the availability and price of aviation liability insurance available from the insurance market to avoid setting requirements that are either unavailable or priced at levels that will/may seriously impact on the ANSPs ability to operate on a commercial basis.

response *Noted*

The Agency takes note of the comment provided.

However, it is important to note that the commented provision originates from point 7 of Annex I to Regulation (EU) No 1035/2011. So far, the Agency was not aware that the requirements would necessitate further amendments, but paragraph b) and the phrase 'level of commercial insurance cover available' are intended to indicate the need for a proper assessment of what should be considered appropriate insurance cover.

comment	791	comment by: ROMATSA
<p>Comment: Text incomplete. Annex II, Sub-part C applies also for the Network Manager. As the case may be, the Network Manager shall demonstrate its financial strength, using therefore an accounting system, mandatory condition for providing ATM/ANS services.</p> <p>Justification: As per Article 4 (2) from Cover Regulation, `Air Navigation Service (ANS) Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.`</p>		
response	Accepted	
<p>Reconsidering the current requirements applicable to the Network Manager on the subject (Article 24 of Regulation (EU) No 677/2011), the Agency amends the commented provision as proposed.</p>		
comment	1271	comment by: CAA CZ
<p>It is not obvious from the text what extent of responsibility the ATFM provider has so that the amount of insurance and liability could be figured.</p>		
response	Noted	
<p>The Agency takes note of the comment provided.</p> <p>It is important to point out that this provision originates from point 7 of Annex I to Regulation (EU) No 1035/2011 and that paragraph b) and especially the phrase 'level of commercial insurance cover available' are intended to indicate the need for a proper assessment of what should be considered appropriate insurance cover. Therefore, maintaining the established regulatory coverage as applicable today to ANS provider, the scope is proposed to be extended to providers of tactical ATFM on national level, which aspect is covered by point 2(g) of Annex Vb to the Basic Regulation.</p>		
comment	1296	comment by: Romanian Civil Aviation Authority
<p>Comment: Text incomplete. Annex II, Sub-part C applies also for the Network Manager. As the case may be, the Network Manager shall demonstrate its financial strength, using therefore an accounting system, mandatory condition for providing ATM/ANS services.</p> <p>Justification: As per Article 4 (2) from Cover Regulation, `Air Navigation Service (ANS)</p>		

	<i>Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.`</i>
response	<p><i>Accepted</i></p> <p>Reconsidering the current requirements applicable to the NM on the subject (Article 24 of Regulation (EU) No 677/2011), the Agency amends the commented provision as proposed.</p>

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.030 Open and transparent provision of services**

p. 42

comment	<p>592 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>Open and transparent provision of services shall also be mandatory for other than ANS ant ATFM providers. Replace Air Navigation service and air traffic flow mananagement provider with "ATM / ANS providers".</p>
response	<i>Accepted</i>

comment	<p>893 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p>(b)</p> <p>What is the intention of the "class of users" – guidance would be appreciated e.g. would this apply to the distinction between VFR and IFR?</p>
response	<p><i>Noted</i></p> <p>The commented provision is sourced from point 8.1 of Annex I to the existing Regulation (EU) No 1035/2011.</p> <p>At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p>Thus, existing means of compliance will continue to be valid when this rule comes into force.</p>

**ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL**

p. 42

**REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.035 Contingency plans**

comment 255 comment by: AENA-NPA2013-08

**Page 42, ATM/ANS.OR.C.035 Contingency plans**

Contingency plans requirement: to align the contingency with the interruption of the operation, instead of the interruption of the service. Also, an explanation is needed about the relationship between ERP and contingency plans.

response *Accepted*

Considering the comments received, the Agency introduces new GM on the subject.

comment 268 comment by: AENA-NPA2013-08

**ATM/ANS.OR.C.035 Contingency plans.**

The requirement related to contingency plans is different from the ones included in 1035/2011 (Air navigation service providers shall have in place contingency plans for all the air navigation services they provide in the case of events which result in significant degradation or interruption of their operations)

We agree with the requirement described in 1035/2011, and we don't agree with the ones of the NPA. To relate the contingency with the interruption of the operation it is considered more appropriate than with the services.

response *Accepted*

Considering the comment, the provision is amended accordingly.

comment 321 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex II ATM/ANS.OR.C.035 <b>Contingency Plans</b>	AESA would request that AMC/GM be developed for this requirement. The material should include, as a minimum, content to ensure compliance with current Eurocontrol guidance material.	This would set a level playing field and would harmonise/standardise the way to deal with contingency plans.

response *Partially accepted*

Considering the comment, the Agency introduces a GM on the subject.

comment *506*

comment by: *HungaroControl*

Agreed.

response *Noted*

comment *594*

comment by: *Federal Office of Civil Aviation FOCA*

Contingency plans shall also be mandatory for other than ANS and ATFM providers. Replace Air navigations service and air traffic flow managment provider with "ATM / ANS providers".

response *Accepted*

comment *894*

comment by: *Belgocontrol*

The transition from normal operations to the contingency plans is missing (had already been missing in the previous versions). The transition period should be documented in a Crisis management mode. The running of the Contingency plan would, per definition be safe, but most likely would impact the capacity. There should be a clear difference between crisis management and contingency. which one is ment here ?

response *Noted*

The subject provision addresses the contingency plan and the rule is explicit that it is about the events which result in significant degradation or interruption of operations. It is not practicable to define transitional requirements for the contingency in the Implementing Rule due to the big variety of the events and their nature that could trigger the contingency plan implementation. A GM on the subject is introduced.

comment *1067*

comment by: *DFS Deutsche Flugsicherung GmbH*

	<p>We support the content of the text in ATS.OR.205 SMS a) (3) "ERP", which refers to the ICAO Doc 9859 SMS Element 1.4.</p> <p>However, we strongly suggest aligning the content and wording of this requirement (ATM/ANS.OR.C.035 'Contingency Plans') with the content and wording of the paragraph ATS.OR.205 SMS a) (3) (&gt; 'Emergency Response Plan') in order to avoid any misinterpretation, respectively clarifying the difference.</p>
response	<p><i>Accepted</i></p> <p>Considering the comment, the Agency introduces a GM on the subject.</p>

comment	<p>1297 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Comment:</p> <p>Text incomplete. Annex II, Sub-part C applies also for the Network Manager. As the case may be, the Network Manager shall provide its services (function) in an open and transparent manner.</p> <p>Justification:</p> <p>As per Article 4 (2) from Cover Regulation, '<i>Air Navigation Service (ANS) Providers, Air Traffic Flow Management (ATFM) Providers and the Network Manager shall comply, in addition to 1, with the requirements in Annex II (Part-ATM/ANS), Subpart C.</i>'</p>
response	<p><i>Accepted</i></p> <p>Should the comment be understood correctly, the provision on 'Open and transparent provision of services' is amended in such a way as to apply to all service providers, including the Network Manager as well.</p>

<p><b>ANNEX II – COMMON REQUIREMENTS FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) – SUBPART C – SPECIFIC ORGANISATIONAL REQUIREMENTS FOR ANS AND ATFM PROVIDERS AND THE NETWORK MANAGER (ATM/ANS.OR.C) – ATM/ANS.OR.C.040 Reporting requirements</b></p>	p. 42-43
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comment	<p>452 <span style="float: right;">comment by: <i>CAA-NL</i></span></p> <p><b>ATM/ANS.OR.C.040(e)</b> Please delete "under the conditions set by the competent authority".</p> <p><i>Rationale:</i> Setting conditions for publishing an ANSP's annual report is not an established task for the CA this has to fulfill the National Information Act.</p>
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response	<p><i>Not accepted</i></p> <p>The commented provision is sourced from point 9 of Annex I to the existing Regulation (EU) No 1035/2011.</p> <p>At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.</p> <p>As a first reflection, the Agency considers that the subject would necessitate a consideration also by the European Commission. The Agency will bring this comment to its attention. Furthermore, the commentator is kindly invited also to consider a more detailed rulemaking proposal on the issue during the Comitology.</p>
comment	<p>507 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>Agreed.</p>
response	<p><i>Noted</i></p>
comment	<p>974 <span style="float: right;">comment by: <i>Météo-France</i></span></p> <p>- The proposed text refers to the "relevant competent authority". Article 3 already indicates what the term "competent authority" is referring to. Therefore, what is the purpose of adding the word "relevant"?</p>
response	<p><i>Noted</i></p> <p>The commented provision is sourced from point 9 of Annex I to the existing Regulation (EU) No 1035/2011.</p> <p>At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.</p>
comment	<p>1193 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment</p> <p>The proposed text refers to the "relevant competent authority". Article 3 already indicates what the term "competent authority" is referring to. Therefore, what is the purpose of adding the word "relevant"?</p>
response	<p><i>Noted</i></p> <p>The commented provision is sourced from point 9 of Annex I to the existing</p>

Regulation (EU) No 1035/2011..

At the time of the rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) 1035/2011, to minimise the changes with regard to the existing common requirements.

**APPENDIX I TO ANNEX II (Part-ATM/ANS) – DECLARATION OF PROVISION OF FLIGHT INFORMATION SERVICES**

p. 44-45

comment 596 comment by: *Federal Office of Civil Aviation FOCA*

Voice-ATIS might be abbreviated "V-ATIS" as already applied for Data Link ATIS.

Please check for consistent use of words: Sometimes plural, sometimes singular form used in case of "FIS" (flight information service vs. Flight information services)

response *Partially accepted*

The Agency takes consideration of the comments.

The declaration template is redrafted towards the provision of services instead of the means used to provide them.

comment 663 comment by: *AENA-NPA2013-08*

**Appendix I to Annex II.**

Certificate table of services. We disagree on make an specific row for 'ATSS for flight test' because it is understood that this service it is included in ATSS. Further explanations are needed in 'ATM network functions' rows.

response *Noted*

During the rule development, the Agency was advised on the specific needs of ATS providers which provide primarily ATS services to flight test, especially when carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to give the possibility to the competent authority to include into the certificate a privilege for providing services for flight tests. Nothing prevents the competent authority from deciding not to include such a privilege into the certificate, if deemed necessary.

In reference to the comment on 'ATM network functions' row, it should be noted that it reflects the services provided by the Network Manager in accordance with Regulation (EU) No 677/2011.

comment 697 comment by: *NATS National Air Traffic Services Limited*

**APPENDIX I TO ANNEX II (Part-ATM/ANS)**

The title is incorrect, there is no Part-ATM/ANS rather it is Part-ATM/ANS.OR.  
The term "ATM/ANS" is misleading as the scope is ATM/ANS providers.

Beneath "Statements" (in the first sentence) there is Part-ATM/ANS, Part-ANS/ATFM, neither of which exists. If Part-ATM/ANS is meant to be Subpart C (which applies to ANS, ATFM and NM) then it is covered by referring to Part-ATM/ANS.OR.

**Impact**

Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.

**Suggested Resolution**

Amend text to read, "APPENDIX I TO ANNEX II (PART-ATM/ANS.OR)  
Delete "ATM/ANS" as it is superfluous text.  
Amend text to read "...set out in Part-ATM/ANS.OR and Part-ATS.

response *Partially accepted*

The Agency takes the comment into consideration, and the template is amended accordingly. Based on the NPA consultation and further evaluation by the Agency, it is moved as GM.

comment *1147*

comment by: *Danish Transport Authority*

Appendix 1 to Annex II, page 44:  
The form is not adapted to AFIS at all. It has to be clearly stated on the form that the declaration of provision of FIS also applies to AFIS.  
The types of FIS in the form are only systems. We are missing the FIS service performed by ATCOs and AFIS personnel.  
(As we understand from the text in ICAO Annex 11 and Doc 7030 there is no OFIS in EUR region.)

response *Accepted*

The Agency takes the comment into consideration, and the template is amended accordingly. Based on the NPA consultation and further evaluation by the Agency, it is moved as GM.

comment *1298*

comment by: *Romanian Civil Aviation Authority*

Comment:

Type(s) of flight information services:  
- Flight Information Centre or ATC unit

Justification:

	<p>According to Chapter 1 of Annex 11 ICAO, Flight Information Centre is defined as "A unit established to provide flight information service and alerting service " According to the Chapter 4.2 Responsibility for the provision of Flight Information Service and Alerting Service from ICAO Doc 4444:  "Flight information service and alerting service shall be provided as follows:  a) <i>within a flight information region (FIR): <b>by a flight information centre</b></i>, unless the responsibility for providing such services is assigned to an air traffic control unit having adequate facilities for the exercise of such responsibilities;  b) <i>within controlled airspace and at controlled aerodromes: by the relevant air traffic control units."</i></p> <p>The information included there specify only FIS provided using broadcast as a mean of transmission. According to the Chapter 9.1.3, an ATS unit is another mean of transmission:  "9.1.3.1.1 Except as provided in 9.1.3.2.1, information shall be disseminated to aircraft by one or more of the following means as determined by the appropriate ATS authority:  a) the preferred method of directed transmission on the initiative of the appropriate ATS unit to an aircraft, ensuring that receipt is acknowledged; or  b) a general call, unacknowledged transmission to all aircraft concerned; or  c) broadcast; or  d) data link."</p> <p>J</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>The declaration template is reworked towards the provision of services instead of the means used to provide them.</p>
comment	<p>1299 <span style="float: right;">comment by: <i>Romanian Civil Aviation Authority</i></span></p> <p>Comment:</p> <p>According to the provisions of the proposed package SES 2+, indications regarding Declaration of verification of the systems or declaration of conformity or suitability for use of constituents of systems is totally missing. The articles of the Reg 552/2004 have been deleted (not included in the proposed package SES 2+). We will not have any reference in this respect.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes consideration of the of the comment.</p> <p>The commented template is amended and moved as GM.</p>

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 1 – General requirements – ATS.OR.105 Scope** p. 46

comment

322

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex III ATS.OR.120 <b>Operation at newly established ATS units</b>	A new paragraph is proposed with the following wording: "No ATCO shall provide service in a newly established ATS unit unless he/she has at least two-years and at least 500 operational hours previous experience in the last four years in an unit with the same rating or rating endorsement.  ii.- In no case shall a STATCO provide service in a newly established ATS unit until a period of time established by the competent authority has passed from the beginning of the service."	This matter has already been brought to the ATM/ANS TAG. It has to do with the operation in the margins of the regulation, where common sense is somehow 'diluted' in favour of economic reasons.

response

*Not accepted*

The proposal, as it is formulated, provides for a new requirement that would affect the licence of the personnel (ATCOs), while the subject rule lays down the requirements for the service providers. Moreover, the proposed provision would indirectly create a distinction between licenced air traffic controllers based on their experience. Such differentiation is not foreseen in the rules applicable to the licensing of air traffic controllers and lacks, in the opinion of the Agency, objective grounds.

As regards newly established ATS units and the qualifications to be obtained to work in such units, the general requirements applicable to the licensing of air

traffic controllers shall be observed with special attention to the newly established requirements as regards temporary OJTI and assessor authorisation as proposed in Opinion No 11/2013.

comment 383

comment by: EUROCONTROL

**Page 46 - Annex III - Sub-part A - Section 1 - General requirements**

The requirements should be mandated to all Providers that fall within definition of "ATM/ANS providers" and not just ATS providers.

response *Not accepted*

New Annex IV (Part-ATS) lays down the specific requirements for Part-ATM/ANS. OR defines the common ones which are applicable to all the service providers, as applicable. It is important to be noted that the requirements are a transposition of points 1 and 2 of Annex II to Regulation (EU) No 1035/2011, where it is only applicable to ATS providers.

At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements.

comment 508

comment by: HungaroControl

Agreed.

response *Noted*

comment 910

comment by: NATS National Air Traffic Services Limited

**ATS.OR.105**

The introductory text refers to "This Part establishes...", however the Scope is in Subpart A. These are additional organisational requirements and the scope should reflect this.

The EASA convention appears to be to name the specific service in full rather than an abbreviation (although there are exceptions to the rule), thus "(ATC)" is not required.

The EASA convention appears to be to refer to Annexes and not Parts.

The numbering convention appears to be quite different amongst the Annexes. Here ATS.OR.105 is followed by ATS.OR.110. Annex I starts at 001, Annexes II and IV at 005. Annexes V, VII, VIII and XI start with 105; with XII starting at 005.

**Impact**

	Consistency
	<b>Suggested Resolution</b>
	Amend text to read “This subpart establishes the additional organisational requirements to be met by air traffic service providers with respect to additional responsibilities to those established in Annex II.”
	Align Annexes to a common numbering scheme.
response	<i>Partially accepted</i>
	Rather than replacing ‘part’ with ‘subpart’, the term ‘annex’ is used.
	A consistent numbering system is adopted within the rule.
comment	1172 comment by: <i>French Civil Aviation Authority (DGAC)</i>
	French CAA comment
	ATS.OR.xx – external services and supplies:
	In the current regulation (EU) n°1035/2011 (Annex II, 3.1.2 (e)), a requirement regarding to external services and supplies applies to ATS provider:
	<i>“ensure adequate justification of the safety of the externally provided services and supplies, having regard to their safety significance within the provision of its services”</i>
	In the proposed regulation, this requirement seems to have been deleted, even if a requirement (ATM/ANS.OR.B.020) regarding “contracted activities” has been added. However it does not cover at all the same objectives, in particular no mention has been done on the safety of the externally provided services even if the impact on the ATS service may be significant (such as energy, telecommunication,...).
	It is then suggested to add a new requirement, or to reflect the following requirement in ATM/ANS.OR.B.020 in order to better reflect the impact on safety:
	<i>“ATS.OR.xx – External services and supplies The air traffic services providers shall ensure adequate justification of the safety of the externally provided services and supplies, having regard to their safety significance within the provision of its services”</i>
response	<i>Partially accepted</i>
	The Agency considers that the requirements laid down in 3.1.2 (e) of Annex II to Regulation (EU) No 1035/2011, are adequately covered by the provision on ‘Contracted activities’ (new ATM/ANS.OR.015). In particular, ‘The service provider shall ensure that when contracting or purchasing any part of its activity, the contracted or purchased activity, system, or constituent conforms

to the applicable requirements' is considered to include safety, where applicable, and goes beyond that of the current Regulation both in terms of scope and applicability.

Therefore, the proposal is accepted as AMC3 ATM/ANS.OR.B.015 'Contracted activities – ATS providers'.

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 1 – General requirements – ATS.OR.115**  
**Open and transparent provision of service**

p. 46

comment

455

comment by: CAA-NL

**ATS.OR.115**

Please relocate this requirement to the Cover regulation as this is not a requirement for the ATS provider but a possibility with obligations for the Member State.

response

*Not accepted*

The requirements laid down in point 2 of Annex II to Regulation (EU) No 1035/2011 are transposed in the commented provision.

At the time of the draft rule development, the stakeholders specifically requested the Agency, when transposing Regulation (EU) No 1035/2011, to minimise the changes with regard to the existing common requirements. However, for better clarity the provision is amended.

comment

546

comment by: Prospect ATCOs' Branch UK

As this rule is currently drafted it doesn't actually mandate anything (only uses the word 'may'). Although we welcome the provision to ensure that providers cannot abuse their position in a competitive market, this rule needs to be drafted to mandate that, rather than leave it to member states as an option.

response

*Accepted*

comment

599

comment by: Federal Office of Civil Aviation FOCA

What about fatigue detection? Prevention and mitigation are only one part of fatigue, detection is missing.

response	<p><i>Noted</i></p> <p>The Agency is of the opinion that detection is a step in the fatigue management process. The Agency will consider the development of the subject GM on the basis of available scientific documentation.</p>
comment	<p>911 comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;"><b>ATS.OR.115</b> ATM/ANS.OR.C.030 is in Annex II not Annex III.</p>
response	<p><i>Accepted</i></p>
comment	<p>997 comment by: <i>European Transport Workers Federation - ETF</i></p> <p>ETF is of the opinion that this provision is not mandating anything and we propose to address the rule directly to ATM/ANS providers and it implies that the Member States may take actions to ensure that providers comply with this requirement.</p> <p>Alternative proposal : In addition to ATM/ANS.OR.C.030 of Annex III and where a Member State decides to organise the provision of specific air traffic services in a competitive environment, the ATM/ANS providers of these specific air traffic services shall neither engage in conduct that would have as its object or effect the prevention, restriction or distortion of competition, nor shall they engage in conduct that amounts to an abuse of a dominant position in accordance with applicable national and Union law.</p>
response	<p><i>Partially accepted</i></p>
comment	<p>1167 comment by: <i>French Civil Aviation Authority (DGAC)</i></p> <p>French CAA comment</p> <p>ATS.OR.115 – Open and transparent provision of service (p46):</p> <p>A mistake has been done regarding the reference to the Annex III, instead of Annex II.</p>
response	<p><i>Accepted</i></p>

comment	1333	comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i>
	FIT CISL is of the opinion that this provision is not mandating anything and we propose to address the rule directly to ATM/ANS providers and it implies that the Member States may take actions to ensure that providers comply with this requirement.	
response	<i>Accepted</i>	

comment	1349	comment by: <i>USCA</i>
	<p><b>ATS.OR.115 Ooen and transparent provision of service</b></p> <p><i>"In addition to ATM/ANS.OR.C.030 of Annex III and where a Member State decides to organize the provision of specific air traffic services in a competitive environment, that Member State <del>may</del> shall take appropriate measures to ensure [...]"</i></p> <p>«May» is not to be used in an IR.</p>	
response	<i>Partially accepted</i>	
	The Agency takes note of the comment and the provision is amended.	

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 2 – Safety of services – ATS.OR.205 Safety management system** p. 46-48

comment	4	comment by: <i>Jan Loncke</i>
	<p>In order to clarify the (structure of the) text under ATS.OR.205 Safety management system, I suggest to add the following text : "The framework for the implementation and maintenance of an SMS comprises four components :". In that case, the text would look like :</p> <p><b>ATS.OR.205 Safety management system</b>  <b>The framework for the implementation and maintenance of an SMS comprises four components :</b>(a) SAFETY POLICY AND OBJECTIVES  ... </p>	
response	<i>Partially accepted</i>	
	After due consideration of the stakeholders' responses to the questions asked	

by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200.

The resulting text of ATS.OR.200 now reads ‘...that includes the following components:’.

comment 138 comment by: LfV

There is a need for a definition of the term emergency response plan.

response *Partially accepted*

The Agency takes the comment into consideration, and a GM on the subject is developed.

comment 171 comment by: EUROCONTROL

**Page 48 (d) (1)**

It is positive to note that the requirement for competency addresses competence requirements in general and does not address only safety competency as per ICAO.

However, why is this requirement limited only to ATS Providers? Current regulation mandate this also for CNS providers. Competency of staff should be a requirement for all ATM/ANS providers.

response *Noted*

It is important to be noted that the competency requirements for service providers personnel applicable to all service providers are addressed in a revised ATM/ANS.B.015 (a)(6) (new ATM/ANS.OR.B.005(a)(8)).

Furthermore, after due consideration of the stakeholders’ responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised. As such, the ICAO Annex 19 SMS framework only applies to ATS providers.

comment 190 comment by: AENA-NPA2013-08

**Page 48, ATS.OR.205 Safety management system.**

Significant safety implications is a quite diffuse concept; it’s better to link to severity, and consider occurrences with significant severity. The question that occurrences are investigated immediately are impossible to fulfill in the real world; to initiate investigations as soon as possible is more realistic and achievable.

response *Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework and the focussed consultation organised after the NPA consultation closure, the Agency acknowledges the preference to align the SMS framework by implementing the ICAO SMS one into ATS.OR.200 (former ATS.OR.205). As such, the text commented is no longer in the proposed rule.

comment 229

comment by: AIRBUS

ATS.OR.205

As stated in the general comments, the ATS.OR.205 text should pattern the ICAO annex 19:

- ATS.OR.205 (a): based on ICAO Annex 19 APP 2-1, 2-2 & 2-3 text "Safety Policy and Objectives"
- ATS.OR.205 (b): based on ICAO Annex 19 APP 2-3 text "Safety Risk Management"
- ATS.OR.205 (c): based on ICAO Annex 19 APP 2.3 text " Safety Assurance"

If the text is not revisited according ICAO Annex 19:

Firstly, (b) (2) should be adjusted to avoid putting quantitative objective on human error as it results from the definition of the functional system which covers equipment, software, procedure and human. Quantitative safety levels can only be derived for System Hardware and automation but not for human and software. Thus the sentence "*ensure that, wherever practicable, quantitative safety levels are derived and are maintained for all functional systems*" should be removed or, to align with ICAO SMS, should be replaced by:

**"ensure that wherever practicable, qualitative or quantitative safety levels are derived and are maintained for all functional systems".**

Rationale: Safety management as defined by ICAO Annex 19 applies to any domain: rules, design, certification, manufacturing and operations for which the reliability of any quantification is questionable.

Secondly, the text (c)(2) should be revisited to make clear it deals with the management of a change and that the safety assurance process is more about implementing proactive and predictive methods than corrective actions.

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised. The Agency considers that the most appropriate transposition of the ICAO SMS framework is a deployment of the requirements within implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing Rule level.

comment	<p data-bbox="352 215 408 246">241</p> <p data-bbox="1043 215 1445 246">comment by: EUROCONTROL</p> <p data-bbox="352 300 799 331"><b>Page 47 - ATS.OR.205 (a) (3)</b></p> <p data-bbox="352 333 1445 427">Further explanation is needed to clarify what an emergency is or when to declare an emergency and what the difference is between emergency and contingency.</p> <p data-bbox="352 430 1445 524">There are additional requirements defined in other EU regulations on how coordination between organisations related to emergency response plans should be conducted.</p> <p data-bbox="352 526 1445 589">There are no details as to what should be included in an emergency response plan. Further GM is recommended.</p> <p data-bbox="352 591 660 622">We therefore propose:</p> <ul data-bbox="405 624 1445 752" style="list-style-type: none"> <li>• to add definitions of Emergency and Contingency to clarify the difference between the two;</li> <li>• to add reference to applicable EU regulation;</li> <li>• to develop GM on content of emergency response plan.</li> </ul>
response	<p data-bbox="352 810 596 842"><i>Partially accepted</i></p> <p data-bbox="352 898 1043 929">The Agency takes the comment into consideration.</p> <p data-bbox="352 945 1257 976">Rather than definition, the Agency developed a GM on the subject.</p> <p data-bbox="352 992 1445 1055">Further associated GM are proposed as well in order to address the issues raised by the commentator.</p>
comment	<p data-bbox="352 1146 408 1178">378</p> <p data-bbox="1043 1146 1445 1178">comment by: EUROCONTROL</p> <p data-bbox="352 1234 1445 1296"><b>Page 47 - ANNEX III, SUBPART A, Section 2, ATS.OR.205 (c) - Safety Assurance</b></p> <p data-bbox="352 1299 1445 1429">When dealing with the safety of ongoing operations, the Implementing Rule has its content based mainly on reactive, <i>a posteriori</i>, safety processes and in that sense does not seem to explicitly address shortcomings in current and past regulations, namely:</p> <ol data-bbox="405 1431 1445 1639" style="list-style-type: none"> <li>1. firstly, there is no requirement for assurance (except from continually changing, historical evidence of safety achievement) that what is about to be changed had been actually safe in itself; and</li> <li>2. secondly, there is a limit to how many times changes can be made before either one loses track of what is being changed and / or different but interacting changes produce conflicting safety requirements.</li> </ol> <p data-bbox="352 1655 1445 1785">It is suggested that the Implementing Rule contains an explicit regulatory requirement for ATM/ANS provider to provide on-going assurance, at all levels in the organisation, that the Services provided by ATM/ANS provider are acceptably safe. This would enable to:</p> <ul data-bbox="352 1787 1445 2009" style="list-style-type: none"> <li>• maintain an up-to-date baseline of the Unit operations and systems, thus facilitating the management of change;</li> <li>• facilitate effective delegation of safety responsibility throughout the ATM/ANS provider;</li> <li>• provide a very effective way of recording, maintaining and accessing the large body of documentary evidence that is necessary in order to show compliance with all regulatory requirements - thus facilitating regulatory approval by the</li> </ul>

	<p>competent authority. It is clear here that this comment refers to the addition of a requirement for ATM/ANS service providers to demonstrate, a priori, the safety of their on-going operations. We therefore propose to add the text below in (c) (1), after (iv): "the safety of the on-going operations is demonstrated <i>a priori</i>, in order to:</p> <ul style="list-style-type: none"> <li>• maintain an up-to-date baseline of the Unit operations and systems, thus facilitating the management of change;</li> <li>• facilitate effective delegation of safety responsibility throughout the ATM/ANS providers; and</li> <li>• provide a very effective way of recording, maintaining and accessing the large body of documentary evidence that is necessary in order to show compliance with all regulatory requirements - thus facilitating regulatory approval by the competent authority"</li> </ul>
response	<p><i>Noted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised. The Agency considers that the most appropriate transposition of the ICAO SMS framework is a deployment of the requirements within implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing Rule level.</p>
comment	<p>382 <span style="float: right;">comment by: EUROCONTROL</span></p> <p><b>Page 48 - ATS.OR.205 Safety management system (a)(4) (iv)</b> The requirement for a Just Culture environment should be mandated to all Providers that fall within definition of "ATM/ANS providers" and not just ATS providers. While just culture is necessary for improved safety, just culture should not be exclusively part of the SMS but a policy of the ATM/ANS management system because the just culture benefits all performance areas of the provider.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p> <p>Furthermore, considering the SMS framework alignment with the ICAO one which does not currently reflect just culture (or safety culture), the Agency accepts the proposal and the safety culture is introduced as an aspect of the service provider's management system in a way that encourages its understanding and improvement.</p>

comment 453 comment by: EUROCONTROL

**Page 48 - Annex III, Subpart A, ATS.OR.205  
Art (d) §(1),(2) and (3)**

We think that including the training in the promotion pillar of the SMS is confusing.

response *Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised. As such, the text highlighted by the commentator is no longer in the IR.

comment 456 comment by: CAA-NL

**ATS.OR.205(a)(1)**

The SMS shall, according to the introductory paragraph of (a)(1), be an integral part of the MS required in ATM/ANS.OR.B.015.

However, AMC1 ATM/ANS.OR.B.015 stipulates that an ISO-certificate should be considered as a sufficient means of compliance to ATM/ANS.OR.B.015. Therefore, the current set-up of the introductory paragraph of ATS.OR.205(a)(1) together with the AMC1 ATM/ANS.OR.B.015 suggests that an ANSP in the possession of the ISO-certificate, would also be in compliance with the SMS-requirements of ATS.OR.205. We suggest to add a remark to the mentioned AMC or an addition AMC with this article stating that the ISO does not cover SMS.

response *Partially accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.

The introductory paragraph of (a) is amended to '...which may be an integral part of the management system...'

The Agency notes the comment regarding ISO and proposes additional GM to AMC1 ATM/ANS.OR.B.005.

comment 457 comment by: CAA-NL

**ATS.OR.205(a)(3)**

ATS.OR.205(a)(3) in itself does not give a requirement for establishing an 'emergency response plan', so the requirement to coordinate it seems to lack a proper basis.

response

*Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.

The Agency takes note of the comment, and a GM on the subject is introduced.

comment

458

comment by: CAA-NL

**ATS.OR.205(d)(1)**

Please delete this subparagraph.

*Rationale:*

The contents of the **subparagraph** is already catered for in ATM/ANS.OR.B.025.

response

*Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming desire to align the framework with the one required by ICAO, and the commented provisions are revised.

As such, the text referred to by the commentator is removed.

comment

553

comment by: DSNA

ATS.OR.205                      Safety                      management                      system  
(a) SAFETY POLICY AND OBJECTIVES  
(3)

The term emergency response plan is not defined for ATS. It could either be understood as a subset to the contingency plan, or a copy from the airlines. Airports develop emergency plans, airlines develop emergency response plans and ANSPs develop contingency plans. The coordination of these plans should be described in the SMS of each of these entities. This helps with clarity.

Further explanation is needed to clarify what an emergency is or when you declare an emergency and what the difference is between an emergency and contingency.

There are additional requirements defined in other EU regulations on how coordination between organisations related to emergency response plans should be conducted.

No details defined as to what should be in an emergency response plan. Further GM recommended.

3) The air traffic services provider shall ensure that an ~~emergency response~~ contingency plan is properly coordinated with the emergency ~~response~~ plans of the airports and the emergency response plans of the airlines ~~these organisations~~ it ~~must~~ interfaces with during the provision of its services.

	<p>Add definition of Emergency and Contingency to clarify the difference between the two. Add reference to applicable EU regulation GM to be developed on content of emergency response plan</p>
response	<p><i>Partially accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p> <p>Rather than definition, the Agency proposes a newly developed GM on the subject.</p>

comment	<p>603 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>In relation to lit. 1 (ii) FOCA is not sure if responsibility is the correct word. A policy should also refer to accountability. Responsibility reflects a wider context. Many subjects are responsible for the safe operation, but only one person is accountable for a certain task.</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised. The Agency considers that the most appropriate implementation of the ICAO SMS framework is a deployment of the requirements within the implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing rule level. As such, the safety accountabilities that are mentioned are at IR level and the commented provision results in:</p> <p>'(ii) Safety accountabilities regarding the implementation and maintenance of the SMS and the authority to make decisions regarding safety.'</p>

comment	<p>610 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>Lit.(1) requires "to ensure that due consideration is given to all aspects of the provision of ATS (risk assessment and mitigation)." Firstly, it is not clear to us why the scope of risk management is reduced to ATS. Secondly, the provision means that not only safety but also production is part of risk management (all aspects of provision of ATS). In our opinion, safety risk management is certainly necessary and together with the policy to assure acceptable safety, it probably will meet its purpose. The definition of expression "safety level" is in our view unclear. Please include</p>
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	expression " safety level" in defintion section of NPA.
response	<p><i>Noted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised. The Agency considers that the most appropriate implementation of the ICAO SMS framework is a deployment of the requirements within the implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing Rule level. As such, the text referred to by the commentator is no longer in the proposed rule.</p> <p>Furthermore, it should be noted that the ICAO Annex 19 SMS framework only applies to ATS providers.</p> <p>Moreover, the Agency is to issue in the 2<sup>nd</sup> quarter of 2014 a dedicated NPA on the provisions related to the assessment of changes to the functional systems. The final outcome of the consultation of NPA 2013-08 and of the mentioned one will be issued in a single EASA Opinion.</p>

comment	<p>617 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p>
	<p>(c) SAFETY ASSURANCE Lit.(iv): On the occasion that an ANSP can categorise an occurrence regarding safety significance and possible implications, it probably has conducted some investigation already. However, the provision requires to investigate only when a certain safety significance is evident. This looks somehow like a recursion. Further, FOCA wonders why the provision in the SMS framework only mentions the need for immediate investigation. Basically, to us it is not clear whether risk management is considered as a part of safety assurance or vice versa. This is is a fundamental question which probably exceeds the content of this NPA. Generally, it could be said that the whole SMS itself is safety assurance on a corporate level. The essential part of the SMS to assure safety is the combination of proper collection and analysis of any information in order to balance production versus protection to establish and maintainan a acceptable level of safety for any service provided. This function is called (integrated) risk management; whereby risks are considered as positive or negative deviation from a target (like chance and risk).</p> <p>Proposal 1: Lit.(iv) should require occurrence investigation in a more generic way.</p> <p>Proposal 2: The GM might indicate the expected detail and different levels of occurrence investigation, i.e. For any occurrence at least severity has to be determined. For occurrences, which are considered to have significant safety implications, a further investigation and mitigation process should start immediately (root cause analysis (in the triangel of human-procedure-equipment), corrective action, preventive action).</p>
response	<p><i>Noted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming</p>

preference to align the framework with the one required by ICAO and the commented provisions are revised. The Agency considers that the most appropriate transposition of the ICAO SMS framework is a deployment of the requirements within the implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing Rule level. As such, the text referred to by the commenter is no longer in the IR.

comment 653

comment by: AENA-NPA2013-08

**Page 47, ATS.OR.205 (a)(3).**

ATS.OR.205 (a)(3)/ AMC1 ATS.OR.205 (a)(3): explanation is needed about the relationship between ERP (Emergency Response Plan) and contingency plans.

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised. The Agency considers that the most appropriate transposition of the ICAO SMS framework is a deployment of the requirements within the implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing Rule level. Taking into account the comment, the Agency proposes a GM on the subject.

comment 807

comment by: EUROCONTROL

**Page 48 - ATS.OR.205 (d) (4) (iii)**

It looks like redundant with the whole set of requirements for SMS, and very vague ("where they appear needed"). Should this requirement not be removed, at least its second part?

response *Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised. The Agency considers that the most appropriate implementation of the ICAO SMS framework is a deployment of the requirements within the implementing measures (IR and AMC), however, the four components of the SMS framework are reflected at the Implementing Rule level.

As such, the text referred to by the commentator is no longer in the IR.

comment 861

comment by: IFATCA

	<p>ATS.OR.205 Safety management system (d) SAFETY PROMOTION <del>(iv) and a just culture environment is provided</del> IFATCA proposes this as the major requirement and suggest to elevate it to the adequate level</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p> <p>Furthermore, considering the SMS framework alignment with the ICAO one which does not currently reflect just culture (or safety culture), the Agency accepts the proposal, and the safety culture is introduced as an aspect of the service provider's management system in a way that encourages its understanding and improvement.</p>
comment	<p>862 <span style="float: right;">comment by: IFATCA</span></p> <p><b>New E) JUST CULTURE</b> IFATCA proposes this as the major requirement and suggest to elevate it to the adequate level</p>
response	<p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p> <p>Furthermore, considering the SMS framework alignment with the ICAO one which does not currently reflect just culture (or safety culture), the Agency accepts the proposal, and the safety culture is introduced as an aspect of the service provider's management system in a way that encourages its understanding and improvement.</p>
comment	<p>895 <span style="float: right;">comment by: Belgocontrol</span></p> <p>(d) safety promotion</p> <p><i>This requirement is already present in ATS.OR.B.015 a.(6) &amp; ATS.OR.B.025 as part of the overall management system.</i></p>
response	<p><i>Noted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding</p>

ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised. As such, the text referred to by the commenter is no longer in the proposed rule on the basis that the commentator means ATM/ANS.OR.015(a)(6) and ATM/ANS.OR.B.025. The text regarding safety promotion in the revised proposed rule is specifically in relation to the SMS and only applies to ATS providers (as per ICAO Annex 19).

comment 896 comment by: *Belgocontrol*

*Just culture is influenced by a lot of external factors as well. Including this requirement goes beyond ANSP's managerial control*

response *Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.

Furthermore, considering the SMS framework alignment with the ICAO one which does not currently reflect just culture (or safety culture), the safety culture is introduced as an aspect of the service provider's management system in a way that encourages its understanding and improvement.

comment 913 comment by: *NATS National Air Traffic Services Limited*

**ATS.OR.205**

Whilst the retention of the SMS requirements is welcomed and that they are traceable to the existing Common Requirements is understood, EASA should develop SMS requirements that are more readily traceable to ICAO Annex 19 SMS Framework (ideally by adopting the framework). By the time this rule comes into force, Annex 19 will have been published and existed for a number of years. It would be beneficial to ATS and CNS providers if compliance with this rule also meant compliance with Annex 19 in a clear and transparent manner.

response *Accepted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.

It is important to be noted that the ICAO Annex 19 SMS framework only applies to ATS providers.

comment	<p>914 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATS.OR.205 (a)(2)</b></p> <p>This requirement is long and unwieldy and would benefit from restructuring.</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p>Amend text to read;</p> <p>(2) "Within the operation of the SMS, air traffic services providers shall ensure:</p> <p style="padding-left: 40px;">(i) that a safety management function is identified with organisational responsibility for development and maintenance of the SMS;</p> <p style="padding-left: 40px;">(ii) that this point of responsibility is independent of line management, and accountable directly to the highest organisational level. However, in the case of small organisations where a combination of responsibilities may prevent sufficient independence in this regard, the arrangements for safety assurance shall be supplemented by additional independent means; and</p> <p style="padding-left: 40px;">(iii) that the top management of the provider is actively involved in ensuring safety management."</p>
response	<p><i>Noted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p> <p>As such, the text referred to by the commentator is no longer in the IR.</p>
comment	<p>915 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATS.OR.205 (b)(1)</b></p> <p>The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p style="padding-left: 40px;">The text "(risk assessment and mitigation)" is a throwback to the existing common requirements and should be deleted (other similar text has been deleted).</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p style="text-align: center;">Delete "ATM/ANS" as the text is superfluous.</p>
response	<p><i>Noted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p>

As such, the text referred to by the commentator is no longer in the IR.

comment	916	comment by: <i>NATS National Air Traffic Services Limited</i>
response	<i>Noted</i>	

comment	958	comment by: <i>EUROCONTROL Safety Team</i>
response	<p>Page 48 (d) (4) (iv)  The requirement is welcomed for ATS providers to have a just culture environment.  On the other hand, the requirement for a just culture environment should be mandated to all ATM/ANS providers and not just ATS providers. While just culture is necessary for improved safety, just culture should not be exclusively part of the SMS but a policy of the ATM/ANS management system because just culture benefits all performance areas of the provider.</p> <p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.</p> <p>Furthermore, considering the SMS framework alignment with the ICAO one which does not currently reflect just culture (or safety culture), the Agency accepts the proposal and the safety culture is introduced as an aspect of the service provider's management system in a way that encourages its understanding and improvement.</p>	

comment	1150	comment by: <i>Danish Transport Authority</i>
response	<p>ATS.OR.205 (d) (4) (iv), page 48:  AMC should give more support to the provider how to implement a just culture environment.</p> <p><i>Accepted</i></p> <p>After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.</p>	

However, considering the SMS framework alignment with the ICAO one which does not currently reflect just culture (or safety culture), the Agency accepts the proposal and the safety culture is introduced as an aspect of the service provider's management system in a way that encourages its understanding and improvement.

comment

1168

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATS.OR.205 – emergency response plan - §a.3 (p47):

The ATS.OR.205 (a)(3) introduces the requirement of an emergency response plan. At the same time, ATM/ANS.OR.C.035 introduces the requirement of a contingency plan.

In our understanding, there is no difference in these two notions. The only supplemental requirement in ATS.OR.205 for the ERP, as compared to the provisions related to the contingency plan, is the need for "coordination" of the plan with the organisation interfacing the provider.

This is the reason why it is suggested to delete ATS.OR.205 (3).

response

*Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming desire to align the framework with the one required by ICAO, and the commented provisions are revised.

Emergency response planning is a key element of the SMS framework and applies to ATS providers (as per Annex 19). Taking into account the comment and for better understanding, the Agency proposes a GM on the subject.

comment

1170

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

ATS.OR.205 – safety promotion - §d (p48):

The ATS.OR.205 (d)(1) and (2) introduces requirements on the competence and the training of the ATS provider personnel. However the link with safety promotion is not clear.

It is then suggested to clarify this point, and add a new paragraph called "safety awareness", which would include the current requirements ATS.OR.205 (d)(1) and (2).

response

*Noted*

After due consideration of the stakeholders' responses to the questions asked

by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.

As such the text referred to by the commentator is no longer in the proposed rule.

comment 1236 comment by: SINCTA - Portuguese Air Traffic Controllers' Union

### **ATS.OR.205 Safety management system**

We don't believe the term "satisfactory safety" is adequate.

Proposal: "(iii) ensures that the achievement of ~~satisfactory safety~~ the highest standards in terms of safety in air traffic services shall be afforded the ~~highest~~ utmost priority"

response Noted

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.

As such, the text referred to by the commentator is no longer in the IR.

comment 1318 comment by: ATCEUC

### **ATS.OR.205 – Safety Management System**

ATCEUC considers that the term "satisfactory safety" is too vague

"(iii) ensures that the achievement of ~~satisfactory safety~~ the highest standards in terms of safety in air traffic services shall be afforded the ~~highest~~ utmost priority"

response Noted

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.

As such, the text referred to by the commentator is no longer in the IR.

comment 1350 comment by: USCA

**ATS.OR.205 – Safety Management System**

USCA considers that the term "satisfactory safety" is too vague.

"(iii) ensures that the achievement of ~~satisfactory safety~~ the highest standards in terms of safety in air traffic services shall be afforded the ~~highest~~ utmost priority"

response

*Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO, and the commented provisions are revised.

As such, the text referred to by the commentator is no longer in the proposed rule.

comment

1351

comment by: EUROCONTROL

**Page 46 - ANNEX III, SUBPART A, Section 2, ATS.OR.205 (a) (1) (i)**

There is no assurance with ATS.OR.205 that the safety management systems will appropriately deal with (i) the safety implications of the increasing dependency on automation; (ii) the increased complexity of future systems; (iii) the increasing levels of connectivity across ATM systems where a single decision can propagate across the ATM network. ATS.OR.205 does not deal with the concept of sharing of responsibilities between the ground and the air for instance.

We therefore recommend that the following text:

"identifies the extent to which their safety responsibilities are shared with interacting actors e.g. other ATM/ANS service providers, airspace users, etc;"

is added in Paragraph (a) (1) (i) before the following sentence:

"operates in respect of all their services and the supporting arrangements under its managerial control; "

response

*Noted*

After due consideration of the stakeholders' responses to the questions asked by the Agency in the Explanatory Note (paragraphs 46 and 139) regarding ICAO Annex 19 SMS framework, the Agency acknowledges the overwhelming preference to align the framework with the one required by ICAO and the commented provisions are revised.

Furthermore, the Agency is to issue in the 2<sup>nd</sup> quarter of 2014 a dedicated NPA on the provisions related to the assessment of changes to the functional system which would address the concerns raised by the commentator. The final outcome of the consultation of NPA 2013-08 and of the mentioned one will be result in a single EASA Opinion.

**TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 2 – Safety of services – ATS.OR.210 Safety requirements for risk assessment and mitigation with regard to changes**

comment 232 comment by: AIRBUS

ATS.OR.210 & 215

The missing parts, waiting for the results of RMT 0469/0470, is one factor hindering a holistic understanding of the safety management system in combination with the safety assurance process.

response *Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focused review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned one resulting from RMT.0469 will be issued in a single EASA Opinion.

comment 347 comment by: skyguide Corporate Regulation Management

There seems to be a fundamental problem with issuing such a major regulation for commenting when it is not complete. Suggest to wait for the outcome of the work groups (RMT.0469 and RMT.0470) prior to doing analysis on the comments received from this round of consultation as the updates will need to be reviewed in context.

response *Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focused review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned one resulting from RMT.0469 will be issued in a single EASA Opinion.

comment	<p>863 <span style="float: right;">comment by: <i>IFATCA</i></span></p> <p>NPA is not ready</p>
response	<p><i>Noted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned one resulting from RMT.0469 will be issued in a single EASA Opinion.</p>
comment	<p>1070 <span style="float: right;">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></span></p> <p>It can't be excluded that this current NPA needs to be adapted once the content of this chapter is known (by another future NPA). An Opinion with place holders or the indication "TBD", "reserved"... should not be published. We therefore recommend the following stepwise approach: The Opinion should be put on hold (freeze) until the NPA for ATS.OR.210 and 215 have been consulted. Dependent on the timelines for the NPA of RMT.0473+0474 MET) this might apply as well. Empty chapters (i.e. Annex VI, IX, X) shall not appear in the Opinion. The results of further rulemaking tasks (e.g. on Annex VI, IX, X) should be inserted as amendments to the regulation.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned one resulting from RMT.0469 will be issued in a single EASA Opinion.</p> <p>Furthermore, this Opinion will include also the technical requirements for the provision of meteorological services and could also contain other proposals such as DAT, when the deliverables are being consulted.</p> <p>In reference to Annex XI (ASD) (formerly Annex X), the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules and AMC/GM. The development of the subject implementing measures would</p>

require time. Therefore, taking into account the challenges in envisaging the time required and the outcome of this rulemaking task, the Agency believes that it would not be appropriate to bind the Comitology as proposed by the commentator.

comment

1154

comment by: *Danish Transport Authority*

ATS.OR.210, page 48:

It is not possible to assess Annex III without the whole context. When can we expect this requirement to be proposed in an NPA?

Is the proposal including hazard identification and severity assessment as in Annex II Paragraph 3.2.4 in Regulation (EU) No 1035/2011?

To adopt a Regulation without Hazard identification and severity assessment is inappropriate.

response

*Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned one resulting from RMT.0469 will be issued in a single EASA Opinion.

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 2 – Safety of services – ATS.OR.215 Software safety assurance system**

p. 48

comment

47

comment by: *BCAA*

ATS.OR.215 : there is already existing material regarding software licensing and software safety assurance. There is the ESARR 6 of Eurocontrol for software licensing in ATM and there is already a Regulation at European level EC 482/2008. Why do we need again new requirements ? Be aware of double use, overlap and possible inconsistencies or even conflicting requirements in all these packages of regulations.

response

*Noted*

The Agency takes note of the comment.

The NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed therein. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The final outcome of the consultation of NPA 2013-08 and of the mentioned one resulting from RMT.0469 will be issued in a single EASA Opinion.

comment 348

comment by: *skyguide Corporate Regulation Management*

There seems to be a fundamental problem with issuing such a major regulation for commenting when it is not complete. Suggest to wait for the outcome of the work groups (RMT.0469 and RMT.0470) prior to doing analysis on the comments received from this round of consultation as the updates will need to be reviewed in context.

response *Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned NPA resulting from RMT.0469 will be issued in a single EASA Opinion.

comment 864

comment by: *IFATCA*

NPA is not ready

response *Noted*

The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency will issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned NPA resulting from RMT.0469 will be issued in a single EASA

Opinion.

comment	1156	comment by: <i>Danish Transport Authority</i>
response	<p><i>Noted</i></p> <p>The Agency fully understands the problem indicated and will propose a solution which will provide a clear consultation arrangement for the proposed Regulation, including the provisions concerning assessment of changes to the functional systems. This issue was also thoroughly discussed at the focussed review meetings organised, which provided the Agency with further valuable advice on how to proceed with the issue. The Agency is to issue a dedicated NPA on the provisions related to the assessment of changes to the functional systems. This proposal will complement some of the Annexes to the proposed rule. The final outcome of the consultation of NPA 2013-08 and of the mentioned NPA resulting from RMT.0469 will be issued in a single EASA Opinion.</p>	

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 2 – Safety of services – ATS.OR.220 Licensing and medical certification requirements for air traffic controllers**

p. 48

comment	667	comment by: <i>Federal Office of Civil Aviation FOCA</i>
response	<p>The numbering of the implementing rule is not consistent with the explanatory material. Please refer to the document available</p> <p><i>Noted</i></p> <p>The Agency takes the comment into consideration.</p>	

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC**

p. 49

**SERVICES (ATS.OR) – Section 2 – Safety of services – ATS.OR.225 Safety requirements for engineering and technical personnel undertaking operational safety-related tasks**

comment 253 comment by: AENA-NPA2013-08

**Page 49, ATS.OR.225 Safety requirements for engineering and technical personnel undertaking operational safety-related tasks.**  
 It is necessary to define the term “*subcontracted organizations*”, clarifying the concept of subcontracting:  
*(a) With regard to the personnel involved in safety-related tasks including personnel of subcontracted organizations, (...)*

response *Noted*

The Agency takes note of the comment. The term is not used anymore in the rule.

comment 257 comment by: AENA-NPA2013-08

**Page 49, ATS.OR.225 Safety requirements for engineering and technical personnel undertaking operational safety-related tasks.**  
 To align the scope of the requirement ATS.OR.225 to the definition of ATSEP given in ATSEP.OR.005. From Aena point of view, this definition is better because it is easier to identify the safety related equipment than safety related tasks.  
 To clarify if the 'Power supply and air conditioning personnel' is included in the scope of the ATS.OR.225. If so, provide GM or AMC about that, and also about the streams that they have to follow.

response *Accepted*

The commented provision is amended and only covers ATSEP. It is now in line with the amended definition of ATSEP in Article 2(7).  
 Power supply and air conditioning personnel are excluded from the scope of Annex XII (new Annex XIII) and, thus, not within ATS.OR.225 (new ATS.OR.200) (and currently not in the scope of any other personnel).

comment 323 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex III ATS.OR.225	<i>"They shall have procedures in place for cases where the physical or</i>	This requirement has to be very clearly

<p><b>Safety requirements for engineering and technical personnel undertaking operational safety-related tasks</b></p>	<p><i>mental condition is in doubt."</i> More detailed explanation of this requirement is needed in order to apply it in a non-discriminatory way. Further to this, acceptable means of compliance (AMC) should be defined for this requirement.</p>	<p>established. Otherwise, personnel could misuse this requirement.</p>
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response *Noted*

The Agency takes note of the proposal.

The commented provision is a direct transposition point 3.3 of Annex II, to Regulation (EU) No 1035/2011. The Agency has not so far been made aware of related interpretation problems. Also, the development of specific AMC/GM was not proposed by the rulemaking group. This consultation cannot be seen as clearly supporting this proposal. Therefore, the commentator is kindly invited to consider a more detailed rulemaking proposal on the issue, preferably via the relevant rulemaking advisory body (ATM/ANS sub-SSCC).

comment 324

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>Annex III ATS.OR.225 <b>Safety requirements for engineering and technical personnel undertaking operational safety-related tasks</b></p>	<p>This point describes the safety requirements for engineering and technical personnel undertaking operational safety-related tasks and it has an specific paragraph (d) which references Annex XII establishing the requirements for air safety electronics personnel regarding training and competence assessment.</p>	<p>Recurrent misunderstandings about the appliace of this requirement to personnel undertaking safety-related tasks <b>on power supply and climatization systems</b> have been detected when treating this point with ANSPs both during the certification and inspections processes.</p>
<p>Annex XII <b>Part-PERS</b></p>	<p>Training for the different types of safety-related personnel (other than ATSEP) should be included</p>	

	<p>as well.</p> <p>In particular, explicit reference to engineering and technical personnel (exclusively) undertaking operational safety-related tasks on power supply and climatization systems that support ATM/ANS systems should be made both in ATS.OR.225 and in Annex XII, not as ATSEP but as a different category within the personnel undertaking operational safety-related tasks.</p>	
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response *Noted*

The commented provision is amended and only covers ATSEP.

At a later stage, other categories of personnel undertaking safety-related tasks will be regulated in Annex XII (new Annex XIII. When starting the related tasks with regard to other personnel, the objective of the rulemaking task would be to assess if power supply and air conditioning personnel should be included or not in the scope of other personnel undertaking safety-related tasks.

comment 325

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>Annex III ATS.OR.225(a) <b>Safety requirements for engineering and technical personnel undertaking operational safety-related tasks</b></p>	<p>AESA would request the development of AMC/GM regarding "rostering arrangements".</p>	<p>In order to have a common point of view during certification and oversight of ANSPs, it is important to establish a basis for "the rostering arrangements", and link it to the "sufficient capacity and continuity of the services".</p>

response *Noted*

The Agency takes note of the proposal.

It should be noted that the commented provision is a transposition point 3.3 of Annex II to Regulation (EU) No 1035/2011.

Furthermore, the Agency considers that a development of AMC/GM on the subject would necessitate more thorough discussion at EU level. Therefore, the Agency can only take note of this proposal. The commentator is kindly invited to consider a more detailed rulemaking proposal on the issue.

comment 326

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex III ATS.OR.225(d) <b>Safety requirements for engineering and technical personnel undertaking operational safety-related tasks</b>  Annex XII <b>Part-PERS</b>	The term ATSEP (Air Traffic Electronics Personnel) has been added to the regulation but: - it has not been included in definitions (article 2); and - a clarification of the distinction between the terms “ATSEP” and “engineering and technical personnel undertaking operational safety-related tasks” is needed (differences, definitions,...).	Although explanation on this in (A) 243 is noted, AESA deems this would be convenient for completeness and clarity's sake, and in order to avoid misinterpretations.

response *Accepted*

The Agency takes note of the comments.

A definition of ATSEP is amended in new Annex II of the rule. In order to avoid any discrepancies, 'engineering and technical personnel undertaking operational safety-related tasks' is replaced by 'air traffic safety electronic personnel'.

comment 460

comment by: CAA-NL

**ATS.OR.225**

Please introduce a new (b) while renumbering the following paragraphs, this proposal has to be read in conjunction with the comments on ATM/ANS.OR.B.030 and ATSEP.OR.005:

(b) Personnel (ATSEP) who is authorised by the ATM/ANS organisation to release from operations for maintenance, and return into operations after maintenance, any safety-related air traffic management and communication, navigation, and surveillance systems shall comply with Annex XII of this regulation. All other maintenance personnel shall work under the responsibility of a ATSEP.

*Rationale:*

In line with aircraft maintenance not all personal that touches a piece of equipment has to be fully qualified. With the introduction of 'certifying staff' ATSEPS who have the responsibilities for the organisation to release from and back into operations, the organisations have more flexibility in organising its maintenance and this may lead to cost reductions without quality losses. This builds on similarity with aircraft maintenance in the airworthiness field. Delete point (d) as it is included in new (b).

response *Not accepted*

The commented provision is amended and now covers only ATSEP.

A reference to Annex XII is not necessary as it is already explicitly mentioned in Article 5 of the draft rule.

Additionally, GM to Annex XII (new Annex XIII) are added to explain the maintenance tasks.

comment 509

comment by: HungaroControl

Agreed.

response *Noted*

comment 808

comment by: EUROCONTROL

**Page 49 - ATS.OR.225**

	Should this provision not be integrated in Annex XII, as it deals with engineering and technical personnel?
response	<i>Not accepted</i>
	The Agency takes note of the comment. The commented provision is amended in order to remove any overlapping with the requirements laid down in the new numbered Annex III, ATM/ANS.OR.B.005 and the new numbered Annex XIII. It retains only those requirements on rostering arrangements, physical or mental conditions and a register, which apply also only to ATS and CNS providers as today, while Annex XIII (former Annex XII) addresses the requirements to be met by a service provider with respect to the training and competence assessment of Air Traffic Safety Electronics Personnel. Thus, the Agency does not accept the proposal.

comment	817 <span style="float: right;">comment by: <i>Irish Aviation Authority</i></span>
	<p><b>Document:</b> B – Implementing Rule  <b>Page No:</b> 49  <b>Paragraph No:</b> ATS.OR.225. c . 2 and c.3  <b>Comment:</b> References to operational personnel is outside the scope of this article.  <b>Justification:</b> This section covers ATSEP not Operators  <b>Proposed Text:</b> Remove references to operational personnel.</p>
response	<i>Accepted</i>

comment	918 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>
	<p style="text-align: center;"><b>ATS.OR.225 (c)(1)</b></p> <p>The use of the term “accountable managers” is confusing as the term has a specific meaning where it is used in other parts of the rule that is not consistent with its use here. It also implies that there can be more than one accountable manager</p> <p style="text-align: center;"><b>Resolution</b></p> <p style="text-align: center;">Replace “accountable” with “responsible”.</p>
response	<i>Noted</i>
	The Agency takes note of the comment. The provision is amended.

comment	921 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>
	<p style="text-align: center;"><b>ATS.OR.225 (d)</b></p> <p>Annex XII considers ATSEP to be applicable to air traffic management and</p>

	<p>communication, navigation and surveillance systems. Annex III only addresses ATS (and CNS by reference from Annex VIII). Thus ASM and ATFM are not covered in terms of ATSEP even though they are a part of ATM (by definition).</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p style="text-align: center;">Add appropriate reference to ATS.OR.225 (d) in other impacted Annexes.</p>
response	<p><i>Partially accepted</i></p> <p>The Agency takes note of the comment. The commented provision is removed. Furthermore, the scope of ATSEP is amended.</p>
comment	<p>930 <span style="float: right;">comment by: <i>Kerry Airport</i></span></p> <p><b>Document:</b> B – Implementing Rule  <b>Page No:</b> 49  <b>Paragraph No:</b> ATS.OR.225. c . 2 and c.3  <b>Comment:</b> References to operational personnel is outside the scope of this article.  <b>Justification:</b> This section covers ATSEP not Operators  <b>Proposed Text:</b> Remove references to operational personnel.</p>
response	<p><i>Accepted</i></p>
comment	<p>999 <span style="float: right;">comment by: <i>European Transport Workers Federation - ETF</i></span></p> <p>What about other maintenance safety related jobs ? (see general comment 1)</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the proposal.</p> <p>Furthermore, the Agency considers that a development of draft rules on other maintenance safety-related jobs would necessitate more thorough discussion at EU level. Therefore, the Agency can only take note of this proposal. The commentator is kindly invited to consider a more detailed rulemaking proposal on the issue.</p>
comment	<p>1073 <span style="float: right;">comment by: <i>DFS Deutsche Flugsicherung GmbH</i></span></p> <p>In here, the terms used (in headline and body) are “engineering and technical personnel undertaking operational safety-related tasks”.</p> <p>Annex XII is applicable to “personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems” (ATSEP.OR.005 (b))</p> <p>These two parts of the document are inconsistent. It seems to be due to the historical evolution of the text, which is kept in ATS.OR.225 but developed further in ATSEP.OR.005 (b). The discrepancy will lead to (mis)interpretations</p>

response	<p>which should be avoided. EASA elaborates considerably on the ambiguousness of the term “safety related tasks” in (A) Explanatory Note 220-224 (pp. 56-57) and the reasoning to no longer use this term. <b>DFS proposes to</b> follow the EASA proposal in (A) Explanatory Note 220-224 (pp. 56-57) and to reword ATS.OR.225 in line with ATSEP.OR.005 (b).</p> <p><i>Accepted</i></p>
comment	<p><i>1171</i> comment by: <i>French Civil Aviation Authority (DGAC)</i></p> <p>French CAA comment</p> <p>ATS.OR.225 – engineering and technical personnel - §d (p49):</p> <p>The ATS.OR.225 (d) introduces the requirement of training and competence scheme to be fulfilled by all electronics personnel, as defined in Annex XII of this regulation.</p> <p>However the Annex XII defines the competence to activities linked to complex ATM/ANS means. This is the reason why this requirement should apply only for complex ATM/ANS provider. In particular, AFIS provider should not be required to apply Annex XII.</p> <p>It is then suggested to introduce the possibility of exemption to this requirement in the ATM/ANS.OR.A.015 (d).</p>
response	<p><i>Not accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>Furthermore, Annex XII (new Annex XIII) is amended respecting the proportionality to the size of the service provider and its activities.</p> <p>Moreover, any exemptions to Regulation (EC) No 216/2008 and its Implementing Rules should be treated in accordance with Article 14 of the Basic Regulation.</p>
comment	<p><i>1177</i> comment by: <i>UK CAA</i></p> <p><b>Page No:</b> 49 <b>Paragraph No:</b> ATS.OR.225 <b>Comment:</b> UK CAA suggests this requirement should be moved or deleted. The requirement is located in a Section related to ATS. Other parts of this NPA imply that ATSEPs are encompassed by the ATM/ANS scope and therefore the provisions apply to other Providers, beyond ATS. <b>Justification:</b> To avoid confusion in scope of ATSEP provisions. <b>Proposed Text:</b> Move text to ATM/ANS Section of NPA or consider removing this article entirely.</p>

response *Partially accepted*

The subject provision is amended in order to remove any overlapping with the requirements laid down in the newly numbered Annex III, ATM/ANS.OR.B.005 and Annex XIII. It retains only those requirements on rostering arrangements, physical or mental conditions and a register which apply also only to ATS and CNS providers as today.

comment 1178

comment by: UK CAA

**Page No:** 49

**Paragraph No:** ATS.OR.225

**Comment:** Notwithstanding UK CAA's previous comment to move or delete this requirement, we have further comments on the text.

The title refers to 'safety-related tasks' whereas elsewhere in the NPA it is stated that the term 'ATSEP' is not related to safety-related tasks, but rather, safety related systems.

**Justification:** To provide clarification and consistency throughout document.

**Proposed Text:** Ensure references to ATSEP are consistent throughout NPA to refer to 'safety-related systems' and not 'tasks'.

response *Accepted*

The Agency takes note of the comments.

A definition of ATSEP is amended in the new Annex I of the rule. In order to avoid any discrepancies 'engineering and technical personnel undertaking operational safety-related tasks' is replaced by 'air traffic safety electronic personnel'.

comment 1179

comment by: UK CAA

**Page No:** 49

**Paragraph No:** ATS.OR.225(a)

**Comment:** The last sentence refers to procedures for the welfare of staff, these are covered by wider employment law and are outside the competence of this regulation.

**Justification:** Procedures for the Health and Safety of personnel are covered in alternative European legislation i.e. Directive 89/391/EEC on measures to improve safety and health at work

**Proposed Text:** Delete last sentence in paragraph (a).

response *Not accepted*

The subject provision is amended in order to remove any overlapping with the requirements laid down in the new numbered Annex III, ATM/ANS.OR.B.010 and Annex XIII. It retains only those requirements on rostering arrangements, physical or mental conditions and a register which apply also only to ATS and CNS providers as today.

comment	1180	comment by: UK CAA
	<p><b>Page No:</b> 49  <b>Paragraph No:</b> ATS.OR.225(c)(2) and (c)(3)  <b>Comment:</b> Paragraphs (c)(2) and (c)(3) make references to operational personnel which is outside the scope of this article.  <b>Justification:</b> This section covers ATSEP not Operators.  <b>Proposed Text:</b> Remove references to operational personnel.</p>	
response	Accepted	

comment	1337	comment by: comments provided on behalf of FIT/CISL italian trade union
	What about other maintenance safety related jobs ?	
response	<p>Noted</p> <p>The Agency takes note of the proposal.</p> <p>Furthermore, the Agency considers that a development of draft rules on other maintenance safety related jobs would necessitate more thorough discussion at EU level. Therefore, the Agency can only take note of this proposal. The commentator is kindly invited to consider a more detailed rulemaking proposal on the issue.</p>	

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 3 – Human factors principles for the provision of air traffic control service – ATS.OR.305 Scope**

p. 49

comment	172	comment by: EUROCONTROL
	<p><b>Page 49 - ATS.OR.305</b></p> <p>According to psychologists most forms of judgement are essentially 'cognitive' since they involve the process or act of knowing (or thinking that one knows). The term 'cognitive judgement' is rarely seen because the 'cognitive' qualifier is not usually necessary. In the case of the regulation, the term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation.</p> <p>The term 'judgement' would do in the context of this IR (and also EC 1109/2008 where the term first appeared), but better would be 'abilities', since medical fitness would affect more than just judgement (e.g. detection, alertness).</p> <p>Recommendation is to include a definition of 'cognitive judgement' in the list of</p>	

response	<p>definitions. This is the same recommendation as the one made in our comment on Article 2 - Definitions.</p> <p><i>Noted</i></p> <p>The text is modified and no longer includes the term 'cognitive judgement'.</p>
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comment	<p>191 <span style="float: right;">comment by: AENA-NPA2013-08</span></p>
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**Page 49, Section3 Human factors principles.**

Only oriented to ATCOs and not to ATSEPs (Incoherent with the training provided to ATSEPs) Confirm that fulfillment of article 5b of annex Vb of basic regulation is complete addressing only ATCOs where basic regulation refers to "personnel providing ATC service".

response	<p><i>Noted</i></p> <p>The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.</p> <p>Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.010. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.</p>
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comment	<p>327 <span style="float: right;">comment by: AESA / DSANA</span></p>
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PART	COMMENT	JUSTIFICATION
<p><b>Section 3 - Human factors principles for the provision of air traffic control service</b></p>	<p>AESA feels that this whole section together with its associated AMC/GM could be removed until the related <b>RMT.0486 &amp; RMT.0491</b> on ATCO fatigue management provisions aligned with ICAO are concluded.</p>	<p>This would ensure an effective implementation of these requirements once they are fully defined.</p>

response *Not accepted*

The set of measures proposed with this Section covers more than just fatigue, as it includes provisions regarding stress and the use/abuse of psychoactive substances.

The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements, in this case those in paragraph 5(b) of Annex Vb.

The proposed measures covering fatigue were developed as required by and in accordance with the terms of reference of RMT.0148 (ATM.001 (a)) and RMT.0149 (ATM.001 (b)). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486 and RMT.0486

comment 379

comment by: EUROCONTROL

**Page 49 - ANNEX III, SUBPART A, Section 3**

This section focuses a lot on the negative aspect of human contribution, e.g. impacts of stress, fatigue etc. on, say, incidents. The IR does not contain specific requirement to better understand the normal, day-in-day-out high performance of on-going ATM operations in order to, *inter alia*, ensure the resilience of future Systems.

We therefore suggest that human performance in daily operation should be addressed with a focus on successful outcomes.

response *Not accepted*

This Section includes implementing measures to the Essential Requirements in paragraph 5(b) of Annex Vb to the Basic Regulation .

Nothing precludes the air traffic control service provider to implement these provisions in a manner that addresses the elements indicated in the comment.

comment 454

comment by: EUROCONTROL

**Page 49 - Annex III, Subpart A, ATS.OR.305**

Human factors should not be limited to ATCO. ATS providers are encouraged to extend the requirement to ATSEP.

response *Partially accepted*

The Agency is of the opinion that the term 'personnel providing an ATC service'

in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.010. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.

comment 668 comment by: *Federal Office of Civil Aviation FOCA*

(b) prevent and mitigate the risk that ATC service is provided by ATCOs with impaired cognitive judgement due to ~~problematic~~ use of psychoactive substances. Justification: Any use of psychoactive substances is likely to impair the cognitive judgement of ATCOs. Therefore the impact is not limited to the "problematic" use of psychoactive substances.

response *Not accepted*

The text is modified and no longer includes the term 'cognitive judgement'.

While the Agency agrees that any use of psychoactive substances impacts the cognitive ability, it is only the medically undesired effects of these substances that need to be regulated. Therefore, it is necessary to define and refer to the problematic use of psychoactive substances, whose definition is adopted from ICAO.

comment 814 comment by: *EUROCONTROL*

**Page 49 - Section 3 - ATS.OR**

As this section addresses ATCOs, would it not be better placed in Part-ATCO (and removed from this regulation)?

response *Not accepted*

The provisions in this Section establish responsibilities for the air traffic control service provider as regards fatigue, stress and psychoactive substances, and as such they are included in this Part. Provisions in Part-ATCO establish the responsibilities for individuals, training organisations, competent authority and air traffic services provider concerning the licensing and medical requirements. The two sets of provisions are intended to be complementary.

comment 865 comment by: IFATCA

Of the description in both the ATS OR and AMC1 ATS OR 315 –the human factor issues seems to have been reduced to 3 elements. In the view of IFATCA this is not enough and misses the point of Human Factors. In the light of SESAR and other future initiative such as Performance scheme it is of outmost importance to establish a solid Human Factor principle in the proposed NPA. IFATCA therefore proposes to include further HF issues. For all these Guidance Material shall be established.

New proposals by IFATCA

Human Machine Interface

Human Factors and Automation

Team and communication

Human Factors and new technology (from design, training over to introduction)

Human Factor Cases

Sufficient trained Human Factor Specialists

response *Noted*

The Agency acknowledges the importance of the careful consideration of human factors in the safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirements laid down in subparagraph 5(b)(iv) of Annex Vb to the Basic Regulation.

Several human factors aspects, such as competence, training of personnel, consideration of human factors in air traffic controllers' training, fatigue, stress, and cognitive abilities, are already part of regulatory proposals produced by the Agency.

The Agency sees the consideration of human factors/human performance as a transversal activity, to be progressed along with the development of specific provisions implementing the Essential Requirements in the Basic Regulation. The analysis of SESAR outputs and their impact on human factor/human performance, as well as further scientific developments, will be considered when drafting the ATM/ANS safety regulation.

comment 866 comment by: IFATCA

Suggest to make it an IR

Explain impaired cognitive judgment.

From an IFATCA perspective much more should be taken into account to satisfy the total system approach when it comes to Human Factors.

response *Noted*

It is not evident from the comment what should be introduced in the Implementing Rule.

The text is modified and no longer includes the term 'cognitive judgement'.

comment 897 comment by: Belgocontrol

	<p><i>What is meant with 'cognitive judgement'.</i>  <i>The term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation.</i></p>
response	<p><i>Noted</i></p> <p>The text is modified and no longer includes the term 'cognitive judgement'.</p>

comment	<p>919 comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;"><b>ATS.OR.305 (a)</b></p> <p>The text "ATCO" is not an abbreviation for "Air Traffic Controllers"; it stands for Air Traffic Control Officer.</p>
response	<p><i>Accepted</i></p> <p>The acronym 'ATCO' is removed and replaced by 'air traffic controller' throughout the entire Section.</p>

comment	<p>959 comment by: <i>EUROCONTROL Safety Team</i></p> <p>Page 49 Section 3  The inclusion of HF requirements as mandated by the Essential Requirements in the Basic Regulation is a positive step forward.</p>
response	<p><i>Noted</i></p>

comment	<p>960 comment by: <i>EUROCONTROL Safety Team</i></p> <p>Page 49 ATS.OR.305  According to psychologists most forms of judgement are essentially 'cognitive' since they involve the process or act of knowing (or thinking that one knows). The term 'cognitive judgement' is rarely seen because the 'cognitive' qualifier is not usually necessary. In the case of the regulation, the term cognitive judgement needs to be clearly defined to avoid ambiguity and misinterpretation.  The term 'judgement' would do in the context of this IR (and also EC 1109/2008 where the term first appeared), but better would be 'abilities', since medical fitness would affect more than just judgement (e.g. detection, alertness).  Recommend either adding a definition of 'cognitive judgement' in the IR to avoid ambiguity and misinterpretation or, better still, substituting this term by 'abilities' as mentioned above.</p>
response	<p><i>Partially accepted</i></p>

The text is modified and no longer includes the term 'cognitive judgement'. However, the objective of the proposal in the comment is fulfilled.

comment

1004

comment by: *USAC-CGT*

ATSEPs functions are also directly linked to safety so these provisions should be extended to ATSEPs

ATSEP's work contains calibration and supervision tasks.  
Would you accept to be in a plane guided by an ILS calibrated by an ATSEP under psychoactive effects who didn't sleep because of the stress of this actual situation?

response

*Noted*

The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225 (new ATS.OR.220). On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.

comment

1076

comment by: *DFS Deutsche Flugsicherung GmbH*

General comment:

This section (section 3) details the essential requirements of the Basic Regulation in a manner that organisations with highly developed systems and concepts for health management (including CISM, fatigue and stress management as well as supplies for physical and mental fitness), which are linked to labour contract agreements (including rostering criteria), would be additionally limited in their range of entrepreneurial activity through definit criteria set in IR and AMC.

The creation of a level playing field is favourable, however it should be regarded that adaptation to these provisions will require quite long transition periods for the respective negotiations on new labour agreements with the social partners for those organisations.

response

*Accepted*

The Agency is committed in considering the elements in the comment when defining and proposing the related transitional arrangements.

comment 1181 comment by: UK CAA

**Page No:** 49

**Paragraph No:** ATS.OR.305

**Comment:** UK CAA suggests that stress and fatigue should be addressed separately.

**Justification:** Stress and Fatigue are two distinct issues and should be addressed as such. The underlying requirements (OR 320 & 325) are written in this manner.

**Proposed Text:** Replace paragraph (a) with new paragraphs (a) and (b), renumber existing paragraph (b) into (c), to read as follows:

“(a) mitigate and as far as practicable prevent the negative effects of stress on Air Traffic Controllers (ATCOs) to ensure the safety of air traffic; and  
 (b) mitigate and as far as practicable prevent the negative effects of fatigue on Air Traffic Controllers (ATCOs) to ensure the safety of air traffic; and  
 (c) prevent and mitigate the risk that ATC service is provided ....”

response *Accepted*

The text is modified accordingly.

comment 1259 comment by: NATS National Air Traffic Services Limited

**ATS.OR.305**

Whilst EU 1108/2011 Annex Vb “personnel providing ATC services” could be interpreted in a number of ways it is considered that limiting it to ATCOs in the first instance is appropriate and fully supported by NATS. Should an increase in scope be considered appropriate in the future then this should be subject to a new RMT which includes appropriate consultation and scoping ahead of any drafting by a RMG.

response *Noted*

The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225 (new ATS.OR.220). On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.

**TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 3 – Human factors principles for the provision of air traffic control service – ATS.OR.310 Safety management system**

comment 77 comment by: *ATC the Netherlands*

any identified/known risk. Any can be interpreted as all operational risks arising from ATCO's stress and fatigue have to be dealt with. We can only deal with the identified risks.

response *Not accepted*

The safety management system requires the identification of the hazards and the management and mitigation of the related risk. If a risk is not identified proactively, it will still need to be managed when it arises.

comment 192 comment by: *AENA-NPA2013-08*

**Page 49, ATS.OR.310 Safety management system.**

Title should be changed as it is the same as ATS.OR.205.

It should also include problematic use of psychoactive substances and ATCO's rostering system

response *Accepted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the articulation of provisions in Section 2 of Subpart A of the new numbered Annex IV .

The text of the said AMC will include also the problematic use of psychoactive substances.

comment 210 comment by: *Icelandic Transport Authority*

What is the rationale for limiting the human factors that need to be managed to only stress and fatigue? Why not go further and require that "...any operational risk arising from human performance is managed by its SMS"? Which of course should be a given, in terms of the requirement for:

**SAFETY RISK MANAGEMENT**

Within the operation of the SMS, air traffic services providers shall:

(1) ensure that risk assessment and mitigation is conducted to appropriate level to ensure that due consideration is given to all aspects

	<p>of the provision of ATS (risk assessment and mitigation). It is suggested that either the provision of ATS.OR.205 Safety management system (b)(1) is strengthened by adding a reference to human factors or that ATS.OR.310 is widened to include either a reference to human performance or human factors. To name a few factors that can have an effect on operational risk: teamwork communication perception - ie presentation of data to ATCOs</p>
response	<p><i>Not accepted</i></p> <p>The Agency acknowledges the importance of the careful consideration of human factors in safety regulation addressing air traffic control provision and is committed to propose adequate implementation of the Essential Requirements laid down in subparagraph 5(b)(iv) of Annex Vb to the Basic Regulation.</p> <p>Several human factors aspects, such as competence, training of personnel, including human factors training, fatigue, stress, and cognitive abilities, are already part of regulatory proposals delivered by the Agency.</p> <p>The Agency sees the inclusion of human factors/human performance as a transversal activity, to be progressed in the development of specific provisions implementing the Essential Requirements of the Basic Regulation. For example, safety regulation addressing ATM/ANS system and constituents where human factors shall be carefully considered and addressed, is yet to be developed.</p> <p>In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the articulation of provisions in Section 2 of Subpart A of the new numbered Annex IV.</p>
comment	<p>244 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 49 - ATS.OR.310 - Safety management system</b> The use of the word 'any' is too broad in this sense and makes the ANSP liable for a risk that may never normally be expected to be identified. The air traffic control service provider shall ensure that any <u>identified</u> operational risk... is managed by its safety management system.</p>
response	<p><i>Not accepted</i></p> <p>The safety management system requires the identification of the hazards and the management and mitigation of the related risk. If a risk is not identified proactively, it will still need to be managed when it arises.</p>
comment	<p>274 <span style="float: right;">comment by: <i>HungaroControl</i></span></p> <p>The air traffic control service provider shall ensure that any <u>identified/ known</u> operational risk arising from ATCOs' stress and fatigue is managed by its safety management system</p>

response	Risks need to be identified/known in order to be managed.
	<i>Not accepted</i>
	The safety management system requires the identification of the hazards and the management and mitigation of the related risk. If a risk is not identified proactively, it will still need to be managed when it arises.

comment	349 comment by: <i>skyguide Corporate Regulation Management</i>
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EASA correctly recognizes fatigue and stress as hazards in the ATM system (as they are hazards related to human performance, and humans are the part of the ATM functional system). However, it remains unclear why one area of hazards requires to be specifically highlighted in the context of the Safety Management System. If the safety management system represents a methodology developed and verified enough to be included in a legally binding framework, is that methodology able to address properly all elements it is designed to address in the first place. Linking fatigue and stress to SMS is even more questionable when looking into the practical requirements (e.g. ATS.OR.320 c) and 325 c), "ATS provider shall... provide ATCOs with education and information programmes on prevention of..."). Namely, the education and information programmes on prevention of stress and fatigue are, when looked into from the SMS perspective, safety barriers. The question is – why these safety barriers, and not some others, deserve to be highlighted in a such a high-level legal document.

There is significant inconsistency with the solution above, when compared to, e.g. medical requirements for licensing and the requirements related to the use of psychoactive substances – these are not part of the SMS, they are standalone requirements, with defined and precise obligations and actions of ANSP, and it's not required from the SMS to specifically address these aspects. The regulatory objective of these requirements is not clear and, on the other hand, it brings the hazard of creating administrative burden, while still not addressing the issues of legitimate concern in an appropriate way.

response	<i>Partially accepted</i>
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In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the articulation of provisions in Section 2 of Subpart A of the new numbered Annex IV.

comment	357 comment by: <i>HungaroControl</i>
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**Inclusion of Human Factors in safety management system**

Entitling this provision "safety management system" leads to confusion as the SMS is ATS.OR.205. however, the ATS.OR.310 wishes to specify that the HF needs to be included in the SMS. We therefore suggest to change the title or the ATS.OR 310 can be put into ATS. OR 205 as (b) (3).

response *Noted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV. The title of the AMC will be chosen accordingly.

comment 528

comment by: *DSNA*

"Any" implies that all operational risks have to be identified and dealt with in an exhaustive manner. We can only deal with the identified operational risks.

Proposal:

The air traffic control service provider shall ensure that any **identified** operational risk arising from ATCOs' stress and fatigue is managed by its safety management system

response *Not accepted*

The safety management system requires the identification of the hazards and the management and mitigation of the related risk. If a risk is not identified proactively, it will still need to be managed when it arises.

comment 600

comment by: *CANSO Civil Air Navigation Services Organization*

**ATS.OR.310  
Safety  
management  
system**

**Inclusion of  
Human Factors in  
safety  
management  
system**

Entitling this provision "safety management system", this leads to confusion as the SMS is ATS.OR.205. however, the ATS.OR.310 wishes to specify that the HF needs to be included in the SMS. We therefore suggest to change the title.

response *Noted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of Annex the new numbered IV. The title of the AMC will be chosen accordingly.

comment	<p data-bbox="355 277 411 313">658</p> <p data-bbox="1161 277 1445 313" style="text-align: right;">comment by: PANSA</p> <p data-bbox="355 365 1235 400"><b>Inclusion of Human Factors in safety management system</b></p> <p data-bbox="355 400 555 432"><b><u>Justification:</u></b></p> <p data-bbox="355 432 1445 526"><i>The title leads to the confusion since the SMS is addressed under ATS.OR.205. A change to the title of ATS.OR.310 is therefore recommended to address the requirement of HF to be included in the SMS.</i></p>
response	<p data-bbox="355 548 438 582"><i>Noted</i></p> <p data-bbox="355 633 1445 828">In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV. The title of the AMC will be chosen accordingly.</p>
comment	<p data-bbox="355 918 411 952">792</p> <p data-bbox="1118 918 1445 952" style="text-align: right;">comment by: ROMATSA</p> <p data-bbox="355 1008 497 1039">Comment:</p> <p data-bbox="355 1039 601 1070">To add as follows:</p> <p data-bbox="355 1070 1445 1164">The air traffic control service provider shall ensure that any identified/ known operational risk arising from ATCOs' stress and fatigue is managed by its safety management system.</p> <p data-bbox="355 1202 528 1234">Justification:</p> <p data-bbox="355 1234 1445 1328">Any implies that all operational risks arising from ATCO's stress and fatigue have to be identified/known and dealt with in an exhaustive manner. We can only deal with the identified risks.</p>
response	<p data-bbox="355 1355 534 1388"><i>Not accepted</i></p> <p data-bbox="355 1440 1445 1534">The safety management system requires the identification of the hazards and the management and mitigation of the related risk. If a risk is not identified proactively, it will still need to be managed when it arises.</p>
comment	<p data-bbox="355 1624 416 1657">800</p> <p data-bbox="1091 1624 1445 1657" style="text-align: right;">comment by: AvinorANSP</p> <p data-bbox="355 1713 1445 1870"><b>'Inclusion of Human Factors in safety management system'</b> Entitling this provision "safety management system", this leads to confusion as the SMS is ATS.OR.205. however, the ATS.OR.310 wishes to specify that the HF needs to be included in the SMS. We therefore suggest to change the title.</p>

response *Noted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV. The title of the AMC will be chosen accordingly.

comment

1002

comment by: *European Transport Workers Federation - ETF*

ETF welcomes this provision and suggests to change the title of the paragraph to : Inclusion of human factor in the safety management system

response

*Noted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV. The title of the AMC will be chosen accordingly.

comment

1080

comment by: *DFS Deutsche Flugsicherung GmbH*

Delete "any" as this otherwise provokes a conclusive list.  
"The air traffic control service provider shall ensure that ~~any~~ **an** operational risk arising from ATCOs' stress and fatigue is managed by its safety management system."

response

*Not accepted*

The safety management system requires the identification of the hazards and the management and mitigation of the related risk. If a risk is not identified proactively, it will still need to be managed when it arises.

comment

1183

comment by: *UK CAA*

**Page No:** 49

**Paragraph No:** ATS.OR.310

**Comment:** UK CAA suggests that psychoactive substances should be included

	<p>as an item that the risk arising from its problematic use is managed within the SMS.</p> <p><b>Justification:</b> All operational safety risks should be managed by the providers SMS.</p> <p><b>Proposed Text:</b> 'The air traffic control service provider shall ensure that any operational risk arising from ATCOs' stress, <b>fatigue or problematic use of psychoactive substances</b> is managed by its safety management system.'</p>
response	<p><i>Accepted</i></p> <p>The context of ATS.OR.310 has been reviewed based on the comments received, both to this Section and to that on the safety management system, and on the discussions held during the focussed consultation during the comment review period. This provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV.</p> <p>The concern of the psychoactive substances has been considered and is included in the said AMC.</p>

comment	<p>1242 <span style="float: right;">comment by: ENAV</span></p> <p>Proposal for rewording</p> <p><b>Inclusion of Human Factors in safety management system</b></p> <p>Entitling this provision "safety management system", this leads to confusion as the SMS is ATS.OR.205. however, the ATS.OR.310 wishes to specify that the HF needs to be included in the SMS. We therefore suggest to change the title.</p>
response	<p><i>Noted</i></p> <p>In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV. The title of the AMC will be chosen accordingly.</p>

comment	<p>1341 <span style="float: right;">comment by: <i>comments provided on behalf of FIT/CISL italian trade union</i></span></p> <p>FIT CISL invites to change the title of the paragraph to: Inclusion of human factor in the safety management system and appreciates this provision</p>
response	<p><i>Noted</i></p> <p>In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is</p>

removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV. The title of the AMC will be chosen accordingly.

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 3 – Human factors principles for the provision of air traffic control service – ATS.OR.315 Responsibilities of air traffic control service providers with regard to the problematic use of psychoactive substances by ATCOs** p. 49

comment 139 comment by: LfV

Suggest rewording for clarity:  
 (1) The air traffic control service provider shall develop and implement a policy, with related procedures, to prevent and mitigate any effect of problematic use of psychoactive substances by ATCOs on the provision of air traffic control service under the responsibility of the provider *in order to ensure that the problematic use of psychoactive substances does not adversely affect the provision of air traffic control services.*

response Accepted

The text is modified accordingly.

comment 328 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex III ATS.OR.315 <b>Responsibilities of air traffic control service providers with regard to the problematic use of psychoactive substances by ATCOs</b>	Notwithstanding the comment to Section 3 of Annex III (ATS.OR), <b>AESA proposes to modify the following paragraphs:</b> <i>"The air traffic control service provider shall develop and implement a policy, with related procedures, to prevent and mitigate any effect of problematic use of psychoactive substances by ATCOs on the provision of air traffic control service under the</i>	<b>The alternative wording proposed would be the following:</b> <i>"The air traffic control service provider shall develop and implement procedures to prevent and mitigate any effect of problematic use of psychoactive substances by ATCOs on the provision of air traffic control. In addition, the ANSPs shall train managers</i>

	<p><i>responsibility of the provider. (2) Without prejudice to the existing EU Directive 95/46/EC as implemented under national law addressing the treatment and protection of personal data, the provider of air traffic control service shall develop and implement an objective, transparent and non-discriminatory procedure for the detection of cases of problematic use of psychoactive substances by ATCOs which may lead to a provisional inability to exercise the privileges of their licence, in accordance with ATCO.A.015 of Commission Regulation (EU) No XXX/XXX."</i></p>	<p><i>and supervisors to handle such situations adequately."</i></p>
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response *Not accepted*

The text of paragraph (a) is modified.

The proposed deletion of paragraph (b) addressing a detection procedure would considerably reduce the effectiveness of the management of the problematic use of psychoactive substances. The procedure is proposed in line with ICAO Annex 1 paragraph 1.2.7.3.

comment 530

comment by: DSNA

Suggest rewording for clarity

(1) The air traffic control service provider shall develop and implement a policy, with related procedures, ~~to prevent and mitigate any effect of problematic use of psychoactive substances by ATCOs on the provision of air traffic control service under the responsibility of the provider~~ procedures, in order to ensure that the problematic use of psychoactive substances does not adversely affect the provision of air traffic control services.

response	<p><i>Accepted</i></p> <p>The text is modified accordingly.</p>
comment	<p>669 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>The air traffic control service provider shall develop and implement a policy, with related procedures, to prevent <del>and mitigate</del> <u>any effect</u> of problematic use of psychoactive substances by ATCOs on the provision of air traffic control service under the responsibility of the provider. If any effect of the use of psychoactive substances is to be prevented no mitigation is necessary due to the fact that the use in itself is prohibited. The use of psychactive substances in itself is very likely to impaire the cognitive judgement of ATCOs. Therefore ATCO shall be prevented from exercising the privileges of his/her licence when under the influence of psychoactive substances.</p>
response	<p><i>Partially accepted</i></p> <p>The text is modified on the basis of other comments. The adopted wording is in line with the purpose of the comment.</p>
comment	<p>815 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 49 - ATS.OR.315 (2)</b> Should this provision not be integrated in ATCO.A.015 (e) instead (and removed from this regulation)?</p>
response	<p><i>Not accepted</i></p> <p>This is a requirement implementing the Essential Requirements in subparagraph 5(b)(iii) of Annex Vb to the Basic Regulation addressing the air traffic control service provider, and, therefore, this is the suitable location for this provision.</p>
comment	<p>868 <span style="float: right;">comment by: <i>IFATCA</i></span></p> <p>ATS.OR.315 Responsibilities of air traffic control service providers with regard to the problematic use of psychoactive substances by ATCOs (1) The air traffic control service provider shall develop and implement a policy, with related procedures, to prevent and mitigate any effect of problematic use of psychoactive substances by ATCOs on the provision of air traffic control service under the responsibility of the provider. <b>This policy shall include training and education material and shall be approved by the competent authority prior to process with the measures foreseen in (2)</b> (2) Without prejudice to the existing EU Directive 95/46/EC as implemented under national law addressing the treatment and protection of personal data,</p>

the provider of air traffic control service **the competent authority** shall develop and implement an objective, transparent and non-discriminatory procedure for the detection of cases of problematic use of psychoactive substances by ATCOs which may lead to a provisional inability to exercise the privileges of their licence, in accordance with ATCO.A.015 of Commission Regulation (EU) No XXX/XXX.

**(3) Such procedure shall be in accordance with basic human rights and the national law and shall only be implemented if the Social partners have agreed to the system**

IFATCA policy is not opposed to mandatory drug testing but within a limited framework. Our global policy is outlined below.

It is important that an ANSP has a preventive education program in place prior to set up any other measures.

From a legal point of view IFATCA is opposed that ANSP get drug testing capabilities. These are police rights and are in complete opposition to just culture, safety culture and might even endanger safety if it is being abused.

Possible mandatory drug testing can only (where the basic human rights, labor law and constitutional rights are respected) be carried out at State.

These procedures shall be negotiated with the competent authority and the social partners before coming into effect. Many European do not allow such repressive actions against a profession, or if allowed only under very stringent and clear cut legal framework.

The EC is not competent to do this, national prerogative have to remain valid.

ANSP can introduce (1) the rest is for the competent authority – the suggestions are valid.

Page updated 2001

Page 4 2 2 12

#### MED 2.2.7 SUBSTANCE ABUSE IN AIR TRAFFIC CONTROL

IFATCA Policy is:

IFATCA views substance abuse with concern and cautions MAs against it.

A programme of education of substance abuse should be made available to air traffic controllers by their employer in consultation with the MA.

All appropriate safeguards and redress procedures should be established before the introduction of any mandatory drug-test scheme.

Mandatory drug tests, subject to the provisions above, are acceptable on initial recruitment of air traffic controllers to prevent any erosion of entry medical standards.

Mandatory drug tests, subject to the provisions above, of air traffic controllers in an ATC accident are acceptable in order to demonstrate positively their medical fitness at the time.

Any air traffic controller subjected to a drug test should receive a sealed identical sample in order to obtain an independent analysis paid by the employer.

A programme of rehabilitation from substance abuse should be made available to an air traffic controller where a problem is recognised. This programme should be set up and conducted in consultation with the MA in order to maintain the confidence and preserve the employment in ATC of the individual concerned..

response *Partially accepted*

The text of provision (a) is modified on the basis of other comments. The elements required are in the related AMC.

On the basis of this and other comments received, the text of provision ATS.OR.315(b) is modified, to include the respect of relevant EU and national legislation, which inter alia aims at safeguarding the rights of individuals in the context of testing. Moreover, a requirement for the approval of the procedure for the detection by the competent authority is introduced.

comment 922 comment by: *NATS National Air Traffic Services Limited*

**ATS.OR.315**

The EASA "house style" of formatting appears to use letters for the first level of text rather than numbers. This section uses numbers.

**Suggested Resolution**

Replace (1) with (a), and (2) with (b)

response *Accepted*

The format is modified in accordance with the EASA convention.

comment 1085 comment by: *DFS Deutsche Flugsicherung GmbH*

Para (1):

Delete "any" as this otherwise provokes a conclusive list.

(1) The air traffic control service provider shall develop and implement a policy, with related procedures, to prevent and mitigate any effects of problematic use of psychoactive substances by ATCOs on the provision of air traffic control service under the responsibility of the provider.

response *Accepted*

The text is modified on the basis of other comments. The adopted wording is in line with the purpose of the comment.

comment 1260 comment by: *NATS National Air Traffic Services Limited*

**ATS.OR.315**

Whilst EU 1108/2011 Annex Vb "personnel providing ATC services" could be interpreted in a number of ways it is considered that limiting it to ATCOs in the first instance is appropriate and fully supported by NATS. Should an increase in scope be considered appropriate in the future then this should be subject to a new RMT which includes appropriate consultation and scoping ahead of any

	drafting by a RMG.
response	<p><i>Noted</i></p> <p>The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.</p> <p>Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.</p>

comment	<p>1291</p> <p>comment by: <i>Vantage Air Traffic Services</i></p>
	<p>Should this include ATSEPs? I think as a stressed/fatigued ATSEP could be just as dangerous</p>
response	<p><i>Partially accepted</i></p> <p>The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.</p> <p>Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.</p>

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 3 – Human factors principles for the provision of air traffic control service – ATS.OR.320 Stress**

p. 50

comment 245 comment by: EUROCONTROL

**Page 50 - ATS.OR.320 - Stress**

There is a wealth of information in GM on what stress is and how it **may** negatively impact the performance of an ATCO. The identification and mitigation of possible causes of stress is to be welcomed. However, requiring an ANSP to actively monitor the stress levels of its employees (when the stress may well have been caused outside of the organisation) presents the provider with a significant practical problem. When does stress become chronic stress that negatively impacts performance? How to account for individual reactions to stress? How to decide if a symptom is caused by stress or something else? How often should employees be monitored before the monitoring is intrusive and so becomes a stressor in its own right?

In addition, if the performance of an ATCO would drop, there are mechanisms already in place to spot and react to this - see the recent NPA on training and licensing where ongoing competence assessment and provisional inability is described.

We propose to delete the requirement to monitor individual staff stress levels.

response *Not accepted*

The Agency is of the opinion that the signs of stress an individual may display are so various, as also questioned in the comment, that monitoring strategies are integral to the concerned safety objectives.

Competence assessment which may take place every three years may constitute one element of a monitoring strategy, but it is not in itself considered to be sufficient to identify sources of occupational stress as part of the safety management system.

comment 261 comment by: LfV

Education should be provided for CISM peers, while ATCOs should be provided with information on prevention of stress, including critical incident stress management.

response *Noted*

The proposed set of measures do not prevent an air traffic control service provider from implementing these particular measures.

comment 329 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex III ATS.OR.320	Notwithstanding the comment to Section 3 of Annex III (ATS.OR), <b>AESA proposes to modify the</b>	<b>The alternative wording proposed would be the following:</b> "In order to prevent and mitigate the

<p><b>Stress</b></p>	<p><b>following paragraphs:</b>  <i>"In order to prevent and mitigate the negative effects of ATCOs' stress on the provision of air traffic control service under its responsibility, the air traffic control service provider shall:                  (a) develop and maintain a policy for the management of ATCOs' stress, including the implementation of a critical incident stress management programme;                  (b) establish and maintain procedures for the identification of sources of ATCOs' occupational stress together with prevention, mitigation and monitoring strategies;"</i></p>	<p><i>negative effects of ATCOs' stress on the provision of air traffic control service under its responsibility, the air traffic control service provider shall develop and maintain a critical incident stress management programme."</i></p>
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response *Not accepted*

The Agency is of the opinion that a critical incident stress management programme is required to deal with post-event. The proposal in the comment provides neither for any prevention and mitigating measures, nor for education and prevention programmes on stress required by the Essential Requirements in subparagraph 5(b)(ii) of Annex Vb to the Basic Regulation.

comment 549

comment by: *DSNA*

NPA 2012-18 (IR ATCO) already include several requirements on mandatory HF training, both in unit training (ATCO.D.045) and in refresher training (ATCO.D.080).  
 Corresponding AMC stipulates that this HF training should include at least topics concerning stress and fatigue management. (AMC1 ATCO.D.045(c)(4) and AMC 1 ATCO.D.080 (b) (3))  
 Taking in consideration that these training actions are binding to keep unit endorsement valid, it is redundant to add the requirement for "education and information program" on fatigue and stress.  
 "education" is not clear enough to determine which kind of action is necessary

	<p>(formal or not, evaluated or not...).</p> <p>Suggestion to reword ATS.OR.320 ( c ) and ATS.OR 325 ( c ) to ensure consistency with IR ATCO. ATS.OR.320 (...) (c) describe how they provide ATCOs with education and information on prevention of stress, including critical incident stress.</p>
response	<p><i>Partially accepted</i></p> <p>The text of provision in paragraph (c) is modified.</p> <p>The new wording permits to differentiate between the requirements for training organisation to train air traffic controllers on human factors for licensing purposes (proposed with the air traffic controller licensing and medical requirements in Opinion 11/2013) and the requirement for the air traffic control service provider to supply complementary education and information on stress, in particular as regards the organisation's processes and procedures.</p>
comment	<p>560 comment by: <i>military safety expert/ safety management systeme inspector</i></p> <p><b>The introduction of the requirements related to the management of fatigue and stress is premature. The basic regulation talks about preventive, education. Both articles deal with policy, procedures and identification of sources. The step between the 216 and the cover regulation seems too high and not feasible. Also, stress and fatigue are educated during training "human factor course" in our organization and we think it is enough To us, this idea is for the moment subjective. At the end, ICAO's task force has not concluded its work on this matter. Some requirements should be introduced only when ICAO's developments on this matter are finalised and when procedures are ready for use.</b></p> <p><b><u>proposals:</u></b></p> <ul style="list-style-type: none"> <li>• to postpone the integration of fatigue and stress management</li> <li>• to wait until a whole package is ready for implementation.</li> </ul> <p><b><u>Suggestions:</u></b></p> <ul style="list-style-type: none"> <li>· In the ATS. OR.320: removed (a) and (b).</li> <li>· In the ATS. OR.325: removed (a) and (b).</li> </ul>
response	<p><i>Not accepted</i></p> <p>The aspects regarding fatigue included in this comment are addressed in the response to comment No 561.</p> <p>The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements, in this case those in subparagraph 5(b)(ii) of Annex Vb on stress.</p>

The set of measures proposed by the Agency provides for the necessary implementation of the Essential Requirements in subparagraph 5(b)(ii) of Annex Vb on stress.

The scope of the ICAO ATCO FRMS Task Force covers exclusively fatigue and its management, and not stress. The Agency is aware of and actively involved in this ICAO activity. It will take due account of its results with a reassessment of these provisions at that time, under its RMT.0486

comment 702 comment by: AENA-NPA2013-08

**ATS.OR.320 Stress.**

Derived from the indicated in ATS.OR.310, it should be managed into the Safety Management System.

response *Noted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the articulation of provisions in Section 2 of Subpart A of the new numbered Annex IV.

comment 816 comment by: EUROCONTROL

**Page 50 - ATS.OR.320 (b)**

How to distinguish occupational stress from other sources of stress?

response *Accepted*

A newly introduced GM is provided to indicate sources of occupational stress.

comment 871 comment by: IFATCA

Adapt to IFATCA policy

Occupational stress is now recognised as an increasingly global phenomenon, affecting all categories of workers, all work places and all countries. Several studies have revealed with scientific integrity that considerable levels of occupational stress reactions have been identified among different groups of air traffic controllers.

Occupational stress is the product of complex interaction of the task, the operational environment and the personality characteristics of the individual. Thus it is difficult to generalise to all controllers groups.

Nevertheless, some of the most common stressors have been identified as:

- a) Demand  
number of aircraft under control - peak traffic hours - extraneous traffic - unforeseeable events - proficiency checks / examinations;
- b) Operating procedures  
time pressure - having to bend the rules - feeling of loss of control - fear of consequences of errors;
- c) Working time  
shift and night work - unbroken duty periods;
- d) Working tools  
limitations and reliability of equipment - VDT, RTF and telephone quality - equipment layout;
- e) Work environment  
lighting / optical reflections – noise / distractors - microclimate - bad posture - rest and canteen facilities;
- f) Working organisation  
role ambiguity - relations with supervisors and colleagues - lack of trained staff or staff inadequately trained - lack of control over work process - lack of management support - salary - public opinion;
- g) Critical Incident / Accident A critical incident is any situation faced by Air Traffic Controllers that causes them to experience unusually strong emotional reactions which have the potential interfere with their ability to function either at their positions or later. Critical incident stress (CIS) is the reaction a person or a group has to a critical incident.

response *Accepted*

A newly introduced GM, taking into account the content of the comment, is provided to indicate sources of occupational stress.

comment 961

comment by: *EUROCONTROL Safety Team*

Page 50 ATS.OR.320

The inclusion of stress management as mandated by the Essential Requirements in the Basic Regulation is a positive step forward.

response *Noted*

comment	<p>1017 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment (coordinated between NSA and rulemaking directorate)</p> <p>The introduction of the requirements related to the management of fatigue and stress is premature. It is important that the EASA requirements are consistent with those stemming from ICAO. Yet ICAO's FRMS task force has not concluded its work on this matter. Some requirements should be introduced only when ICAO's developments on this matter are finalised and when procedures are ready for use.</p> <p><u>Rationale:</u>  ATS.OR.320 (b) and 325 (b) require the establishment of procedures for the identification of the sources of ATCO's occupational stress and fatigue. However:</p> <ol style="list-style-type: none"> <li>1) It may be counter-productive to work in advance as compared with global consensus: on the one hand, we don't know yet how detailed will be ICAO's requirements, and on the other hand there is a risk, if the IR ATM/ANS requirements are too general, that the ANSP's take some quite miscellaneous directions and then when the detailed ICAO requirements emerge, there will be a need for change.</li> <li>2) Industry's development of fatigue and stress management systems is not mature. It would be dangerous to impose the implementation of procedures that are not well recognized at present. The ATM/ANS requirements should remain in the field of awareness campaign and sensitization.</li> <li>3) The risks related to fatigue and stress are managed via the SMS. There is no safety gap on this matter, hence no need to hurry to establish the requirements.</li> </ol> <p><u>Related paragraphs:</u> ATS.OR.320 (b), ATS.OR.325 (b)  <u>Suggestion:</u> until a more complete package is ready for implementation, based on ICAO material, replace ATS.OR.320 (b) by:</p> <p>"(b) Establish strategies to prevent, mitigate and monitor ATCO's occupational stress"</p>
response	<p><i>Not accepted</i></p> <p>The aspects regarding fatigue included in this comment are addressed in the response to comment No 561.</p> <p>The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements, in this case those in subparagraph 5(b)(ii) of Annex Vb on stress.</p> <p>The set of measures proposed by the Agency provides for the necessary implementation of the Essential Requirements in subparagraph 5(b)(ii) of Annex Vb on stress.</p> <p>The scope of the ICAO ATCO FRMS Task Force covers exclusively fatigue and its management, and not stress. The Agency is aware of and actively involved in this ICAO activity. It will take due account of its results with a reassessment of these provisions at that time, under its RMT.0486.</p>

comment	<p data-bbox="355 215 427 244">1187</p> <p data-bbox="1150 215 1445 244">comment by: UK CAA</p> <p data-bbox="355 300 536 329"><b>Page No:</b> 50</p> <p data-bbox="355 331 746 360"><b>Paragraph No:</b> ATS.OR.320</p> <p data-bbox="355 362 1445 459"><b>Comment:</b> Paragraph ATS.OR.325 Fatigue, contains sub-paragraph (d) which provides for 'staff support mechanisms and facilities'. UK CAA suggests this should also be included under paragraph ATS.OR.320</p> <p data-bbox="355 461 1445 521"><b>Justification:</b> It is reasonable to require the same support for those staff who suffer from stress.</p> <p data-bbox="355 524 1445 584"><b>Proposed Text:</b> Add paragraph '(d) make available staff support mechanisms and facilities.'</p>
response	<p data-bbox="355 611 536 640"><i>Not accepted</i></p> <p data-bbox="355 696 1445 792">The Agency is of the opinion that the management of stress does not require the same level of regulation as fatigue with regard to support mechanisms and facilities.</p>
comment	<p data-bbox="355 893 427 922">1188</p> <p data-bbox="1150 893 1445 922">comment by: UK CAA</p> <p data-bbox="355 978 536 1008"><b>Page No:</b> 50</p> <p data-bbox="355 1010 746 1039"><b>Paragraph No:</b> ATS.OR.320</p> <p data-bbox="355 1041 1445 1160"><b>Comment:</b> UK CAA believes 'occupational' stress should be emphasised more. Also, the CISM is only one method of addressing stress resulting from an incident whereas the text needs to be focussed around prevention and mitigation of stress.</p> <p data-bbox="355 1162 1445 1191"><b>Justification:</b> To focus on occupational stress and prevention rather than cure.</p>
response	<p data-bbox="355 1216 480 1245"><i>Accepted</i></p> <p data-bbox="355 1301 1401 1330">A newly introduced GM is provided to indicate sources of occupational stress.</p> <p data-bbox="355 1352 1445 1449">The presence of requirements for the implementation of policy, procedures and education and information on stress is indicating emphasis also on the prevention, and not only to cure.</p>
comment	<p data-bbox="355 1550 427 1579">1261</p> <p data-bbox="691 1550 1445 1579">comment by: NATS National Air Traffic Services Limited</p> <p data-bbox="355 1632 536 1662"><b>ATS.OR.320</b></p> <p data-bbox="355 1664 1445 1850">Whilst EU 1108/2011 Annex Vb "personnel providing ATC services" could be interpreted in a number of ways it is considered that limiting it to ATCOs in the first instance is appropriate and fully supported by NATS. Should an increase in scope be considered appropriate in the future then this should be subject to a new RMT which includes appropriate consultation and scoping ahead of any drafting by a RMG.</p>
response	<p data-bbox="355 1872 437 1901"><i>Noted</i></p> <p data-bbox="355 1957 1445 2018">The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as</p>

air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 3 – Human factors principles for the provision of air traffic control service – ATS.OR.325 Fatigue**

p. 50

comment 246

comment by: EUROCONTROL

**Page 50 - ATS.OR.325 - Fatigue (b)**

There is a wealth of information in GM on what fatigue is and how it **may** negatively impact the performance of an ATCO. The identification and mitigation of possible causes of fatigue is to be welcomed. However, requiring an ANSP to actively monitor the fatigue levels of its employees (when the fatigue may well have been caused outside of the organisation) presents the provider with a significant practical problem. When does fatigue become chronic fatigue that negatively impacts performance? How to account for individual reactions to fatigue? How to decide if a symptom is caused by fatigue or something else? How often should employees be monitored before the monitoring is intrusive?

In addition, if the performance of an ATCO would drop, there are mechanisms already in place to spot and react to this - see the recent NPA on training and licensing where ongoing competence assessment and provisional inability is described.

We therefore propose to delete the requirement to monitor individual staff fatigue levels.

response *Not accepted*

The Agency is of the opinion that fatigue impacts the performance of a human, and, therefore, in the context of air traffic control service provision, it needs to be managed. For this purpose, a comprehensive set of requirements is proposed, and in particular the establishment of a rostering system with its own criteria.

Competence assessment which may take place every three years may constitute one element of a monitoring strategy, but it is not in itself considered to be sufficient to monitor fatigue, which is an important element of fatigue

management.

comment

550

comment by: DSNA

NPA 2012-18 (IR ATCO) already include several requirements on mandatory HF training, both in unit training (ATCO.D.045) and in refresher training (ATCO.D.080).

Corresponding AMC stipulates that this HF training should include at least topics concerning stress and fatigue management. (AMC1 ATCO.D.045(c)(4) and AMC 1 ATCO.D.080 (b) (3))

Taking in consideration that these training actions are binding to keep unit endorsement valid, it is redundant to add the requirement for "education and information program" on fatigue and stress.

"education" is not clear enough to determine which kind of action is necessary (formal or not, evaluated or not...).

Suggestion to reword ATS.OR.320 (c ) and ATS.OR 325 (c ) to ensure consistency with IR ATCO.

ATS.OR.325

(...)

(c) describe how they provide ATCOs with ~~education and~~ information on prevention of fatigue

response

*Partially accepted*

The text of provision in paragraph (c) is modified.

The new wording permits to differentiate between the requirements for training organisation to train air traffic controllers on human factors for licensing purposes (proposed with the air traffic controller licensing and medical requirements in Opinion No 11/2013) and the requirement for the air traffic control service provider to supply complementary education and information on fatigue, in particular as regards the organisation's processes and procedures.

comment

561

comment by: *military safety expert/ safety management systeme inspector*

**The introduction of the requirements related to the management of fatigue and stress is premature.**

**The basic regulation talks about preventive, education. Both articles deal with policy, procedures and identification of sources. The step between the 216 and the cover regulation seems too high and not feasible. Also, stress and fatigue are educated during training "human factor course" in our organization and we think it is enough To us, this idea is for the moment subjective.**

**At the end, ICAO's task force has not concluded its work on this matter. Some requirements should be introduced only when ICAO's developments on this matter are finalised and when procedures are ready for use.**

	<p><b><u>proposals:</u></b></p> <ul style="list-style-type: none"> <li>• <b>to postpone the integration of fatigue and stress management</b></li> <li>• <b>to wait until a whole package is ready for implementation.</b></li> </ul> <p><b><u>Suggestions:</u></b></p> <ul style="list-style-type: none"> <li>• <i>In the ATS. OR.320: removed (a) and (b).</i></li> <li>• <i>In the ATS. OR.325: removed (a) and (b).</i></li> </ul>
response	<p><i>Not accepted</i></p> <p>The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements in subparagraph 5(b)(i) of Annex Vb on fatigue of air traffic controllers.</p> <p>The proposed measures covering fatigue were developed as required by and in accordance with the Terms of Reference for RMT.0148 (ATM.001 (a)) &amp; RMT.0149 (ATM.001 (b)). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.</p>
comment	<p>703 <span style="float: right;">comment by: AENA-NPA2013-08</span></p> <p><b>ATS.OR.325 Fatigue.</b> Derived from the indicated in ATS.OR.310, it should be managed into the Safety Management System.</p>
response	<p><i>Noted</i></p> <p>In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex III.</p>
comment	<p>872 <span style="float: right;">comment by: IFATCA</span></p> <p>Elevate to IR However the proposed wording is not complete in our view. Use IFATCA policy (below). It is difficult to further comment as we do not know what the RMT on this topic will be providing as a result. Current GM1 ATS.OR.325(c) Fatigue seems to be a bit weak for such an important topic.</p>

### MED 2.2.5 FATIGUE IN AIR TRAFFIC CONTROL

IFATCA Policy is:

MAs should draw the attention of their members to the causes of Fatigue in ATC so that they can identify those to which they are most exposed.

MAs should advise their members to seek professional psychological advice when they believe that they are subject to excessive stress-inducing agents.

See: WP L004 - Rio de Janeiro 1988

Management has the prime role for providing fatigue management and prevention of fatigue-related catastrophes. Any situation where increased fatigue, decreased sleep, or performance loss can be demonstrated, is a situation where the margin for error is reduced, albeit by some unknown amount, and should be avoided in ATC.

The provision of a satisfactory working environment appropriate rostering, rest periods, facilities, use of overtime, relief controllers and education in human factors shall be agreed with the air traffic controllers involved.

Attention must be given to individual differences, age and gender.

In exercising the responsibilities of designing of duty rosters (POLSTATs elsewhere refers), management shall be responsible for providing physical arrangements (relief controllers and adapted rest area) and sufficient break periods for controllers to try to maintain their daily eating habits regardless of which shift they are working. Such physical arrangements and sufficient break periods shall be provided to allow for strategic naps during night shifts.

Management shall approve the implementation of strategic naps as an effective way of improving alertness and anchoring the circadian rhythms of controllers during night shift. A strategic nap is defined as a short period of sleep taken at specific times during a night shift. Recommended duration of a strategic nap varies from maximum 20 minutes for a nap early in the night to maximum 50 minutes late in the night (after 4am). Management shall in close coordination with the air traffic controllers involved, carefully consider staffing levels during night shifts. For those controllers who have very heavy traffic loads during the night shifts, additional relief should be considered as an appropriate countermeasure to sleepiness and fatigue in order to increase the safety margins, and to reduce subsequent daytime sleepiness.

Use of overtime shall generally be kept to a minimum, and a system for allocation of overtime which takes the limitations in human performance as a factor shall be established. The combination of overtime shortly before or just after night-shifts shall be avoided.

Control-rooms shall be tobacco-smoke free areas due to the negative effects on dexterity caused by smoking. MAs should advise their members and management about the causes of fatigue and countermeasures available.

MAs should encourage their management to include theory about the physiological principles related to sleep and circadian rhythms, both in controllers retraining and basic education. Such training should include knowledge of ways to take deliberate actions (countermeasures) to better meet controllers' operational requirements.

See: WP 148 - Toulouse 1998 and WP 159 - Taipei 1997

The Regulator / Legislator should:

- develop comprehensive hours of duty regulations for air traffic controllers, incorporating fatigue management principles;
- require all air traffic service providers to maintain auditable fatigue management systems and establish this as a key element of a target level of safety.

response *Noted*

It is not clear from the comment which elements of the draft NPA IFATCA proposes to elevate to Implementing Rules. The Agency will expand on the topic of fatigue first through introducing Guidance Material to this provision, and when progressing with RMT 0486. When drafting the Guidance Material, IFATCA's proposals will be considered.

comment 962

comment by: *EUROCONTROL Safety Team*

Page 50 ATS.OR.325

The inclusion of fatigue management as mandated by the Essential Requirements in the Basic Regulation is a positive step forward.

response *Noted*

comment 1019

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment (NSA and rulemaking directorate)

The introduction of the requirements related to the management of fatigue and stress is premature. It is important that the EASA requirements are consistent with those stemming from ICAO. Yet ICAO's FRMS task force has not concluded its work on this matter. Some requirements should be introduced only when ICAO's developments on this matter are finalised and when procedures are ready for use.

Rationale:

ATS.OR.320 (b) and 325 (b) require the establishment of procedures for the identification of the sources of ATCO's occupational stress and fatigue. However:

1) It may be counter-productive to work in advance as compared with global consensus: on the one hand, we don't know yet how detailed will be ICAO's requirements, and on the other hand there is a risk, if the IR ATM/ANS requirements are too general, that the ANSP's take some quite miscellaneous directions and then when the detailed ICAO requirements emerge, there will be a need for change.

2) Industry's development of fatigue and stress management systems is not mature. It would be dangerous to impose the implementation of procedures that are not well recognized at present. The ATM/ANS requirements should remain in the field of awareness campaign and sensitization.

3) The risks related to fatigue and stress are managed via the SMS. There is no safety gap on this matter, hence no need to hurry to establish the requirements.

	<p><u>Related paragraphs:</u> ATS.OR.320 (b), ATS.OR.325 (b)  <u>Suggestion:</u> until a more complete package is ready for implementation, based on ICAO material, replace ATS.OR.325 (b) by:  “(b) Establish strategies to prevent, mitigate and monitor ATCO’s occupational fatigue”</p>
response	<p><i>Not accepted</i></p> <p>The Agency has an obligation, stemming from the Basic Regulation, to develop implementing measures for the fulfilment of the Essential Requirements in subparagraph 5(b)(i) of Annex Vb on fatigue of air traffic controllers.</p> <p>The proposed measures covering fatigue were developed as required by and in accordance with the Terms of Reference for RMT.0148 (ATM.001 (a)) &amp; RMT.0149 (ATM.001 (b)). The Agency is aware of and actively involved in the ICAO ATCO FRMS Task Force. It will take due account of the results of this ICAO Task Force with a reassessment of these provisions at that time, under its RMT.0486.</p>
comment	<p>1038 <span style="float: right;">comment by: ENAV</span></p>
	<p>We propose to delete point (C)  <del>provide ATCOs with staff support mechanisms and facilities in order to mitigate effects of fatigue.</del>  It is already in the IR provisions:  ATS.OR.325 (d) <i>make available staff support mechanisms and facilities</i></p>
response	<p><i>Accepted</i></p> <p>The Agency interprets this comment as being related to AMC1 ATS.OR.325. This AMC is removed.</p>
comment	<p>1190 <span style="float: right;">comment by: UK CAA</span></p>
	<p><b>Page No:</b> 50  <b>Paragraph No:</b> ATS.OR.325  <b>Comment:</b> UK CAA suggests the paragraph should include a proportionate limit to the amount of support mechanisms/facilities available  <b>Justification:</b> As written there is no limit to the level of support to be offered.  <b>Proposed Text:</b>  ‘(d) make available <b>appropriate levels</b> of staff support mechanisms and facilities.’</p>
response	<p><i>Not accepted</i></p> <p>The Agency is of the opinion that the introduction of the term 'appropriate' would necessitate the definition of common reference, which is not feasible, given the diversity of the air traffic control units in Europe.</p>

comment	1262	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p><b>ATS.OR.325</b>          Whilst EU 1108/2011 Annex Vb “personnel providing ATC services” could be interpreted in a number of ways it is considered that limiting it to ATCOs in the first instance is appropriate and fully supported by NATS. Should an increase in scope be considered appropriate in the future then this should be subject to a new RMT which includes appropriate consultation and scoping ahead of any drafting by a RMG.</p>	
response	<p><i>Noted</i></p> <p>The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.</p> <p>Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.</p>	

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.OR) – Section 3 – Human factors principles for the provision of air traffic control service – ATS.OR.330 ATCOs’ rostering system(s)**

p. 50

comment	173	comment by: <i>EUROCONTROL</i>
	<p><b>Page 50 - ATS.OR.330 (b)</b>          The meaning of this paragraph is unclear. Clarification is necessary.          Does this mean:</p> <ul style="list-style-type: none"> <li>• Provider has to consult the ATCOs affected by the rostering system, or</li> <li>• Provider has to check with ATCOs who are already fatigued before implementing the rostering system, or</li> <li>• Provider, before establishing a rostering system, has to identify safety implications arising from fatigue?</li> </ul>	
response	<p><i>Accepted</i></p> <p>The text of the provision is modified on the basis of the comments received, in</p>	

order to clarify the meaning of 'affected air traffic controllers'.

The rationale for the provision is that the air traffic control service provider has to consult with air traffic controllers subject to that rostering system. This will allow the identification also of risks arising from the application of the rostering system itself.

comment 364 comment by: *Finnish Transport Safety Agency*

Finnish Transport Safety Agency welcomes the addition of requirements relating to stress, fatigue and rostering systems for ATCO's.

response *Noted*

comment 486 comment by: *DSNA*

At the IR level, the word "affected ATCO" is awkward and it is proposed to replace it with wording that reflects the intent of the article.

Proposal

(b) When establishing an ATCOs rostering system, the air traffic control service provider shall ~~involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s)~~ ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation

response *Partially accepted*

The text of the provision is modified accordingly adopting the meaning of the text proposed with the comment.

comment 547 comment by: *Prospect ATCOs' Branch UK*

We welcome the provision for the correct creation and management of a rostering system in order to mitigate fatigue. This is a very important area, to as far as possible ensure the safety of the operational environment. The current drafting does however in our view leave some aspects open to too much interpretation which could lead to confusion.

After discussions with ETF, ATCEUC and CANSO we would like to propose the following re draft.

ATS.OR.330 rostering system(s)

(b) When establishing an ATCOs rostering system, the air traffic control service provider shall ~~involve affected ATCOs in relation to safety issues concerning~~

~~fatigue in ATCOs' rostering system(s)~~ **ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.**

response *Partially accepted*

The text of the provision is modified accordingly adopting the meaning of the text proposed with the comment.

comment 591

comment by: *CANSO Civil Air Navigation Services Organization*

ATS.OR.330 rostering system(s) (b)  
When establishing an ATCOs rostering system, the air traffic control service provider shall ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.

GM1 ~~ATS.OR.330(b) ATCOs' rostering system(s)~~  
~~ATCOS' INVOLVEMENT IN THE DEVELOPMENT OF THE ROSTERING SYSTEM(S)~~

~~The contribution of the ATCOs, the duty periods of which will be effectively regulated by the proposed rostering system, is required in order to ensure that such rostering system is acceptable and not inducing fatigue and stress to individuals and, consequently, generating risks to the safety of the service provided.~~ Additional guidance concerning the involvement of ATCOs in the definition of rostering systems is available at EUROCONTROL Study on Shiftwork practices – ATM and related Industries, edition 1.0 of 14/4/2006.

CANSO proposes the new wording, both for the Implementing rule and the GM. It is our opinion that we delete most of the GM as it doesn't really say anything of any use, apart from the link to the Eurocontrol study which may be of some benefit to some providers. At the IR level, we remove the uncomfortable word "affected ATCO" and replace it with wording that reflects the intent of the article.

response *Partially accepted*

The text of ATCO.OR.330(b) is modified accordingly adopting the meaning of

the text proposed with the comment.

The text of GM1 ATCO.OR.330(b) is modified according to the proposal.

comment 660

comment by: AENA-NPA2013-08

**Page 50, ATS.OR.330 ATCOs' rostering system(s).**

Isn't it the rostering of ATCOs arrange in place to ensure sufficient capacity and continuity of service, as the ATSEP ones? This requirement is unbalanced with respect to the ATSEP ones.

response *Noted*

The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.

comment 674

comment by: Federal Office of Civil Aviation FOCA

(a) [...] shall ~~develop~~ obtain, implement, [...]

A service provider should have the possibility to purchase such a system instead of developing itself. Either by buying the rostering software from a third company and by implementing this system of rostering accordingly, or by outsourcing the whole rostering to a third company (outsourcing).

response *Not accepted*

The term 'develop' does not preclude the possibility of the air traffic control service provider to purchase or outsource a rostering tool. The responsibility of the air traffic control service provider to meet the requirements laid down in ATS.OR.330 remains, regardless of the tool used.

comment 704 comment by: AENA-NPA2013-08

**ATS.OR.330 ATCO's rostering system(s).**

Derived from the indicated in ATS.OR.310, it should be managed into the Safety Management System.

response *Noted*

In consideration of the comments received, both to this Section and to that on the safety management system, as well as of the discussions held during the focussed consultation during the comment review period, this provision is removed and placed as AMC to ATS.OR.200, to maintain the systematics in Section 2 of Subpart A of the new numbered Annex IV.

comment 802

comment by: AvinorANSP

**Rostering system(s) (b)** When establishing an ATCOs rostering system, the air traffic control service provider shall ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation. CANSO proposes the new wording, both for the Implementing rule and the GM. At the IR level, we remove the uncomfortable word "affected ATCO" and replace it with wording that reflects the intent of the article.

response *Partially accepted*

The text of the provision is modified accordingly, adopting the meaning of the text proposed with the comment.

comment 811

comment by: EUROCONTROL

**Page 50 - ATS.OR.330 (c)**

Making reference to elements of 5 (b)(i) of Annex Vb should be avoided (the IR should be stand alone).

response *Accepted*

The text of the provision is modified and does not include any direct reference to the Essential Requirements in the Basic Regulation anymore.

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comment	818	comment by: EUROCONTROL
	<b>Page 50 - ATS.OR.330 (b)</b> The involvement of affected ATCOs is desirable. However, it may be detrimental to safety in some cases (e.g. there may be some pressure by ATCOs to group together a number of shifts, without any days off in-between, to benefit from a significant number of days off in a row afterwards).	
response	Noted	

comment	873	comment by: IFATCA
	Elevate to IR However the proposed wording is not complete in our view. Use IFATCA policy (below). It is difficult to further comment as we do not know what the RMT on this topic will be providing as a result. Current GM1 ATS.OR.330(b) ATCOs' rostering system(s) and AMC1 ATS.OR.330(c) ATCOs' rostering system(s) Seems a bit weak for such an important point.	

### WC 1.3 HOURS OF WORK

#### WC 1.3.1 DUTY ROSTERS

IFATCA Policy is:

The duty roster should be based on at least 2 consecutive days off in every 7 days. Duty rosters should be agreed with the air traffic controllers involved. SPO shall be avoided.

An optimal roster should be promulgated, based on the maximum allowed number of working hours per week and per shift, a minimum number of break periods of an agreed minimum length, both during a shift and between shifts and on an optimal night/day switch number per week or per month as appropriate. This roster requires definition of personnel strength based on the number of sectors and traffic density. It must allow for attribution of a minimum number of days paid leave, sick leave, extraordinary leave and unpaid leave. It must be such that a minimum number of weekends per month and of public holidays per year can be taken as they occur and not later. Conditions for overtime and night work (e.g. rest facilities) must be defined and the regulations governing the various kinds of leave be clearly stated.

Duty rosters including night shifts should be of a rapidly rotating shift system in a morning, evening, night cycle. Consecutive night shifts are not recommended. (Toulouse 98.C.5)

Shift systems should not include night shifts that commence on the same day that a morning shift ends. Change-over times between night shift and the following morning shift should not take place before 6 am local time, to ensure that sleep duration for the morning shift is adequate before commencement of their duty time (Toulouse 98.C.5).

Shift systems should include preferably single night duties only but where consecutive nights are required they should be restricted to the minimum.

In respect of the nature of night shift duties Member Associations pursue additional time off for night shifts worked as compensation. (Rio 1988)

After a night shift, an off-duty period of a minimum of 30 hours is recommended

(Toulouse 98.C.5, amended Santiago 99.C.20).

The number of consecutive early starts (shifts starting in the period between 0600 and 0659) should be limited to a maximum of two in a period of 144 hours (6 days) (Santiago 99.C.21).

#### WC 1.1.6 SINGLE PERSON OPERATIONS

Single Person Operations (SPO) can be defined as operations where an operational ATC unit is providing service with only one appropriately qualified ATCO on duty.

IFATCA Policy is:

Rostering Single Person Operations (SPO) shall be avoided. In the unlikely event of unavoidable SPO appropriate measurements shall be taken to ensure that the SPO situation will be alleviated as soon as possible. Until such time measures shall be taken to mitigate all impacts of SPO such as: traffic regulation, provide breaks, informing neighbouring ATC units. Procedures shall be in place to implement such measures in an efficient way, not increasing the workload of the ATCO.

The use of single controller shifts should be strongly discouraged by MA's, both through their providers and their regulators. When providers choose to use SPO, they must bear the responsibility for the resulting risk(s) to the system. The ATCO must not be held liable for incidents or accidents resulting from the use of SPO.

See: WP 166 - Hong Kong 2004 and WP 159 - Geneva 2001

response *Partially accepted*

It is not clear from the comment which elements of the draft NPA IFATCA proposes to elevate to Implementing Rules.

The text of ATS.OR.330 is modified also to include a minimum of elements of the rostering system that the air traffic control service provider is required to define in order to manage occupational fatigue, in consultation with the air traffic controllers or, if applicable, their representatives.

Generally, risks arising from single person operations are managed via the safety management system. Specific risks increasing the likelihood of fatigue are managed through an adequate rostering system.

comment 963

comment by: *EUROCONTROL Safety Team*

Page 50 ATS.OR.330

The inclusion of a rostering system as mandated by the Essential Requirements in the Basic Regulation is a positive step forward.

response *Noted*

comment 998

comment by: *European Transport Workers Federation - ETF*

The wording "affected ATCOs" isn't appropriate so we propose a rewording. We also advise EASA to be careful about the translation of consulted (ex: concertation in french and concertazione in italian)

Alternative proposal :

**ATS.OR.330 rostering system(s)**

**(b)** When establishing an ATCOs rostering system, the air traffic control service provider shall ~~involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s)~~ **ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.**

response *Partially accepted*

The text of the provision is modified accordingly, adopting the meaning of the text proposed with the comment.

comment	1191 <span style="float: right;">comment by: UK CAA</span>
	<p><b>Page No:</b> 50  <b>Paragraph No:</b> ATS.OR.330  <b>Comment:</b> Paragraph (b) includes the term 'an ATCO's rostering system' – this implies an individual roster.  <b>Justification:</b> To provide clarification and align with terminology in paragraph (c).  <b>Proposed Text:</b>          '(b) When establishing <del>an ATCOs'</del> <b>the</b> rostering system, the air traffic control service provider shall involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s).'</p>
response	<p><i>Accepted</i></p> <p>The text of the provision is reworded and takes into account of the proposal to establish clarity.</p>

comment	1237 <span style="float: right;">comment by: SINCTA - Portuguese Air Traffic Controllers' Union</span>
	<p><b>ATS.OR.330 ATCOs' rostering system(s)</b></p> <p>SINCTA thinks that any rostering system shall not be discussed/modified without the presence of union/professional representatives.          SINCTA strongly supports the presence of this article in the IR (with the proposed changes), without waiting for ICAO's conclusions. The content of the AMC1 ATs.OR.330(c) should be integrated in the IR (that becomes idem d).          SINCTA adds a 9th item to the (d) list in order to put a limit to the number of hours (operational work and breaks) an ATCO can work in a year.</p> <p>Proposal: (b) When establishing an ATCOs rostering system, the air traffic control service provider shall <del>involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s)</del> <u>ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. To this effect, representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.</u>  <u>(d) When addressing the elements of the rostering system(s), the provider of air traffic control should specify the following safety criteria:</u></p> <ul style="list-style-type: none"> <li>• <u>maximum consecutive working days with duties,</u></li> <li>• <u>maximum hours per duty period,</u></li> <li>• <u>maximum time providing ATC services without breaks</u></li> <li>• <u>the ratio of duty periods to breaks when providing ATC services</u></li> <li>• <u>minimum rest period,</u></li> <li>• <u>maximum consecutive ATCO duty periods encroaching the time from midnight to 5.59 a.m., if applicable depending upon the operating hours of the ATC unit concerned,</u></li> <li>• <u>minimum rest period after an ATCO duty period encroaching the time from midnight to 5.59 a.m., and</u></li> <li>• <u>minimum number of rest periods within a roster cycle</u></li> <li>• <u>maximum working hours a year providing ATM services</u></li> </ul>

response *Partially accepted*

The text of ATS.OR.330(b) is modified accordingly, adopting the meaning of the text proposed with the comment, with regard to the consultation mechanism.

The text of ATS.OR.330 is modified and presents a new structure. The eight elements of the rostering system formerly specified in AMC1 ATS.OR.330(b) are now included in ATS.OR.330(a).

The Agency is of the opinion that the proposed eight elements are sufficient for the purposes of managing fatigue.

comment *1263* comment by: *NATS National Air Traffic Services Limited*

**ATS.OR.330**

Whilst EU 1108/2011 Annex Vb "personnel providing ATC services" could be interpreted in a number of ways it is considered that limiting it to ATCOs in the first instance is appropriate and fully supported by NATS. Should an increase in scope be considered appropriate in the future then this should be subject to a new RMT which includes appropriate consultation and scoping ahead of any drafting by a RMG.

response *Noted*

The Agency is of the opinion that the term 'personnel providing an ATC service' in paragraph 5(b) of Annex Vb to the Basic Regulation is to be understood as air traffic controllers licensed in accordance with the applicable EU legislation; this limits the applicability of the provisions proposed with this Section to this category of personnel.

Human factors and human performance issues for ATSEPs have already been covered within this NPA under ATS.OR.225. On the basis of the comments received, this provision is amended in order to avoid duplications, as training and qualification for ATSEPs are addressed within the provisions on Management System in ATM/ANS.OR.B.005. Furthermore, the elements of rostering system and physical and mental conditions in doubt for ATSEPs will remain to be addressed in the amended ATS.OR.220. More detailed requirements on the subject would be considered by the Agency at a later stage, if necessary.

comment *1320* comment by: *ATCEUC*

**ATS.OR.330 ATCOs' Rostering system(s)**

ATCEUC strongly supports the presence of this article in the IR (with the proposed changes), without waiting for ICAO's conclusions. ATCEUC asks for the content of the AMC1 ATS.OR.330(c) to be integrated in the IR (that becomes idem d).

ATCEUC states that any rostering system shall not be discussed/modified without the presence of union/professional representatives.

ATCEUC strongly supports "duty periods encroaching the time from midnight to

5.59 a.m." definition where it is used.  
ATCEUC strongly opposes to the use of the WOCL concept.

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*(b) When establishing an ATCOs rostering system, the air traffic control service provider shall ~~involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s)~~ ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.*

*(d) When addressing the elements of the rostering system(s), the provider of air traffic control should specify the following safety criteria:*

- maximum consecutive working days with duties,*
- maximum hours per duty period,*
- maximum time providing ATC services without breaks*
- the ratio of duty periods to breaks when providing ATC services*
- minimum rest period,*
- maximum consecutive ATCO duty periods encroaching the time from midnight to 5.59 a.m., if applicable depending upon the operating hours of the ATC unit concerned,*
- minimum rest period after an ATCO duty period encroaching the time from midnight to 5.59 a.m., and*
- minimum number of rest periods within a roster cycle*

response *Partially accepted*

The text of ATS.OR.330(b) is modified accordingly, adopting the meaning of the text proposed with the comment with regard to the consultation mechanism.

The text of ATS.OR.330 is modified and presents a new structure. The eight elements of the rostering system formerly specified in AMC1 ATS.OR.330(b) are now included in ATS.OR.330(a).

comment 1336 comment by: *comments provided on behalf of FIT/CISL italian trade union*

PROPOSED AMENDMENT:

**(b) When establishing an ATCOs rostering system, the air traffic control service provider shall ~~involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s)~~ ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.**

JUSTIFICATION:

The wording "affected ATCOs" isn't appropriate so we propose a rewording. We also advise EASA to be careful about the translation of consulted (ex: concertation en français and concertazione in italian)

response	<p><i>Partially accepted</i></p> <p>The text of the provision is modified accordingly adopting the meaning of the text proposed with the comment.</p>
comment	<p>1352 <span style="float: right;">comment by: USCA</span></p> <p><b>ATS.OR.330 ATCOs' Rostering system(s)</b></p> <p>(b) When establishing an ATCOs rostering system, the air traffic control service provider shall <del>involve affected ATCOs in relation to safety issues concerning fatigue in ATCOs' rostering system(s)</del> <u>ensure that safety issues concerning fatigue, which could be due to the rostering system itself, have been duly mitigated. Representatives of the ATCOs who will be subject to this rostering system will be consulted in the production of this mitigation.</u></p> <p>(d) <u>When addressing the elements of the rostering system(s), the provider of air traffic control should specify the following safety criteria:</u></p> <ul style="list-style-type: none"> <li>- <u>maximum consecutive working days with duties,</u></li> <li>- <u>maximum hours per duty period,</u></li> <li>- <u>maximum time providing ATC services without breaks</u></li> <li>- <u>the ratio of duty periods to breaks when providing ATC services</u></li> <li>- <u>minimum rest period,</u></li> <li>- <u>maximum consecutive ATCO duty periods encroaching the time from midnight to 5.59 a.m., if applicable depending upon the operating hours of the ATC unit concerned,</u></li> <li>- <u>minimum rest period after an ATCO duty period encroaching the time from midnight to 5.59 a.m., and</u></li> <li>- <u>minimum number of rest periods within a roster cycle</u></li> </ul> <p>USCA strongly supports the presence of this article in the IR (with the proposed changes), without waiting for ICAO's conclusions.  USCA states that any rostering system shall not be discussed/modified without the presence of union/professional representatives.  USCA asks for the content of the AMC1 ATS.OR.330(c) to be integrated in the IR (that becomes idem d).  USCA strongly opposes to the use of the WOCL concept.  USCA requests the change in GM1 ATS.OR.330(b) to link EASA's provision to Eurocontrol guidelines.</p>
response	<p><i>Partially accepted</i></p> <p>The text of ATS.OR.330(b) is modified accordingly, adopting the meaning of the text proposed with the comment, with regard to the consultation mechanism.</p> <p>The text of ATS.OR.330 is modified and presents a new structure. The eight elements of the rostering system formerly specified in AMC1 ATS.OR.330(b) are now included in ATS.OR.330(a).</p> <p>It is not clear from the comment which EUROCONTROL guidelines are to be linked, in addition to the EUROCONTROL Study on shiftwork practices already mentioned therein.</p>

**ANNEX III – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) – SUBPART B – TECHNICAL REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC SERVICES (ATS.TR) – Section 1 – p. 50-51**  
**General requirements – ATS.TR.105 Working methods and operating procedures**

comment 74 comment by: *ATC the Netherlands*

As SERA transposes ICAO Annexes, we need to apply SERA and then, where SERA does not transpose the ICAO provisions, we need to apply the latter, therefore we suggest to add "where relevant" to avoid duplication.

response *Partially accepted*

The Agency does agree with the justification provided by the commentator.

Considering the comment, ATS.TR.105(a)(2)(ii) is amended reading 'Without prejudice to Regulation (EU) No 923/2012, (...)' at the beginning of the point.

comment 211 comment by: *Icelandic Transport Authority*

ATS.TR.105 (1) - some of the regulations that are listed are only applicable within the EUR/AFI regions, so an "as applicable" maybe needs to be added to the provision. Many ATS providers are providing service outside the EUR/AFI regions as well as within, and other rules might apply in those circumstances. In addition, the SERA does not apply over high seas so a reference to Annex 2 might also be needed.

response *Not accepted*

Normally, EU rules apply only to the area where the EU Treaty applies, i.e. the sovereign airspace of the Member States. As high-seas airspace is not sovereign airspace, but a kind of 'no-man's airspace', it would not be covered by EU rules. However, in the SES legislation and the EASA Basic Regulation there is a reference to 'for ATM/ANS purposes'.

Article 4(3)(c) of Regulation (EC) No 216/2008 states that:

'3c. ATM/ANS provided in the airspace of the territory to which the Treaty applies, as well as in any other airspace where Member States apply Regulation (EC) No 551/2004 of the European Parliament and of the Council of 10 March 2004 on the organisation and use of the airspace in the single European sky (the Airspace Regulation) (1) in accordance with Article 1(3) of that Regulation, shall comply with this Regulation. Systems and constituents, personnel and organisations involved in the provision of these ATM/ANS shall comply with this Regulation.'

Furthermore, Article 1(3) of the Airspace Regulation (EC) No 551/004, states that:

' 3. Without prejudice to Article 10, this Regulation shall apply to the airspace

within the ICAO EUR and AFI regions where Member States are responsible for the provision of air traffic services in accordance with the service provision Regulation. Member States may also apply this Regulation to airspace under their responsibility within other ICAO regions, on condition that they inform the Commission and the other Member States thereof.'

Having in mind the above mentioned, it is important to note that Regulation (EU) No 923/2012 is an Implementing Regulation to the already mentioned Regulation (EC) No 551/2004 and Regulation (EC) No 216/2008. Hence, its scope is automatically limited to that of its upper level 'parent regulations' as they provide the legal basis for this implementing rule and no further limitation is required. As regards the mention of SERA, it should be noted that SERA is based on the same legal basis and does actually cover high seas. However, in SERA.1001, the text states that over high seas, Annex 2 of ICAO will be applied without any exceptions.

comment 297

comment by: *HungaroControl*

(a) Air traffic services providers shall be able to demonstrate that their working methods and operating procedures are compliant with:

~~(1) Commission Implementing Regulation (EU) No 923/20125 of 26/09/2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010; and~~  
 (2) the standards in the following annexes to the Convention on International Civil Aviation as far as they are relevant for the provision of air traffic services in the airspace concerned:

(i) Annex 10 on aeronautical telecommunications, Volume II on communication procedures including those with PANS Status in its sixth edition of October 2001, including all amendments up to No 87; and

(ii) Annex 11 on air traffic services in its 13th edition of July 2001, including all amendments up to No 48.

The provision does not bring any added value since regulations in force are to be compliant with even without this provision.

response *Not accepted*

comment 351

comment by: *skyguide Corporate Regulation Management*

a) It is practically impossible to be compliant with the SERA IR and Annex 11 at the same time, since SERA itself contains common European differences from Annex 11. Therefore, this paragraph is redundant and brings legal uncertainty. Since SERA is already applicable, there should be no need for another regulation to mandate its applicability. Redundant: SERA IR is applicable by itself, why would another IR have to prescribe applicability of SERA IR? Legal uncertainty: Having both SERA IR and Annex 11 mandatory applicable, brings a legal incoherence where under SERA a deviation from Annex 11 is required, while under Common Requirements IR, application of Annex 11, and therefore deviation from SERA is required.

b) ICAO does not recognize test flights as a specific category of flights, and not by omission. In the ICAO framework, the provision of ATS sits on several assumptions, notably the airworthiness, the existence of a pilot-in-command, compliance with the applicable rules of the air and aircraft operations standards. Further, European framework already has, in addition to ICAO, a distinction between the GAT and OAT flights, which allows service providers to identify the required type and level of service, as well as the protection from the identified hazards. With this in mind, the notion of flight tests will, redundantly and superficially, add another layer of complexity to already highly complex system of provision of ATS. Secondly, a requirement in regard to provision of ATS for test flights cannot remain in isolation and focused solely on the service provision. Instead, it would have to address all other pillars on which the provision of ATS sits, primarily compliance with the rules of the air and aircraft operating procedures. If the new requirement is added on request of aircraft/equipment manufacturers, it is important that EASA clarifies with the originator of the request what exactly is the operational need of the aircraft/equipment manufacturers in order to establish whether their requirements are in accordance with the current airspace use policies and the defined objectives of the ATS (that is, to establish whether their requirements go beyond the defined objectives of ATS).

response

*Noted*

The Agency takes note of the comments.

In reference to a), it is important to note that the commented provision is sourced from the point 4 of Annex II to the current Regulation (EU) No 1035/2011 as last amended by Article 10 of Regulation (EU) No 923/2012. It requires the ATS provider to demonstrate that its working methods and operating procedures are in compliance with the listed Regulation and ICAO SARPs as far as they are relevant for the provision in ATS.

Considering the comment, ATS.TR.105(a)(2)(ii) is amended reading 'Without prejudice to Regulation (EU) No 923/2012, (...)' at the beginning of the point ,so the reference to ICAO Annex 11 concerns only the provisions, which are not transposed in SERA. When the ongoing and forthcoming rulemaking tasks for Par-AIS, Part ATS, etc. will be completed, the references to ICAO annexes will disappear from the subject Regulation.

In reference to b), it needs to be pointed out that during the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially in carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate. The need to grant or not such a privilege is the sole decision of the relevant competent authority which should be taken if any need will be identified.

comment

505

comment by: *DSNA*

As the provisions in SERA and Annex 11 are not necessarily the same, as there

are differences filed, it is not possible to be compliant with both at the same time. Inconsistency.

SERA should be sufficient. Anything else will be provided for under ICAO. There is, in ICAO, the possibility to file a difference, which is not the case for the regulation. This removal allows for more flexibility in applying the ICAO provisions not already in European law. The CA could audit against both EU requirements as well as ICAO requirements in the same audit.

Proposal

(a) Air traffic services providers shall be able to demonstrate that their working methods and operating procedures are compliant with:

~~(1) Commission Implementing Regulation (EU) No 923/2012 of 26/09/2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010; and~~

~~(2) the standards in the following annexes to the Convention on International Civil Aviation as far as they are relevant for the provision of air traffic services in the airspace concerned:~~

~~(i) Annex 10 on aeronautical telecommunications, Volume II on communication procedures including those with PANS Status in its sixth edition of October 2001, including all amendments up to No 87; and (ii) Annex 11 on air traffic services in its 13th edition of July 2001, including all amendments up to No 48.~~

response

*Not accepted*

The commented provision ATS.TR.105 'Working methods and operating procedures' derives from Chapter 4 of Annex II to Regulation (EU) No 1035/2011 as last amended by Article 10 of Regulation (EU) No 923/2012. It aims at ensuring that the ATS providers take due consideration of all the relevant legislation when developing and implementing their working methods and operating procedures. Whilst legally it is accepted that Regulation (EU) No 923/2012 applies in any case, at the time, the States felt that it was necessary to also mention it to clarify that ICAO annexes would only be applied where SERA does not cover the same ground.

comment

793

comment by: ROMATSA

Comment:

To add as follows:

(a) Air traffic services providers shall be able to demonstrate that their working methods and operating procedures are compliant with:

(1) Commission Implementing Regulation (EU) No 923/20125 of 26/09/2012 laying down the common rules of the air and operational provisions regarding services and procedures in air navigation and amending Implementing Regulation (EU) No 1035/2011 and Regulations (EC) No 1265/2007, (EC) No 1794/2006, (EC) No 730/2006, (EC) No 1033/2006 and (EU) No 255/2010; and where relevant

Justification:

response	<p>As SERA transposes ICAO Annexes, we need to apply SERA and then, where SERA does not transpose the ICAO provisions, we need to apply the latter, therefore we suggest to add “where relevant” to avoid duplication.</p> <p><i>Partially accepted</i></p> <p>The Agency does agree with the justification provided by the commentator.</p> <p>Considering the comment, ATS.TR.105(a)(2)(ii) is amended reading ‘Without prejudice to Regulation (EU) No 923/2012, (...)’ at the beginning of the point.</p>
comment	<p>874 <span style="float: right;">comment by: IFATCA</span></p> <p><del>(b) Notwithstanding (a), for ATS Units providing services for flight testing, the competent authority may specify additional or alternative conditions and procedures to those contained in (a) when so required for the provision of services for flight testing.</del></p> <p>Do not institutionalize at European level an unsafe third category. The economic impact (all the current procedure RNAV, RVSM, separation minima will have to be reviewed and their safety cases revisited) of a possible suspension might be dramatic for European aviation.</p> <p>IFATCA is opposed to a European, even national wide application of a third category of flights rules (next to GAT and OAT). As from a total system approach it is jeopardizing the overall safety. This is in particular the case with regard to existing European or nationwide systems and/or components thereof. E.g. RVSM cannot comply to the safety case anymore in continental Europe if a certain amount of GAT traffic has to be taken into account.</p> <p>Experience with test flights in cross border areas show, that it is completely unsafe procedure to handle this traffic in non-segregated airspace with separate unknown and not assessed procedures</p> <p>Further IFATCA is worried that a new set of unit endorsement is introduced. (see CRD) <i>ATCO B020 (d) For air traffic controllers providing air traffic control services to aircraft carrying out flight tests, the competent authority may, in addition to the requirements set out in paragraph (b), set out additional requirements to be met.</i></p> <p>Further IFATCA is aware that even in cross border area, unknown service providers provide service to test flight without coordination and unknown licensing and training endorsement. This should be stopped and not institutionalized.</p> <p>IFATCA is not opposed to mixed mode operations – but what is being proposed in the regulatory approach is different to mixed mode.</p> <p>Mixed mode policy of IFATCA below</p>

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#### ATS 3.14 MIXED MODE OPERATIONS

The ATM system will continue to evolve through the use of technology. To permit certain categories of non-equipped flights to operate in mandatory equipage airspace, exemptions are given.

The controller is often used as the mitigation to permit these flights to operate, however there is a limit to the number of pieces of information, which can be displayed, either on the data display or the radar to indicate these exemptions, and also the cognitive function of the controller to react to numerous triggers.

Despite the use of individual safety case applications, there is an identified need to conduct a safety analysis on mixed mode operations, in all its variances.

IFATCA policy is:

Mixed mode operations are defined as ATM Operations that require different procedures due to variances in airspace users' characteristics and/or ATM design within the same area of controller responsibility.

Efforts should be undertaken to reduce existing Mixed Mode Operations by creating intrinsically safe solutions.

Introductions of new Mixed Mode Operations should be avoided by creating intrinsically safe solutions.

When safety of a Mixed Mode Operation cannot be completely managed at an intrinsic level, assessment must take place that the change in the ATM system does not increase controller workload to an unacceptable level.

response *Not accepted*

The Agency takes note of the comment.

During the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially in carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate. However, nothing prevents the competent authority from deciding not to include such a privilege into the certificate, if deemed necessary.

comment 909

comment by: *NATS National Air Traffic Services Limited*

#### **Subpart B ATS.TR.105 (b)**

NATS will need to be certified by the NSA to provide ATS for specific Flight Testing. Controllers will need to be specifically trained and have a specific endorsement in their Licenses. Many different types of flight test carried out

	<p>today where NATS provides an ATS but the IR/GM is short on the detail for what types require the enhanced legal governance.</p> <p><b>Impact</b> NSA to determine the additional requirements for management of tests using other than normal standards. GM provides little guidance on what these are. Unless NSA sets requirements, NATS will continue to provide ATS to flight tests under current arrangements.</p> <p><b>Resolution</b> More detail on the type of flight test that requires specific Certification and Licensing.</p>
response	<p><i>Noted</i></p> <p>During the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially in carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider. In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate. However, nothing prevents the competent authority from deciding not to include such a privilege into the certificate, if deemed necessary.</p> <p>Furthermore, as explained in the Explanatory Note to NPA 2013-08 (please refer to paragraph 12), the Agency is to launch a separate rulemaking task on 'Requirements for ATS' that in future would amend the commented Annex. As the subject would require a more thorough analysis to propose a harmonised way on the subject as mentioned by the commentator, the commentator is kindly invited to consider a more detailed rulemaking proposal on the issue that could be addressed during the execution of the mentioned future rulemaking task (RMT.0464).</p>
comment	<p>924 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p style="text-align: center;"><b>ATS.TR.105</b></p> <p style="text-align: center;">As SERA transposes ICAO Annexes, we need to apply SERA and then, where SERA does not transpose the ICAO provisions, we need to apply the latter, therefore we suggest to add "where relevant" to avoid duplication.</p> <p style="text-align: center;"><b>Suggested Resolution</b></p> <p style="text-align: center;">Add "where relevant" to the end of (1).</p>
response	<p><i>Partially accepted</i></p> <p>The Agency does agree with the comment placed by the commentator.</p> <p>Considering it, the new numbered ATS.TR.100(a)(2)(ii) is amended reading 'Without prejudice to Regulation (EU) No 923/2012, (...)' at the beginning of the point.</p>

comment	<p>1090 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span></p> <p>Para (a) (1)          Could EASA please explain the need to explicit that regulation 923/2012 is applicable?          This is unnecessary double regulation. This provision is understood for the ICAO Annexes and should be applied to those only.</p>
response	<p><i>Noted</i></p> <p>The commented provision 'Working methods and operating procedures' derives from Chapter 4 of Annex II to Regulation (EU) No 1035/2011 as last amended by Article 10 of Regulation (EU) No 923/2012. It aims at ensuring that the ATS providers take due consideration of all the relevant legislation when developing and implementing their working methods and operating procedures. Whilst legally it is accepted that Regulation (EU) No 923/2012 applies in any case, at the time, the States felt that it was necessary to also mention it to clarify that ICAO annexes would only be applied where SERA does not cover the same ground.</p>
comment	<p>1264 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span></p> <p>Para (b)  <b>DFS does not support the introduction of provisions for flight tests in the proposed manner.</b>  <b>Test flights are handled by ATC in accordance with the agreed procedures in the frame of the existing rules of the air through particular means of understanding, letters of agreement etc.</b>  <b>These are not to be regarded as a separate service.</b>          The allocation of such services at the same level in the certificate as the common ATS-Service is not correct.          ATS-Service for flight test may be a sub-part of the ATS-Service(s), if required at all.  <b>The allocation of such service at the same level as the ATM/ANS does as well not fit with the given definitions for ATM/ANS and ANS</b>          The procedures for test flights shall be treated as subject to oversight and evidence to the CA within the frame of the oversight for ATS.          If particular treatment shall be required in a harmonised way, then such provisions shall be integrated in the full scope of common requirements and not be subject to local agreements with the CA. However this would require more thorough further analysis and common support.          See our related comments to Appendix 1 (certificate) and AMC.</p>
response	<p><i>Noted</i></p> <p>The Agency takes the comment into due consideration.</p> <p>It should be noted that during the rule development, the Agency was made aware of the specific needs of ATS providers which provide ATS services to flight test, especially in carrying them out in cohabitation with other airspace users. Therefore, the Agency acknowledges the need to allow the use of specific and alternative conditions and operating procedures subject to approval by their competent authority, based on the assessment performed by the provider.</p>

In addition thereto, the Agency proposes a regulatory approach consisting of a particular privilege within the certificate.

However, as explained in the Explanatory Note to NPA 2013-08 (please refer to paragraph 12), the Agency is to launch a separate rulemaking task (RMT.0464) on 'Requirements for ATS' that in the future would amend the commented Annex. As the subject would require a more thorough analysis to propose a harmonised way as mentioned by the commentator, the commentator is kindly invited to consider a more detailed rulemaking proposal on the issue which could be discussed under the above-mentioned rulemaking task in order for the Agency to identify the real need and the best regulatory solutions to accommodate flight tests.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 1 – General requirements – MET.OR.005**  
**Scope and objective of meteorological services**

p. 52

comment 461

comment by: CAA-NL

**Part MET**

The current proposal only transposes certain sections from ICAO Annex 3 Part I. In the table in NPA 2013-08(E) provided by EASA we can determine which ICAO standards from ICAO annex 3 Part I are deferred to further rulemaking and will be included in the Technical Requirements. We suspect that the transposition of ICAO Annex 3 Part II when needed will also be in this new NPA. As we are now not in the opportunity to have an opinion on the total MET package, we reserve the right when we see the need to comment on the current proposals retro wise when the second package is published.

response *Noted*

Indeed, due to the prioritisation of the rulemaking tasks, the transposition of ICAO Annex 3 Part I and II have been covered separately: Part I under this NPA (MET.OR) and Part II (MET.TR) under the recently published NPA 2014-07. The Agency will integrate the technical requirements part in the CRD related to this NPA (2013-08) so that the complete package will be available before adoption of the MET rules.

comment 462

comment by: CAA-NL

**Annex IV (Part-MET), Subpart A, Section 2 juncto Appendix 1 to Annex I (Part.ATM/ANS.AR)**

Please introduce in Appendix 1 to Annex I (Part.ATM/ANS.AR), under Meteorological Services (MET), the following 'Parts of Service': meteorological watch office, aerodrome meteorological office, meteorological station, volcanic ash advisory center, world area forecast center, tropical cyclone advisory

center.  
*Rationale:*  
 Compared to the SES-system, the NPA introduces 6 types instead of 1 type of MET-providers. As not all applicants for a MET-certificate will be interested in and/or be capable of providing all 6 types of services, a basis for a 'part of service' certificate is required.

<b>Information Services (AIS)</b>	AIS	Provision of the whole AIS service as described in ...	n/a
<b>Meteorological Services (MET)</b>	MET	meteorological watch office	n/a
		aerodrome meteorological office	n/a
		meteorological station	n/a
		volcanic ash advisory centre	n/a
		world area forecast centre	n/a
		tropical cyclone advisory centre	n/a
<b>Air Traffic Flow Management (ATFM)</b>	ATFM	Provision of the local ATFM service as described in ...	n/a

response *Accepted*

The different types of meteorological services are added in the certificate under Meteorological services.

comment 637

comment by: *Jan Sondij*

General comment on MET.OR, MET.AR and MET.TR

The update cycles of EASA rulemaking are not in sync with ICAO Annex 3 update cycles. This results in an awkward situation for MET ANSPs, States and NSAs. At this moment in time there are two different rules in place. From a European perspective the 'older' EASA rulemaking is valid, and the NSA provides the oversight. At the same time a State is obliged to follow ICAO regulations based on the Chicago Convention. And the MET ANSP is expected to be ICAO Annex 3 compliant as these requirements are user driven and enable global harmonisation.

It is proposed that EASA finds a solution to guarantee that European rulemaking is in sync with global rulemaking in order to safeguard global harmonisation.

response *Noted*

The Agency is aware of this situation and acknowledges the need to establish a maintenance mechanism which will allow EASA to respond to the changing

ICAO regulatory environment and start the work at the latest when ICAO publishes the State Letter concerning the intended changes.

comment

638

comment by: *Jan Sondij*

General comment on MET rulemaking

The fact that the details of the service provision are missing, in particular the MET.TR makes it not possible to provide an integral opinion on the rulemaking as such. Especially as the technical details within ICAO Annex 3 are complex and form a large part of the content of the Annex.

It is proposed to complement the MET rulemaking document and publish a revised NPA on the overall MET service provision for comments.

response

*Noted*

Indeed, due to the prioritisation of the rulemaking tasks, the transposition of ICAO Annex 3 Part I and II have been covered separately: Part I under this NPA (MET.OR) and Part II (MET.TR) under the recently published NPA 2014-07. The Agency will integrate the technical requirements part in the CRD related to this NPA (2013-08), so that the complete package will be available before adoption of the MET rules.

comment

639

comment by: *Jan Sondij*

General comment

Consider to use references to existing ICAO and WMO material in the MET rulemaking procedure, as well as the use of Community Specifications for MET.TR. If this is not possible please explain the rationale for not being able to do so.

response

*Noted*

References to certain ICAO and WMO documents are made in the draft rules for MET, even some templates of the Annex itself. With regard to the use of CS for MET.TR, a general discussion within the MET rulemaking group was raised on the opportunity to develop Certification Specifications (CS) for this task. Although this option was preferred by the rulemaking group members, the Agency highlighted that there was no legal basis in the Basic Regulation to use CS for the implementation of Annex Vb to the Basic Regulation. Therefore, the rulemaking group developed IRs and AMCs/GM for the transposition of ICAO Annex 3, but left out the use of CSs.

comment

875

comment by: *IFATCA*

It is not obvious what has been transposed from Annex 3 and from the WMO

	Aeronautical Meteorological recommendations. IFATCA proposes that a mapping is created to reduce uncertainties
response	<i>Noted</i>
	NPA 2013-08 (E) provides a drafting document that identifies what has been or not been transposed from ICAO Annex 3, along with the rationale. In addition, Appendix D of the Explanatory Note contains the cross reference table for ICAO Annex 3 against EASA rules. Therefore, a detailed mapping has been provided that allows clear identification of what has been transposed and what has not into Annex IV to the NPA. No material has been transposed from the WMO.
comment	898 <span style="float: right;">comment by: <i>Belgocontrol</i></span>
	there seems to be some inconsistency in the level of detail that is used in subsequent ORs: sometimes the user(s) are specified in detail (e.g. MET.OR.215.d,f,g) and sometimes not at all (e.g. MET.OR.205.a). A future version could perhaps include (as GM) an overview table with MET information vs. provider vs. user(s).
response	<i>Noted</i>
	The principle that was applied by the rulemaking group was to specify the kind of users depending on the intent of the rule and not mention any if all the users are concerned. MET information does not concern all the users identified in MET.OR.005(b). The Agency will make a detailed review in order to ensure that no inconsistency remains.
comment	925 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>
	<p style="text-align: center;"><b>MET.OR.005</b></p> <p>The numbering convention appears to be quite different amongst the Annexes. Here MET.OR.005 is followed by MET.OR.100. Annex I, starts at 001, Annex II starts at 005, Annex III starts at 105 as do Annexes V, VII, VIII and XI with Annex XII starting at 005.</p> <p style="text-align: center;"><b>Resolution</b></p> <p style="text-align: center;">Align Annexes to a common numbering scheme.</p>
response	<i>Noted</i>
	The Agency will ensure alignment of the numbering convention between the different annexes.
comment	926 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>

response	<p style="text-align: center;"><b>MET.OR.005 (b)</b></p> <p>The term "ATM/ANS" is misleading as the scope is ATM/ANS providers. Use of ATM/ANS invokes the definition in 216/2008, however the scope is ATM/ANS providers (as defined in Art 2 of the NPA) which is greater than that of ATM/ANS.</p> <p><i>Noted</i></p>
comment	<p>1075 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>General Comment</b></p> <p>NATS understands that Amendment 3 is due to come into force in November. We would appreciate clarification of how EASA intends to incorporate this amendment.</p>
response	<p><i>Noted</i></p> <p>It is assumed that the comment refers to amendment 76 and not 3. Although Amendment 76 was neither yet adopted nor published at the time of the drafting, the rulemaking group made an assessment of the changes stemming from the changes at ICAO level. It resulted that the amendments from ICAO did not have any impact on the transposition of ICAO Annex 3 Part I but more on Part II, currently in progress. During the CRD phase, the Agency will make sure that the transposition of ICAO Annex 3 is made on the latest amendment, which is already the case for ICAO Annex 3 Part II transposition.</p>
comment	<p>1189 <span style="float: right;">comment by: <i>French Civil Aviation Authority (DGAC)</i></span></p> <p>French CAA comment (coordination with Meteo FR)</p> <p>Some requirements on the "contracting States" of ICAO annex 3 do not appear in the proposed text. These provisions could be considered as "authority requirements" but it is clear that they do not concern the competent authority for certification and oversight (NSA), but the member State itself. Therefore we understand that these provisions cannot be inserted in the AR part. Is it considered by EASA that there is no need to transpose these provisions?</p>
response	<p><i>Noted</i></p> <p>In order to cater for this issue, the Agency has included a new Article 3 on 'provision of services' which, for MET purposes, covers those ICAO requirements on the 'contracting parties' and which do not concern the competent authority for certification and oversight. The text is not limited to Annex IV (Part-MET) only, as it is valid also for other ATM/ANS services.</p>

comment	1233 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>
	<p><b>General</b></p> <p>NATS considers that the absence of a technical regulation at this time makes the conduct of a full assessment extremely difficult. It is entirely possible that the spirit of the requirement could change and have a different impact when the Technical detail is added.</p>
response	Noted
	<p>Indeed, due to the prioritisation of the rulemaking tasks, the transposition of ICAO Annex 3 Part I and II have been covered separately: Part I under this NPA (MET.OR) and Part II (MET.TR) under the recently published NPA 2014-07. The Agency will integrate the technical requirements part in the CRD related to this NPA (2013-08), so that the complete package will be available before adoption of the MET rules.</p>
comment	1273 <span style="float: right;">comment by: <i>CAA CZ</i></span>
	<p><b>General Comment</b></p> <p>From the submitted material it is not clear how the requirements of the new regulation will affect source material (ICAO Annex 3) retroactively so that the integrity of requirements for METSPs is maintained. The question is the future role of ICAO Annex 3 and its coexistence with the new EASA regulation. Although the material presented includes most of the requirements provided for by Amendment 76 to ICAO Annex 3, there are concerns that MET relevant parts of the new EASA regulation might be obsolete in 2015. (E.g. the issue of information exchange in XML / GML formats in the SWIM environment). The submitted material is deliberately avoiding the issue Meteorological Authority (MA) with insufficient explanation, stating that the definition "... conflicts with the EASA principle of competent authority..." and that "... The ICAO approach is, therefore, not compatible with EASA rules as the authority may be the service provider...". Explanation provided by NPA leaves here some ambiguities in how the requirements of MA should be handled by NSA.</p>
response	Noted
	<p>The Agency is aware of this situation and acknowledges the need to establish a maintenance mechanism which will allow EASA to respond to the changing ICAO regulatory environment and start the work at the latest when ICAO publishes the State Letter concerning the intended changes.</p> <p>With regard to the issue of meteorological authority, the general principle is that the EASA rules do not refer to the term 'meteorological authority', as in the context of European rules, this could mean very different entities. Therefore, on a case-by-case basis, and depending on the intent of the provision, the term 'meteorological authority' of ICAO Annex 3 has been replaced by the 'MET service provider' or the competent authority (which can be NSA or CAA or even Member State).</p>

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 1 – General requirements – MET.OR.100**  
**Quality of the data & information**

p. 52

comment 235 comment by: AIRBUS

MET.OR.100

The verb “confirm” is not precise enough. Airbus proposes to reword as followed:

**“Meteorological services providers shall provide the desirable accuracy of the information distributed for operations, including the source ...”**

response *Not accepted*

Not accepted. It is not possible to ensure that the information is provided with this desirable accuracy; this is acknowledged in GM1 MET.OR.100. The proposal is seen as being too strong from a MET service provider requirement, taking into account that, according to ICAO Annex 3, the operationally desirable accuracy is not intended as an operational requirement but is to be understood as a goal that is expressed by the operators.

comment 290 comment by: HungaroControl

Stakeholders are invited to comment whether the term ‘level of attainable’ [accuracy] should be maintained or removed and propose any other alternative wording that would provide the same objective.

The term should be kept.

More detailed definition is needed specifically relating to data integrity, continuity and availability, with human error taken into account.

A defined scope is needed for the terminology used : e.g. NM and ATFM, ATM / ANS providers and providers of ATM/ANS, provision of ATM/ANS, in the field of ATM/ ANS, ...

response *Noted*

The term ‘level of attainable’ [accuracy] is kept.

With regard to data integrity, continuity and availability, no definitions or provisions have been developed yet from a MET perspective.

Concerning the terminology used, the Agency considers that sufficient explanation is provided in the Explanatory Note to this NPA.

comment 678 comment by: Federal Office of Civil Aviation FOCA

	Alternative wording: accessible. The current term "attainable" is also acceptable and clear enough.
response	<i>Noted</i>
	The term 'level of attainable' [accuracy] is kept.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 1 – General requirements – MET.OR.105 Retention of information**

p. 52

comment	690	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	FOCA suggests to keep the wording of the currently applicable Annex 11, 6.4.1.2: "Automatic recordings shall be retained for a period of at least thirty days. When the recordings are pertinent to accident and incident investigations, they shall be retained for longer periods until it is evident that they will no longer be required."	
response	<i>Not accepted</i>	
	The proposed text is stemming directly from ICAO Annex 3 text and, as such, is made specifically for meteorological service purposes. The Agency considers that the related provision in Annex 11 is more restrictive than the proposed one in the NPA as it refers to automatic recordings while those related to meteorological information go beyond automatic recordings.	

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 1 – General requirements – MET.OR.110 Information exchange requirements**

p. 52

comment	932	comment by: <i>MeteoSwiss</i>
	Exchange with OPMET is missing here; it is mentioned in MET.OR.260 (4) for VAAC and MET.OR.270 (3) for TCAC, but not in relation to METAR, TAF and SIGMET (according to Annex 3 App. 3, 3.1 and App. 5, 1.6 and App.6 , 1.2.2). Since this is organizational and not technical, it should be added here. Could also be included in MET.OR.205 (SIGMET), MET.OR.220 (TAF) and MET.OR.250	

	(METAR), but it's better to mentioned the OPMET-exchange only once for all the information provided by the Meteorological Service Providers.
response	<i>Accepted</i>
	Two GMs have been added to include reference to OPMET databank in relation to the information exchange requirements.

<p><b>ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 1 – Requirements for meteorological watch offices – MET.OR.200 Watch and other meteorological information</b></p>	p. 52-53
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comment	698	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	The definition of "meteorological watch office" in ICAO Annex 3 Chapter 3.4 is more precise. Unlike ICAO Annex 3 MET.OR.200 does not cover all responsibilities of a meteorological watch office . Therefore, FOCA suggests to use the ICAO Annex 3 definition.	
response	<i>Not accepted</i>	
	There is no definition of Meteorological watch office in ICAO Annex 3. The Agency proposed a definition based on the existing definition of 'meteorological office' with no changes. Therefore, there is no difference between what is in ICAO Annex 3 and the proposed definition in the rules. In addition, the responsibilities for Watch office are also contained in the following requirements in chapter 1 of section 2, and, therefore, covers all those in Annex 3.	

comment	899	comment by: <i>Belgocontrol</i>
	in this and the following OR SIGMET, SIGMET information and SIGMET messages are used. SIGMET information is included in SIGMET messages so the use of these both terms seems legible, but what about SIGMET? In order to be consistent the use of "SIGMET message" seems more appropriate than "SIGMET" in this case.	
response	<i>Accepted</i>	
	The related changes are now included.	

comment	1192	comment by: UK CAA
	<p><b>Page No:</b> 53  <b>Paragraph No:</b> MET.OR.200 (e)  <b>Comment:</b> UK CAA suggests that the word “accidental” is deleted.  <b>Justification:</b> Amendment 76 to ICAO Annex 3 has removed the word “accidental” from the provision in Chapter 3 paragraph 3.4.2 (g).  <b>Proposed Text:</b>  ‘provide its associated ACC/FIC with information received on the release of radioactive materials into the atmosphere in the area for which it maintains watch or adjacent areas and for which a SIGMET has not already been issued.’</p>	
response	<p><i>Accepted</i></p> <p>The related changes are now included in the revised text.</p>	

<p><b>ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 1 – Requirements for meteorological watch offices – MET.OR.210 AIRMET</b></p>	p. 53
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comment	900	comment by: <i>Belgocontrol</i>
	<p>only to associated ATS units or also to other users (e.g. airspace users)?</p>	
response	<p><i>Noted</i></p> <p>The proposal is to amend (a) as follows: ‘disseminate AIRMET messages.’, without mentioning to whom; this is in line with the similar provision on SIGMET in MET.OR.205</p>	

comment	933	comment by: <i>MeteoSwiss</i>
	<p>According to (b) an AIRMET will only be published if the phenomena is not covered in the actual area forecast for low-level-flights. In Switzerland it is common practice to publish severe weather phenomenon always in an AIRMET, even if it is covered in the GAMET. The reason is the fact that commercial pilots don’t include GAMET in their weather preparation. GAMET is considered to be an information for general aviation (low level flights, mostly on a VFR base).</p>	
response	<p><i>Noted</i></p>	

comment	935	comment by: <i>MeteoSwiss</i>
	Please clarify what "density of the air traffic" means.	
response	<i>Noted</i>	
	The term is transposed from ICAO Annex 3: recognition that consideration on the traffic needs to be taken into account for providing AIRMET to users.	

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 – Requirements for aerodrome meteorological offices – MET.OR.215 Forecasts and other meteorological information – General**

p. 54

comment	700	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	Content of ICAO Annex Chapter 3.3 g) "exchange meteorological information with other meteorological offices" is missing / must necessarily be included.	
response	<i>Not accepted</i>	
	This provision is included in MET.OR.110 'Information exchange requirements'. It was moved to section 1 as it concerns all meteorological service providers and not only aerodrome meteorological offices.	

comment	901	comment by: <i>Belgocontrol</i>
	(e) a part of the sentence seems to be missing here. Who is meant by "their"?	
response	<i>Noted</i>	
	The term 'their' is meant to be about the users. This is an editorial mistake. The term 'users' is added at the beginning of the paragraph.	

comment	1194	comment by: <i>UK CAA</i>
	<b>Page No:</b> 54 <b>Paragraph No:</b> MET.OR.215 (e) <b>Comment:</b> Insert the words "users with" after the word "provide" at the start	

	<p>of the sub-paragraph.  <b>Justification:</b> The text is not clear who is being referred to in respect of “their” respective functions  <b>Proposed Text:</b>  ‘provide <b>users with</b> other meteorological information necessary for the performance of their respective functions;’</p>
response	<i>Accepted</i>

comment	<p>1196 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 54  <b>Paragraph No:</b> MET.OR.215 (f)  <b>Comment:</b> UK CAA suggests the word “volcanic” from between “pre-eruption” and “activity” is deleted.  <b>Justification:</b> Pre-eruption activity is usually non-volcanic e.g. seismic, GPS deformation, strain meter derived, steam and gas ejections etc.  <b>Proposed Text:</b>  ‘provide its associated air traffic services unit, aeronautical information service unit and meteorological watch office with information received on pre-eruption volcanic activity, a volcanic eruption, or volcanic ash cloud’</p>
response	<p><i>Not accepted</i></p> <p>Preference is given to full alignment with ICAO Annex 3.</p>

comment	<p>1221 <span style="float: right;">comment by: Luca Valerio Falessi</span></p> <p>An aerodrome meteorological office shall:  .....  (g) provide, if applicable, meteorological information to search and rescue services units and maintain liaison with the search and rescue services unit throughout a search and rescue operation <b><u>as determined by the local authority</u></b>; and  the statement (g) would seem to say that all meteorological offices airports must provide information to search and rescue services units. It should be appropriate to reformulate the statement in order to allowed the national competent authority to designate which offices must provide meteorological information to search and rescue services units.</p> <p>Here it is used the term "local authority" to indicate the one that has competence over the airspace where SAR operations are conducted.</p>
response	<p><i>Not accepted</i></p> <p>The phrase ‘if applicable’ already caters for the proposal.</p>

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 – Requirements for aerodrome meteorological offices – MET.OR.220 Aerodrome forecasts (TAF)**

p. 54

comment	705	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	Suggestion: a) ... expected meteorological conditions at an aerodrome and its vicinity for a specified period. As the descriptor "VC" (in the vicinity) already exists, it would be more practical.	
response	<i>Not accepted</i>	
	MET.OR.220(a) is a direct transposition of ICAO Annex 3 where the notion of vicinity does not exist for TAF.	

comment	1066	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p><b>MET.OR.220</b></p> <p>The requirement upon aerodrome meteorological offices to ensure that not more than one TAF is valid at an aerodrome at any given time fails to recognise that TAFs overlap. In order to meet this requirement an active TAF must be cancelled prior to the issuance of a later but overlapping TAF. Met Information systems will generally overwrite a TAF with a later TAF when it arrives or in the case of a database will provide only the latest TAF. This regulation appears to impose additional processing overheads on the data originators and also opens up the scenario when an AMO cancels an existing TAF, which is valid, and then through a communications failure is unable to provide the new TAF. We would appreciate clarification as to the rationale of this requirement, is the NATS interpretation correct?</p>	
response	<i>Noted</i>	
	The requirement is literally transposed from ICAO Annex 3. The intent of the rule is to have one valid TAF. There is no change to the objective of ICAO Annex 3, and no additional implementation considerations are foreseen.	

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 –**

p. 54

**Requirements for aerodrome meteorological offices – MET.OR.225  
Aerodrome forecasts – Landing (TREND)**

comment	607	comment by: <i>ATC the Netherlands</i>
	Validity and update cycle remain unmentioned. How does the update cycle of EASA relate to the update cycle of ICAO and is there any consequence?	
response	<i>Noted</i>	
	The Agency is aware of this situation and acknowledges the need to establish a maintenance mechanism which will allow EASA to respond to the changing ICAO environment and start the work at the latest when ICAO publishes the State Letter concerning the intended changes	

comment	706	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	ICAO Annex 3 Chapter 6.3.3 is missing / needs to be adapted accordingly (see FOCA comment to GM2 MET.OR.225)	
response	<i>Noted</i>	
	As correctly mentioned by FOCA, 6.3.3 has been moved to GM2 MET.OR.255. The Agency could not find a FOCA comment on this GM, which has been transposed with no change.	

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF  
METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL  
ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL  
SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 –  
Requirements for aerodrome meteorological offices – MET.OR.226 Forecasts  
– Take-off**

p. 54

comment	902	comment by: <i>Belgocontrol</i>
	in order to be consistent with other titles: Aerodrome forecasts – Take-off seems more appropriate here	
response	<i>Accepted</i>	

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 – Requirements for aerodrome meteorological offices – MET.OR.230 Area forecasts for low-level flights**

p. 55

comment 608

comment by: *ATC the Netherlands*

- Would this be an ICAO standard product?
- MET.OR.230(a) – Provide area forecast for ...etc. ...as determined by the competent authority. Explain which competent authority is meant?
- **MET.OR.230(c)** – Ensure that...etc ...are based on the agreement in(a)
- Explain which agreement is meant here as the competent authority in (a) is not clarified.
- ICAO Annex III states "...shall be determined by the MET Authority in consultation with users...". Will consultation with users still be possible?
- Will criteria and code forms be part of OR or TR?

response *Noted*

- 230 is OR when the CA request this service to be provided.
- Please refer to the definition of CA in Article 3 of the Cover Regulation.
- MET.OR.230(c) is different in the sense that it is provided for the support of AIRMET and the frequency of issue and validity period is then fixed/pre-defined.
- The text is now changed to 'if agreed between MS and users'.
- The criteria and codes are contained in the technical requirements.

comment 707

comment by: *Federal Office of Civil Aviation FOCA*

ICAO Annex 3 Chapter 6.5.2 is missing / should be adopted. GAMET and SIGWX are no longer mentioned , FOCA suggests to include it.

response *Not accepted*

Chapter 6.5.2 is contained in the technical requirements, currently in MET.TR.230(d).

GAMET is not reflected in the rules for the moment as the Agency would like to have more certainty on the implementation status of GAMET by the European MET community or at ICAO level.

comment 903

comment by: *Belgocontrol*

	Given the strong link between area forecasts and AIRMET information, it would seem more appropriate that area forecasts are issued by a Meteorological Watch Office, in particular when the area forecast would be issued in the GAMET format
response	<i>Accepted</i>

comment	934 <span style="float: right;">comment by: <i>MeteoSwiss</i></span>
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What means under (c) "...in support of the issuance of AIRMET information..."? Please clarify and see also my comment under MET.OR.210.

response	<i>Noted</i>
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These terms are those used in ICAO Annex 3 and mean: those forecasts which are prepared need to be such that they are ready to allow dissemination of AIRMET information. The Agency would like to stick as closely as possible to the ICAO wording when feasible.

comment	1197 <span style="float: right;">comment by: <i>UK CAA</i></span>
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**Page No:** 55

**Paragraph No:** MET.OR.230 (b)

**Comment:** In sub-paragraph (b) suggest replace the words "are based on the agreement in (a)" by "shall be determined by the competent authority"

**Justification:** Sub-paragraph (a) places a requirement on the competent authority to consider the requirement to provide a forecast for low-level flights. Therefore it is inconsistent in sub-paragraph (b) to refer to an agreement.

**Proposed Text:**

The aerodrome meteorological office shall:

...

'ensure that the frequency of issue, the form, and the fixed time or period of validity of area forecast for low-level flights and the criteria for amendments thereto, **shall be determined by the competent authority**; and'

response	<i>Noted</i>
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The Agency proposes to amend this paragraph as follows: 'if agreed between the MS and the users'.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 – Requirements for aerodrome meteorological offices – MET.OR.235 Warnings and alerts**

p. 55

comment	<p>365 <span style="float: right;">comment by: <i>Finnish Transport Safety Agency</i></span></p> <p>Finnish Transport Safety Agency proposes an addition to text in "MET.OR.235 a)": give concise aerodrome warnings information of meteorological conditions which could adversely affect aircraft on the ground, including parked aircraft, and the aerodrome facilities and services <b>as determined by the competent authority</b>". Reason for this is to get flexibility to requirements, so that authority can decide on the necessity for warnings on an individual airport. Smaller airports don't necessarily provide observations that are needed to issue warnings. Other "MET.OR's" also give the opportunity for authorities to define the scope of services with the added sentence mentioned above.</p>
response	<p><i>Not accepted</i></p> <p>It is a standard in Annex 3. This requirement only applies when conditions adversely affect the operations. So this requirement should not be applicable depending on an individual airport but should be applied by any aerodrome where safety of operations is put at risk. Such MET conditions can occur at any aerodrome. Other MET.ORs give the opportunity for authorities to define the scope of services because they were not standards.</p>

comment	<p>609 <span style="float: right;">comment by: <i>ATC the Netherlands</i></span></p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Please alter title with specific product name as SIGMET and AIRMET are warnings as well or change title  Various ICAO Annex III articles concerning aerodrome warnings and windshear warnings and alerts have been merged and mixed up with obscurity of information as a consequence.  I suggest to re-arrange the articles as follows:  (a) and (e) aerodrome warnings  (b) (c) (d) and (e) wind shear warnings and alerts  · <b>MET.OR.235(a) –  Give concise aerodrome warnings information of...etc.</b>  Add "and" in: "Give concise aerodrome warnings and information of meteorological conditions...etc."</p> </div>
response	<p><i>Accepted</i></p> <p>The paragraphs have been rearranged to ensure better logical sequence. Title is changed into 'Aerodrome warnings and wind shear warning and alerts'</p>

comment	904	comment by: <i>Belgocontrol</i>
	<p>it seem more beneficial to group b, c &amp; d into one block: " for aerodromes where wind shear is considered a factor": b, c &amp; d  As the OR is drafted now, it seems that c &amp; d have also to be fulfilled when wind shear is not considered a factor.</p>	
response	<i>Accepted</i>	
	<p>The paragraphs have been rearranged to ensure better logical sequence.</p>	

comment	1035	comment by: <i>CAA Norway</i>
	<p>MET.OR.235 is implemented at most of our aerodromes, but we consider the requirement too strict for several of our smaller aerodromes that may have only one aircraft and one arrival/departure a day. We therefore would request the term "determined by the authority" added also in this requirement.  If "determined by the authority" as written in MET.OR.215 a) is meant to cover also MET.OR.235, then the requirement is acceptable as is.</p>	
response	<i>Not accepted</i>	
	<p>It is a standard in Annex 3. This requirement only applies when conditions adversely affect the operations. So this requirement should not be applicable depending on an individual airport, but should be applied by any aerodrome where safety of operations is put at risk. Such MET conditions can occur at any aerodrome. Other MET.ORDs give the opportunity for authorities to define the scope of services because they were not standards.</p>	

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 – Requirements for aerodrome meteorological offices – MET.OR.240 Information for use by operator or flight crew** p. 55-56

comment	612	comment by: <i>ATC the Netherlands</i>
	<p>Delete "<b>with</b>:" if practicable, provide the revised information...etc."</p>	

response *Accepted*

This was an editorial error.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) - SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 2 – Requirements for aerodrome meteorological offices – MET.OR.245 Notification of discrepancies to the World Area Forecast Centres**

p. 56

comment 1199

comment by: UK CAA

**Page No:** 56

**Paragraph No:** MET.OR.245 (b)

**Comment:** Delete the words “an accidental”

**Justification:** Amendment 76 to ICAO Annex 3 has removed the word “accidental” from the provision in Chapter 2 paragraph 2.2 (b)

**Proposed Text:**

‘volcanic eruptions or a ~~accidental~~ release of radioactive materials into the atmosphere, of significance to aircraft operations.’

response *Accepted*

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 3 – Requirements for meteorological stations – MET.OR.250 Meteorological reports and other information**

p. 56

comment 614

comment by: ATC the Netherlands

Annex III, appendix 3, mentions local routine and special reports...etc. ...shall be issued in plain language in accordance with...etc.

Will such criteria be part of OR?  
**MET.OR.250(a)(2)** – METAR at half hourly intervals...etc.  
 Code forms for METAR remain unmentioned. Will this be part of OR?

response *Noted*

Yes. The criteria (also the templates in Appendix 3) mentioned in the comment are covered under the technical requirements as well as the code forms for METAR.

comment 644

comment by: *Jan Sondij*

Local routine and local special reports as well as METARs are more and more being produced in an automated way. The products are referred to as AUTO METAR for example. Consider to include the notion of automated reports in MET.OR.250, e.g. (AUTO) METAR or provide guidance in AMC or TR.

response *Accepted*

Reference to automated and semi-automated observation are included in the relevant technical requirements.

comment 645

comment by: *Jan Sondij*

Local routine report and local special report are also named as MET REPORT and SPECIAL in ICAO Annex 3. Consider using these names as well either in MET.OR.250 or in AMC, TR or GM.

response *Noted*

MET report and SPECIAL reports are only used in one specific template (A3-1), but not in the text itself of Annex 3. The terminology used in the rules will be aligned with the terminology used in Annex 3.

comment 803

comment by: *AvinorANSP*

MET.OR.250 (a)

METAR shall be issued every 30 minutes, unless regional air navigation agreements state that hourly METAR is sufficient due to small amounts of traffic. Therefore, the large airports in Norway (Sola, Flesland and Værnes,) which despite being open 24 hours a day, will continue disseminating manually produced hourly METAR in the middle of the night when the traffic allows. If necessary, METAR may be disseminated every 30 minutes if it is automatic METAR.

In accordance with ICAO Annex III 4.4.2, the requirement for SPECI should remain unchanged even if METAR is disseminated every 30 minutes, i.e. there should be no requirement for SPECI in the event of half-hourly METAR.

Producing regular half-hourly METAR will create an additional workload for the ATS, and consequently ATM Operational Support and Development at Avinor has decided that disseminating automatic METAR every 30 minutes is sufficient at certain times of the day while still being in accordance with ICAO Annex III in regards to efficient use of staff and the availability of the personnel.

response *Noted*

Noted. However, for the Agency, the requirement is that hourly METAR is the standard and half-hourly METAR is permissible when agreed in the framework of the regional air navigation agreement, which is the case for the ICAO EUR region. ICAO Annex 3, 4.3.1 states: '4.3.1 At aerodromes, routine observations shall be made throughout the 24 hours each day, except as otherwise agreed between the meteorological authority, the appropriate ATS authority and the operator concerned. Such observations shall be made at intervals of one hour or, if so determined by regional air navigation agreement, at intervals of one half-hour. At other aeronautical meteorological stations, such observations shall be made as determined by the meteorological authority taking into account the requirements of air traffic services units and aircraft operations.'

Consequently, the norm is half-hourly METAR and no SPECI.

comment 1059

comment by: CAA Norway

MET.OR.250 (b) (1) is a requirement that is implemented at several of our CAT I aerodromes. In Norway we only have 1 CAT III aerodrome and 2 CAT II aerodromes, most of the remaining aerodromes are CAT I aerodromes. We would prefer to have the possibility to require RVR using instrumented systems on some of our CAT I aerodromes also in the future - therefore we suggest to add "as determined by the competent authority" to this requirement.

response *Not accepted*

This requirement does not impede States requiring RVR for CAT I aerodromes. The text proposal in MET.OR.250(b)(1) only puts the obligation of assessment for CAT II and III. There is no restriction for Norway to have the possibility to

require RVR using instrumented systems for CAT I aerodromes.

comment 1224 comment by: *Luca Valerio Falessi*

Modify as follows:

(a) (2) METAR at **hourly and/or** half-hourly intervals for dissemination beyond the aerodrome of origin.

To leave to the national competent authority to decide the issuance of METAR at hourly or half-hourly intervals as for present arrangements.

response *Not accepted*

This requirement does not impede States requiring RVR for CAT I aerodromes. The text proposal in MET.OR.250(b)(1) only puts the obligation of assessment for CAT II and III. There is no restriction for Norway to have the possibility to require RVR using instrumented systems for CAT I aerodromes.

comment 1245 comment by: *ENAV*

Clarification required on the provisions related to METAR intervals. It seems that the requirements envisage the provision of half-hourly reports, but this is in contradiction with ICAO Annex 3 (Chapter 4, para 4.3.1. and 4.3.2). The provision of METAR shall recognize the different needs of users in different airports.

response *Not accepted*

Hourly METAR is the standard and half-hourly METAR is permissible when agreed in the framework of the regional air navigation agreement, which is the case for the ICAO EUR region. ICAO Annex 3, 4.3.1 states: '4.3.1 At aerodromes, routine observations shall be made throughout the 24 hours each day, except as otherwise agreed between the meteorological authority, the appropriate ATS authority and the operator concerned. Such observations shall be made at intervals of one hour or, if so determined by regional air navigation agreement, at intervals of one half-hour. At other aeronautical meteorological stations, such observations shall be made as determined by the meteorological authority taking into account the requirements of air traffic services units and aircraft operations.'

Consequently, the requirement is not in contradiction with ICAO Annex 3 which refers directly to the EUR ANP.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements** p. 56-57

**– Chapter 3 – Requirements for meteorological stations – MET.OR.255  
Observation of meteorological elements**

comment	632	comment by: <i>Jan Sondij</i>
	<p>255 a --&gt; description is not clear. Proposal to change into: wind direction and wind speed at surface level;</p> <p>General: The reports (local routine and local special reports and METAR) in MET.OR.250 can include RVR. As such the proposal is to include the following additional item: <b>Runway Visual Range (RVR); if applicable.</b></p>	
response	<i>Not accepted</i>	
	<p>This is an editorial mistake, the element to be observed is: surface wind direction and speed. This is in line with ICAO Annex 3.</p> <p>The Agency assumes that the second comment is related to MET.OR.255. RVR is now included in MET.OR.255.</p>	

comment	708	comment by: <i>Federal Office of Civil Aviation FOCA</i>
	<p>In comparison to ICAO Annex 3 Chapter 4.1.3 "Runway Visual Range (RVR)" is missing, please adapt accordingly.</p>	
response	<i>Noted</i>	
	<p>The RVR element was initially transferred to MET.OR.250; this is the reason why it was not covered under MET.OR.255. In the process of the technical requirements, the Agency decided to change this approach and it will be reinstated again under MET.OR.255 in order to align with MET.TR.255.</p>	

comment	905	comment by: <i>Belgocontrol</i>
	<p>(a)</p> <p>should this not read as "surface wind direction and speed" (without commas)?</p>	
response	<i>Accepted</i>	
	<p>Correct.</p>	

comment	977	comment by: <i>Météo-France</i>
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**MET.OR.255 Observation of meteorological elements**

The French MET services provider supports this requirement for all the French aerodromes opened to international air traffic.

But, on numerous small aerodromes of France (~45), with VFR traffic and/or non commercial IFR only, and not opened to international air navigation, the required MET services are put to a minimum, mainly for cost reasons, by the relevant competent authority (not the NSA). These aerodromes would not be able to meet this requirement because they do not ensure all requirements from (a) to (f).

Furthermore, the establishment of a meteorological station doesn't concern the competent authority for certification and oversight (NSA).

Suggestion: it is suggested to modify the definition of 'Meteorological station' as following:

'Meteorological station' means a station, established by **a contracting state**, designated to make observations and meteorological reports for use in **international** air navigation.

With that definition, the stations providing MET information on very small aerodromes would be excluded from the scope of MET.OR.255.

response

*Not accepted*

The definition of meteorological station mentions '...established by a competent authority...' which is not necessarily the authority for certification and oversight. In the case of MET, Article 3.2 of the NPA was added in order to take into account the meteorological service provision. In the CRD version, a new Article 3 (Provision of services) is now proposed to cater for this issue and goes beyond the only MET domain. It states that the Members States have to ensure that 'the appropriate services are provided in accordance with this Regulation taking into account safety consideration'. In the proposal from Météo-France, the 'contracting state' is, therefore, covered by the new text proposal and there is no need to modify the definition of 'meteorological station'. With regard to the addition of 'international', it is not possible to limit the rules to international air navigation as the rules need to fit for domestic flights as well.

comment

1184

comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

This comment, as well as the other comments related to part MET, has been coordinated with the French MET provider, Météo France.

- On numerous small aerodromes of France (~45), with VFR traffic and/or non commercial IFR only, and not opened to international air navigation, the required MET services are put to a minimum, mainly for cost reasons, by the relevant competent authority (not the NSA). These aerodromes would not be able to meet this requirement because they do not ensure all requirements from (a) to (f). On these airfields, only pressure, wind, temperature and visibility (in option) are provided.

Depending on the reading made of MET.OR.255, this kind of stations would become illegal. The options would then be either to provide no service on some of these airfields, which would be a shame for users, or to provide full service (parameters (a) to (g)), which would be very costly for the aerodrome operator.

- In the definition of "Meteorological Station", the competent authority may

	<p>refer to the NSA, which is not appropriate.  <u>Suggestion</u>: modify the definition of 'Meteorological station' as following:  'Meteorological station' means a station, <del>established by a competent authority</del>,  designated to make observations and meteorological reports for use in  <u>international</u> air navigation.</p>
response	<p><i>Not accepted</i></p> <p>The definition of meteorological station mentions '...established by a competent authority...' which is not necessarily the authority for certification and oversight. In the case of MET, Article 3.2 of the NPA was added in order to take into account the meteorological service provision. In the CRD version, a new Article 3 (Provision of services) is now proposed to cater for this issue and goes beyond the only MET domain. It states that the Members States have to ensure that 'the appropriate services are provided in accordance this Regulation taking into account safety consideration'. In the proposal from Météo-France, the 'contracting state' is, therefore, covered by the new text proposal and there is no need to modify the definition of 'meteorological station'. With regard to the addition of 'international', it is not possible to limit the rules to international air navigation as the rules need to fit for domestic flights as well.</p>

comment	<p>1200 <span style="float: right;">comment by: UK CAA</span></p> <p><b>Page No:</b> 56  <b>Paragraph No:</b> MET.OR.255 (a)  <b>Comment:</b> Delete the commas from the text of sub-paragraph (a).  <b>Justification:</b> The requirement is to measure the wind direction and speed at the surface.  <b>Proposed Text:</b>  'surface wind direction and speed '</p>
response	<p><i>Accepted</i></p>

comment	<p>1229 <span style="float: right;">comment by: NATS National Air Traffic Services Limited</span></p> <p><b>MET.OR.255</b>  NATS notes that automated observation stations are in general use today. Appendix VII to the Explanatory Notes states that the provisions relating to automatic observing stations are to be covered in 'future' technical requirements rules.  NATS seeks assurance that automated observation stations will indeed be included in the technical requirements part. The effect for the UK of not doing so is that our practice of using automated observation to ensure a TAF is available at the opening of an Aerodrome could be impacted.</p>
response	<p><i>Noted</i></p> <p>Automated observation stations are referenced in the MET.TR proposal (in the</p>

recently published NPA 2014-07) and amendments to MET.OR have been made accordingly for consistency purposes. The complete package will be available before adoption of the rules.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 4 – Requirements for Volcanic Ash Advisory Centre (VAAC) – MET.OR.260 Volcanic Ash Advisory Centre (VAAC) responsibilities**

p. 57

comment

1225

comment by: *NATS National Air Traffic Services Limited***MET.OR.260**

The original Annex 3 requirement includes a note relating to the distribution of data to airlines through the AFTN as defined in the IAVW Handbook. A number of the addresses are specifically for distribution in the EUR Region. This is not specifically covered by item 3 in the OR as stated in Appendix VII to the Explanatory Notes.

**Impact**

Distribution of this data may be reduced if the OR rather than the Annex is applied.

**Suggested Resolution**

Include a reference to the IAVW handbook or include the specific AFTN Addresses required for distribution in the OR.

response

*Accepted*

Reference to the IAVW Handbook will be made in GM.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 5 – Requirements for World Area Forecast Centre (WAFC) – MET.OR.265 World Area Forecast Centre (WAFC) responsibilities**

p. 57-58

comment

710

comment by: *Federal Office of Civil Aviation FOCA*

Content of ICAO Annex 3, Chapter 3.2 e) "to establish and maintain contact with VAACs for the exchange of information on volcanic activity in order to

	coordinate the inclusion of information on volcanic eruptions in SIGWX forecasts" is missing resp. should be included.
response	<i>Not accepted</i>
	The obligation to exchange information is already covered in MET.OR.110. The final objective is to provide SIGWX, including volcanic activity, to users and this is covered under MET.OR.265(a)(2)

comment	906	comment by: <i>Belgocontrol</i>
	WAFC is a global function; another global function which is mentioned a couple of times in the ORs is "International OPMET Databank" of which there is at least 1 in each ICAO region. Should there also not be a chapter dedicated to that function?	

response	<i>Not accepted</i>
	The means by which MET service providers provide the information are not transposed, only the requirements aiming at the provision of information per se. However, GMs have been added to refer to OPMET databank function.

comment	1201	comment by: <i>UK CAA</i>
	<p><b>Page No:</b> 58  <b>Paragraph No:</b> MET.OR.265 (a) (2)  <b>Comment:</b> Delete the word "accidental".  <b>Justification:</b> Amendment 76 to ICAO Annex 3 has removed the word "accidental" from the provision in Chapter 3 paragraph 3.2.1 (d).  <b>Proposed Text:</b>  'global forecasts of significant weather (SIGWX) phenomena, including volcanic activity and <del>accidental</del> release of radioactive materials.'</p>	

response	<i>Accepted</i>
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<p><b>ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.OR) – Section 2 – Specific requirements – Chapter 6 – Requirements for Tropical Cyclone Advisory Centre (TCAC) – MET.OR.270 Tropical Cyclone Advisory Centre (TCAC) responsibilities</b></p>	p. 58
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comment	711	comment by: <i>Federal Office of Civil Aviation FOCA</i>
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Content of ICAO Annex 3, Chapter 3.7 a) "monitor the development of tropical cyclones in its area of responsibility, using geostationary and polar-orbiting satellite data, radar data and other meteorological information;" is missing resp. should be included.

response *Not accepted*

This provision is not a requirement to provide information to users but reflects what they have to do to provide the information to users. The rules only lay down the requirements to provide the information to the relevant users.

**ANNEX IV – SPECIFIC REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (Part-MET) – SUBPART B – TECHNICAL REQUIREMENTS FOR THE PROVISION OF METEOROLOGICAL SERVICES (MET.TR) – Section 1 – General requirements – MET.TR.105 Working methods and operating procedures for the provision of meteorological services**

p. 58-59

comment 624

comment by: EUROCONTROL

**Page 59 - MET.TR.105 (c)**

The relevance of including MET.TR.105 (c) is not understood. The historical reason for including the reference to ICAO Annex 14 in 1035/2011 was related to siting requirements for MET sensors. It has no direct relationship with the 'services' context of Annex 14 and the now created link with 216/2008 and its successor for aerodrome requirements.

response *Noted*

MET.TR.105 (c) is added to ensure that the new Regulation (EU) No 139/2014 is taken into account. However, the entire MET.TR.105 will be replaced by the rules stemming from the recently published NPA 2014-07 (the technical requirements task) and, therefore, the reference to ICAO annexes will no longer exist. Because of the fact that MET.OR (this NPA) and MET.TR are separated, it is necessary to keep Subpart B as it is for now. For information, in the draft rules for MET.TR, some references to the new Commission Regulation (EU) No 139/2014 (aerodromes) are included with regard to 'the siting of equipment and installations on operational areas' and on the 'data to be used' for climatological data.

comment 628

comment by: EUROCONTROL

**Page 58 - MET.TR.105 (b) (1)**

*When it is decided to retain the MET.TR, see earlier general comment, it should make reference to the ICAO Annex 3 edition in force, not to a specific edition.*

response	<p><i>Noted</i></p> <p>The reference to ICAO Annex 3 will be removed. The entire subpart B will be replaced by the rules originating from the recently published NPA 2014-07 (technical requirements for meteorological services). Therefore, no specific edition will be mentioned anymore.</p>
comment	<p>640 <span style="float: right;">comment by: <i>Jan Sondij</i></span></p> <p>MET.TR.105 (c) The relevance of this article is not clear, please explain.</p>
response	<p><i>Noted</i></p> <p>MET.TR.105 (c) is added to ensure that the new regulation 139/2014 is taken into account. However, the entire MET.TR.105 will be replaced by the rules stemming from the recently published NPA 2014-07 (the technical requirements task) and, therefore, the reference to ICAO annexes will no longer exist. Because of the fact that MET.OR (this NPA) and MET.TR are separated, it is necessary to keep Subpart B as it is for now. For information, in the draft rules for MET.TR, some references to the new Commission Regulation (EU) No 139/2014 (aerodromes) are included with regard to 'the siting of equipment and installations on operational areas' and on the 'data to be used' for climatological data.</p>
comment	<p>641 <span style="float: right;">comment by: <i>Jan Sondij</i></span></p> <p>MET.TR.105 (b) (1)</p> <p>As of November 2013 the current ICAO Annex 3 version is amendment <b>No 76</b> and not 75.</p> <p>The update cycles of EASA rulemaking are not in sync with ICAO Annex 3 update cycles. This results in an awkward situation for MET ANSPs, States and NSAs. At this moment in time there are two different rules in place. From a European perspective the 'older' EASA rulemaking is valid, and the NSA provides the oversight. At the same time a State is obliged to follow ICAO regulations based on the Chicago Convention. And the MET ANSP is expected to be ICAO Annex 3 compliant as these requirements are user driven and enable global harmonisation.</p> <p>It is proposed that EASA finds a solution to guarantee that European rulemaking is in sync with global rulemaking in order to safeguard global harmonisation.</p>
response	<p><i>Noted</i></p> <p>The Agency is aware of this situation and acknowledges the need to establish a maintenance mechanism which will allow EASA to respond to the changing ICAO regulatory environment and start the work at the latest when ICAO publishes the State Letter concerning the intended changes.</p>

comment	<p data-bbox="354 277 411 313">642</p> <p data-bbox="1114 277 1444 313" style="text-align: right;">comment by: <i>Jan Sondij</i></p> <p data-bbox="354 365 911 400">General comment on rulemaking for MET</p> <p data-bbox="354 430 1444 560">It is good to see that in MET.TR.105 it is possible to refer to ICAO Annexes. The proposal to EASA is to consider the possibility to refer to documentation and regulations of ICAO and WMO in order to avoid duplication and by doing so become more effective and cost efficient.</p>
response	<p data-bbox="354 571 438 616"><i>Noted</i></p> <p data-bbox="354 667 1444 761">This subpart B will be replaced by the EASA proposed rules on MET.TR that will be published at the same time as MET.OR. No more reference to ICAO Annex 3 will be necessary for this Part.</p>
comment	<p data-bbox="354 851 411 896">971</p> <p data-bbox="1066 851 1444 896" style="text-align: right;">comment by: <i>Météo-France</i></p> <p data-bbox="354 940 821 976"><b>Publication of TR requirements</b></p> <p data-bbox="354 976 1444 1070">Taking into account the possible availability of the production of MET RMG, ensure harmonized publication and application date for the MET technical requirements (MET.TR) and the proposed MET.OR.</p> <p data-bbox="354 1070 1444 1200"><u>Rationale</u>: Today, the MET providers apply ICAO annex 3, as transposed by the member States into national regulations (with possible differences). If part MET.OR is published and applicable before part MET.TR, it will result in a bit more complex regulatory framework, for some time.</p> <p data-bbox="354 1200 742 1236"><u>Related paragraphs</u>: MET.TR</p> <p data-bbox="354 1236 1436 1272"><u>Suggestion</u>: Entry into force of MET.OR and MET.TR should coincide, if possible.</p>
response	<p data-bbox="354 1265 438 1310"><i>Noted</i></p> <p data-bbox="354 1373 1444 1568">Indeed, due to the prioritisation of the rulemaking tasks, the transposition of ICAO Annex 3 Part I and II have been covered separately: Part I under this NPA (MET.OR) and Part II (MET.TR) under the recently published NPA 2014-07. The Agency will integrate the technical requirements part in the CRD related to this NPA (2013-08) so that the complete package will be available before adoption of the MET rules.</p>
comment	<p data-bbox="354 1657 427 1702">1057</p> <p data-bbox="689 1657 1444 1702" style="text-align: right;">comment by: <i>NATS National Air Traffic Services Limited</i></p> <p data-bbox="354 1747 590 1783"><b>MET.TR.105 (b)</b></p> <p data-bbox="354 1783 1444 1937">NATS understands that amendment 76 is due to come into force in November and that it contains substantive changes regarding the bilateral use of IWXXM data which will have impact on issues such as Quality of data and information. We would appreciate clarification of how EASA intends to incorporate this amendment.</p>
response	<p data-bbox="354 1937 438 1982"><i>Noted</i></p>

The Agency is aware of this change in Amendment 76, but IWXXM is not included as a requirement as ICAO only calls for the use of it through bilateral agreement. Consequently, it is not mature to include it in the proposed regulation.

comment

1185

comment by: *French Civil Aviation Authority (DGAC)*

French CAA

Amendment 76 of ICAO Annex 3 will be implemented from 14<sup>th</sup> November 2013.

Suggestion: modify the requirement as following:

"Annex 3 on meteorological service for international air navigation in its **18<sup>th</sup>** edition of July **2013**, including all amendments up to N° **76**."

response

*Not accepted*

This subpart B will be replaced by the EASA proposed rules on MET.TR that will be published at the same time as MET.OR. No more reference to ICAO Annex 3 will be necessary for this Part.

**ANNEX V – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (Part-AIS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (AIS.OR) – Section 1 – General requirements – AIS.OR.105 Scope**

p. 60

comment

193

comment by: *AENA-NPA2013-08*

**Page 60, Annex V specific requirements for AIS providers.**

The lack of integration of (EU) n° 73/2010 into the NPA may lead to inconsistencies or double regulation comparing to annex II of the NPA applicable to AIS service.

response

*Noted*

The Agency has launched rulemaking task 0477/0478 on AIS-AIM. The rulemaking group, composed of AIS experts, is currently carefully assessing the way how to handle the provisions of Regulation (EU) No 73/2010 in order to integrate them into this Annex V (new numbered Annex VI). The Agency shall ensure that no duplication or gaps exist when proposing the rules on aeronautical data and information, and proper stakeholder consultation will be ensured for this rulemaking task.

comment

330

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex V (Part-AIS)	<p>AESA would like to remind of the comments already made in relation to the ToRs of <b>RMT.0477 &amp; RMT.0478</b>. These comments are reproduced hereby:  <i>"The Spanish ATM/ANS TAG has a single comment to the draft ToR RMT.0477 &amp; RMT.0478 on 'Technical requirements and operational procedures for AIS and AIM' Issue 1.</i>  <i>It relates to the intimate relationship of this task with regulation (UE) No 73/2010 (ADQ), which is applicable since the first of July. As you are surely aware, this regulation is quite difficult to implement due to a number of issues. This has already been pointed out in different for a (SSC, ARWG,...) and has been acknowledged by the Commission. This task would be a good opportunity to tackle this issue and amend the ADQ regulation to make it fully workable."</i></p>	<p>For completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.</p>

response

Noted

The members of the rulemaking group on AIS/AIM are currently carefully assessing the way how to handle the provisions of Regulation (EU) No 73/2010 in order to integrate them into this Annex V. The Agency shall ensure that no duplication or gaps exist when proposing the rules on aeronautical data and information and proper stakeholder consultation will be ensured for this rulemaking task.

comment

927

comment by: NATS National Air Traffic Services Limited

**AIS.OR.105**

The numbering convention appears to be quite different amongst the Annexes. Here AIS.OR.105 is followed by AIS.OR.110. Annex I starts at 001, Annex II and IV at 005, Annex III starts at 105 as do Annexes VII, VIII and XI; with XII starting at 005.

**Resolution**

Align Annexes to a common numbering scheme.

response	Accepted
	The Agency will ensure that the numbering convention will be aligned throughout the document.
comment	978 <span style="float: right;">comment by: <i>Météo-France</i></span>
	<p><b>MET.TR.105 Working methods and operating procedures for the provision of meteorological services (b) (1)</b>  Amendment 76 of ICAO Annex 3 will be implemented from 14<sup>th</sup> November 2013.  <u>Suggestion</u>: it is suggested to modify the requirement as following:  Annex 3 on meteorological service for international air navigation in its <b>18<sup>th</sup></b> edition of July <b>2013</b>, including all amendments up to N° <b>76</b>.</p>
response	Accepted

**ANNEX V – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (Part-AIS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (AIS.OR) – Section 1 – General requirements – AIS.OR.110 Technical and operational competence and capability**

p. 60

comment	238 <span style="float: right;">comment by: <i>Icelandic Transport Authority</i></span>
	<p><b>AIS.OR.110 Technical and operational competence and capability</b>  <b>EASA proposal;</b>  (a) (3) air traffic services providers which are responsible for flight information services, aerodrome flight information services, and provision of pre-flight information.  <b>New proposal;</b>  (a) (3) air traffic services providers which are responsible for flight information services and provision of pre-flight information.  The „aerodrome flight information services“ should be deleted as this service is a part of flight information services.</p>
response	Not accepted
	Although it is correct that aerodrome flight information services are a subset of flight information services, they can, in certain circumstances, have some distinct functions. In order to properly cover the range of air traffic services, the Agency would like to maintain this distinction.

comment 259 comment by: AENA-NPA2013-08

**Page 60, ATM/ANS.OR.B.005 Technical and operational competence and capability**

To clarify where the requirements related to 'technical and operational competence and capability' of ATM systems are included. To clarify if it is included in the Annex III (related to specific requirements for the provision of ATS), in the Annex VII (related to specific requirements for the provision of CNS services), or in the Annex V (related to specific requirements for the provision of Data providers).

From Aena point of view, it should be included like a new service, and have the same specific requirements as CNS providers.

response *Noted*

The Agency takes note of the comment. It should be noted that the technical requirements related to ATM/ANS systems is subject of further rulemaking planning and it is not within the scope of this proposal. In addition, the provisions stemming from the current RMT on assessment of changes to functional systems will also be of relevance in that context which is to be issued for consultation in the 2<sup>nd</sup> quarter of 2014.

comment 1186 comment by: French Civil Aviation Authority (DGAC)

French CAA (in coordination with Meteo FR)

Taking into account the possible availability of the production of MET RMG, ensure harmonized publication and application date for the MET technical requirements (MET.TR) and the proposed MET.OR.

Rationale: Today, the MET providers apply ICAO annex 3, as transposed by the member States into national regulations (with possible differences). If part MET.OR is published and applicable before part MET.TR, it will result in a bit more complex regulatory framework, for some time.

Related paragraphs: MET.TR

Suggestion: Entry into force of MET.OR and MET.TR should coincide, if possible.

response *Noted*

Indeed, due to the prioritisation of the rulemaking tasks, the transposition of ICAO Annex 3 Part I and II have been covered separately: Part I under this NPA (MET.OR) and Part II (MET.TR) under NPA 2014-07. The Agency will integrate the technical requirements part in the CRD related to this NPA (2013-08) so that the complete package will be available before adoption of the MET rules.

<p><b>ANNEX V – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (Part-AIS) – SUBPART B – TECHNICAL REQUIREMENTS FOR THE PROVISION OF AERONAUTICAL INFORMATION SERVICES (AIS.TR) – Section 1 – General requirements – AIS.TR.105 Working methods and operating procedures for the provision of</b></p>	p. 60-61
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<b>aeronautical information services</b>
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comment	283	comment by: <i>HungaroControl</i>
	<p>Aeronautical information services providers shall be able to demonstrate that their working methods and operating procedures are compliant with the standards in:</p> <p><del>(a) Commission Regulation (EU) No 73/20106;</del></p> <p>(b) the following Annexes to the Convention on International Civil Aviation as far as they are relevant for the provision of aeronautical information services in the airspace concerned</p> <p>(1) Annex 3 on meteorological service for international air navigation in its 17th edition of July 2010, including all amendments up to No 75;</p> <p>(2) Annex 4 on aeronautical charts in its 11th edition of July 2009, including all amendments up to No 56; and</p> <p>(3) without prejudice to Commission Regulation (EU) No 73/2010, Annex 15 on aeronautical information services in its 13th edition of July 2010, including all amendments up to No 36.</p> <p>Since there are regulations in force to be compliant with, this provision does not bring added value.</p>	
response	<i>Accepted</i>	

comment	288	comment by: <i>skyguide Corporate Regulation Management</i>
	<p>Aeronautical information services providers shall be able to demonstrate that their working methods and operating procedures are compliant with the standards in:</p> <p><del>(a) Commission Regulation (EU) No 73/20106;</del></p> <p>(b) the following Annexes to the Convention on International Civil Aviation as far as they are relevant for the provision of aeronautical information services in the airspace concerned</p> <p>(1) Annex 3 on meteorological service for international air navigation in its 17th edition of July 2010, including all amendments up to No 75;</p> <p>(2) Annex 4 on aeronautical charts in its 11th edition of July 2009, including all amendments up to No 56; and</p> <p>(3) without prejudice to Commission Regulation (EU) No 73/2010, Annex 15 on aeronautical information services in its 13th edition of July 2010, including all amendments up to No 36.</p> <p><u>Comment:</u>(a)Does not bring any added value as we have to be compliant with the regulations in force. (this makes the comment on the standards in regulation 73/2010 obsolete.</p>	
response	<i>Accepted</i>	

comment	484	comment by: <i>DSNA</i>
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The regulation 73/2010 does not contain standards. This reads better and is clearer and is then formally correct.

Proposal:

Aeronautical information services providers shall be able to demonstrate that their working methods and operating procedures are compliant with the standards in:

(a) Commission Regulation (EU) No 73/2010;  
and the standards in:

(b)

the following Annexes to the Convention on International Civil Aviation ...

response

*Accepted*

The reference to Regulation (EU) No 73/2010 is removed.

comment

545

comment by: *CANSO Civil Air Navigation Services Organization*

**AIS.TR.105 Working methods and operating procedures for the provision of aeronautical information services**

Aeronautical information services providers shall be able to demonstrate that their working methods and operating procedures are compliant with the standards in:

~~(a) Commission Regulation (EU) No 73/2010;~~

(b) the following Annexes to the Convention on International Civil Aviation as far as they are relevant for the provision of aeronautical information services in the airspace concerned

- (1) Annex 3 on meteorological service for international air navigation in its 17th edition of July 2010, including all amendments up to No 75;
- (2) Annex 4 on aeronautical charts in its 11th edition of July 2009, including all amendments up to No 56; and
- (3) without prejudice to Commission Regulation (EU) No 73/2010, Annex 15 on aeronautical information services in its 13th edition of July 2010, including all amendments up to No 36.

(a) Does not bring any added value as we have to be compliant with the regulations in force. ~~(this makes the comment on the standards in regulation 73/2010 obsolete.~~

response *Accepted*

comment 629

comment by: *EUROCONTROL*

**Page 61 - AIS.TR.105(b)(1)**

Since the NPA proposes the replacement of ICAO Annex 3 by transposed rules, the other parts of the rules should make reference to the EU rule and not to the ICAO provisions for MET.

The reference to Annex 3 should therefore be replaced by references to the MET.OR and MET.TR sub-parts.

response *Accepted*

This is indeed correct. The Agency is currently assessing the best way to handle with consistency these references in the most appropriate way, and is also consulting legal service in order to ensure legal certainty.

comment 670

comment by: *EUROCONTROL*

**Page 60 - Annex V, Subpart B, AIS.TR.105 item (a)**

Cover Regulation, Article 4 on page 14, item 5 refers to the requirements in Annex V, AIS.TR.105 item (a).

AIS.TR.105 item (a) quotes Commission Regulation (EU) No 73/2010.

It seems that this rule will address the underlying interoperability requirements which may complement or even ultimately replace the Commission Regulation (EU) No 73/2010. A clear transition path will be needed to ensure that current obligations are respected also ensuring a smooth transition to the future regulatory status. It is essential that current ADQ implementation actions undertaken by stakeholders are not negatively impacted.

We suggest that this aspect is also carefully considered in the frame of potential transition from the SES framework to the EASA BR framework.

response *Noted*

The members of the rulemaking group on AIS-AIM are currently carefully assessing the way how to handle the provisions of Regulation (EU) No 73/2010 in order to integrate them into this Annex V. The Agency shall ensure that no duplication or gaps exist when proposing the rules on aeronautical data and information and proper stakeholder consultation will be ensured for this rulemaking task.

comment 794

comment by: *ROMATSA*

Comment

	<p>To modify as follows:  Aeronautical information services providers shall be able to demonstrate that their working methods and operating procedures are compliant with <del>the standards in:</del>  (a) Commission Regulation (EU) No 73/2010;  and the standards in:  (b) the following Annexes to the Convention on International Civil Aviation ...</p> <p>Justification:  Reg (EU) 73/2010 does not contain standards. The proposed deletion and insertion bring more clarity to the text.</p>
response	<p><i>Noted</i></p> <p>Reference to Regulation (EU) No 73/2010 is removed.</p>

comment	<p>907 <span style="float: right;">comment by: <i>Belgocontrol</i></span></p> <p><b>Annex 3, amendment 76 has been adopted and will become effective on 14 November 2013.</b>  Annex 4, amendment 57 has been adopted and will become effective on 14 November 2013.  Annex 15, amendment 37 has been adopted and will become effective on 14 November 2013. This consists of an important amendment that introduces new definitions and new SARPS.  It is necessary to keep the legislation in line with ICAO prescriptions. In this case this is even more important as definitions related to Aeronautical Data Quality have been introduced and at the same time change concepts described in the past.</p>
response	<p><i>Accepted</i></p> <p>Updated references are included.</p>

comment	<p>908 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 61 - Annex V, AIS.TR.105 item (b)(1)</b>  Cover regulation, Article 4, item 5, on page 14 points to Annex V, AIS.TR.105 item (b)(1) on page 61 which quotes ICAO Annex 3 to be obviously used as source when defining the AISP requirements.  This is considered not fully relevant here, meaning that future transposition of ICAO Annex 3 is not relevant for Part V, unless there is a very specific reason or individual subject concerned.  Suggestion: Either remove this reference to Annex 3 or specify which specific subjects or parts of ICAO Annex 3 are considered as relevant in this case.</p>
response	<p><i>Noted</i></p> <p>The members of the rulemaking group on AIS-AIM are currently working on the transposition of ICAO Annex 15 and will propose rules on aeronautical data and</p>

information. As it is not yet known if/which provisions of ICAO Annex 3 are relevant, it is proposed to keep the reference to ICAO Annex 3 for now, and adapt the text at a later stage, if necessary. In any case, when the AIS.TR rules will be developed, all the references to ICAO Annexes in this Subpart B will be removed.

comment

912

comment by: EUROCONTROL

**Page 61 - Annex V, AIS.TR.105 item (b)(2)**

Cover regulation, Article 4, item 5, on page 14 points to Annex V, AIS.TR.105 item (b)(2) on page 61 which quotes ICAO Annex 4 to be obviously used as source when defining the AISP requirements.

The intention is understood, however it is reminded that this may cause unnecessary complexity. Commission Regulation (EU) No 73/2010 (ADQ) did not put ICAO Annex 4 under its scope as the overarching SARPs, which formed the baseline for ADQ, are contained in ICAO Annex 15. Annex 15 elaborates on the Integrated Aeronautical Information Package (IAIP) which also covers charts. ICAO Annex 4 content, in the main, is therefore considered to be mostly a "product specification for charts". It should be noted that the future Annex 15 amendment intends to address a full service environment for digital products and data including value added services.

We suggest that ICAO Annex 4 should be generally considered during the definition of the scope of this future rule. However, it is also suggested to avoid a full text transposition of ICAO Annex 4 as this would constitute unnecessary burden.

response

Noted

The text in Subpart B of Annex V stipulates that AIS-AIM providers need to be compliant with ICAO Annexes 'as far as they are relevant' for the provision of aeronautical information services. Therefore, it may be that some ICAO Annexes are not relevant in this case. So, the reference to ICAO Annex 4 is included in case there is a need to take elements of that Annex in the proposed rules. The rulemaking task on AIS-AIM is currently considering transposition of ICAO Annex 4, but only those relevant elements that have an impact on the ICAO Annex 15 transposition. Yet, the rulemaking group members are still debating this issue as their work is progressing.

comment

917

comment by: EUROCONTROL

**Page 61 - Annex V, AIS.TR.105 item (b)(3)**

Cover regulation, Article 4, item 5, on page 14 points to Annex V, AIS.TR.105 item (b)(3) on page 61 which quotes ICAO Annex 15 to be obviously used as source when defining the AISP requirements.

The upcoming major changes to ICAO Annex 15 may represent a significant risk to this task. The task timing needs to consider the planned Annex 15 changes (Amendment 38 due for adoption early 2016). Firstly, Annex 15 changes are significant as ICAO will change a two-tier approach (SARPs and Doc) to three-tiers by adding a new PANS-AIM. Also, it will introduce a service oriented concept with new value added services on top of the two existing (products, digital data).

Secondly, the transposition will in itself be challenging, notably those of resources, and the challenges linked with this approach would most likely be amplified by the timing constraints versus Annex 15 changes, since the NPA is due for launch Q3/2014 a time when Annex 15 changes are also due.

The future rule making task could severely suffer from drafting to be progressed during a period of substantial Annex “instability”.

Note the ICAO changes may enter in state review in ca. Q1/2015.

We suggest therefore applying an alternative approach to full text transposition, but one that would achieve the same objective. We also suggest further defining the upcoming amendment as the basis to be used when drafting the rule. We would suggest considering to either delay the whole task to allow better alignment and de-confliction, at least for the intermediate milestones, to avoid unnecessary rework and likely inconsistencies which may cause unintended complexity and stakeholder criticism during the future NPA process.

response

Noted

The Agency acknowledges that the NPA is expected to be published before the adoption of Amendment 38. However, for the Agency, the timing between the successive amendments to ICAO Annex 15 and the NPA publication is not considered to have a detrimental impact. In terms of rulemaking process, it can even be seen as beneficial. The reason is that although Amendment 38 has not been adopted yet, the main elements that are foreseen to be included in Annex 15 will be known during the NPA and CRD process. It is, therefore, possible to identify the relevant provisions that will be amended and the Agency can act proactively on the basis of known changes. Even though the elements of Amendment 38 will not have been ‘stabilised’ yet, it is important for the Agency to already include in its NPA the already known elements stemming from Amendment 38 in order to further develop them for the Opinion. At the time of the publication of the Opinion, in 2016, Amendment 38 will have been adopted. So the Agency will be able to take into account Amendment 38 in order to cover these elements in due time. Starting this rulemaking task only after the adoption of Amendment 38 will only delay the rulemaking planning adopted by the EASA Management Board, while it is considered possible to avoid this delay and keep the objective of inserting the adopted Amendment 38 in the draft Regulation (Opinion) in 2016. The Agency will continue to follow up the developments on Amendment 38 until its adoption. Also, the discussion on the ongoing Amendment 38 that will take place within the rulemaking group will trigger efficient technical discussion — instead of simply reproducing international standards — that can improve the rules.

Concerning the foreseen PANS-AIM and the different layers ICAO will propose in the future, this is already in line with the EASA rule structure where the organisation requirements are separated from the technical ones. It is expected that the provisions to be included in the PANS-AIM will be those that will be contained in the technical requirements’ subpart of the annex to AIS-AIM. So the Agency sees no conflict in terms of structure.

comment

920

comment by: EUROCONTROL

**Page 61 - Annex V, AIS.TR.105 item (b)(3)**

Cover regulation, Article 4, item 5, on page 14 points to Annex V, AIS.TR.105 item (b)(3) on page 61.

	<p>November 2013 is planned to be the applicability date for the Annex 15 Amendment Nr 37.          Suggestion: the reference should read "...amendments up to No 37...".          Note: Annex 15; Fourteenth Edition; July 2013 (incl. amendments no 1-37); applicable 14 November 2013.</p>
response	<i>Accepted</i>

comment	<p>1082 <span style="float: right;">comment by: ENAV</span></p> <p>Proposal for rewording          Aeronautical information services providers shall be able to demonstrate that their working methods and operating procedures are compliant with the standards          in:  <del>(a) Commission Regulation (EU) No 73/20106;</del>          .....          Rationale          (a) Does not bring any added value as we have to be compliant with the regulations in force.</p>
response	<i>Accepted</i>

comment	<p>1099 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span></p> <p>"...are compliant with the standards in: (a) Commission Regulation (EU) No 73/2010;..."          Please clarify the legal correctness that this Regulation contains standards.          Suggest to rephrase it to:          "... are compliant with          (a) Commission Regulation... 73/2010          (b) the standards in the following Annexes to .....:          (1) Annex 3...          (2) Annex 4...          (3) without....Annex 15..."          Could EASA please explain the need to explicit that Regulation 73/2010 is applicable? This is unnecessary double regulation. This provision is understood for the ICAO Annexes and should be applied to those only.</p>
response	<p><i>Accepted</i></p> <p>Reference to Regulation (EU) No 73/2010 is removed.</p>

comment

331

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex VI (Part-DAT)	<p>AESA would like to remind of the comments already made in relation to the ToRs of <b>RMT.0593 &amp; RMT.0594</b>. These comments are reproduced hereby: <i>"The Spanish ATM/ANS TAG has a single comment to the draft ToR RMT.0593 &amp; RMT.0594 on 'Technical requirements and operational procedures for the provision of data for airspace users for the purpose of air navigation' Issue 1.</i></p> <p><i>The comment delves on the necessity to certify the data providers (e.g. Jeppesen, Lido) as ATM/ANS service providers. Although this is sensible from the point of view of safety, the nature of a data provider is different from the nature of an ATM/ANS provider. It would probably make more sense to fully implement the solution already devised by EASA in its Opinion No 01/2005 and have the data providers themselves check the quality of the navigation data they provide with the basic assumption that the source (AIP) is sound as a result of part-AIS requirements (RMT.0477 &amp; RMT.0478)."</i></p>	<p>For completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.</p>

response

*Noted*

The Agency takes the comment into consideration.

It should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3<sup>rd</sup> quarter of 2014.

comment

795

comment by: ROMATSA

Comment:

It needs to be developed – linked to Part A – Explanatory Note (73), second thesis, 3<sup>rd</sup> line.

	<p>Justification: Part A (Explanatory Note) (para 73), 3rd line stipulates that `for ATM/ANS providers which were not in the scope of Commission Implementing Regulation (EU) No 1035/2011, such as ATFM, ASM, DAT and ASD providers, the Agency proposes two years transition with a maximum opt out by the Member States for one additional year...` It is important first to develop the requirements to be undertaken by the above mentioned service providers in order to define a calendar for transition and implementation.</p>
response	<p><i>Accepted</i></p> <p>The Agency takes the comment into consideration.</p> <p>It should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3<sup>rd</sup> quarter of 2014. The 'transitional provisions' applicable to these providers of DAT will be included in the subject forthcoming NPA.</p>

comment	923	comment by: EUROCONTROL
	<p><b>Page 62 - Annex VI</b> Cover regulation, Article 4, item 6, on page 14, points to Annex VI on page 62 which mentions "Reserved". This part will have to be closely coordinated during development with obligations ref. AISP (Part V) to ensure proper alignment and consistency in terms of "shared" provisions. Firstly, some requirements will need to be allocated to parties under Parts V and VI as they perform different functions throughout the data supply chain. Secondly, the output from the upstream data operations Part V will form the input to the downstream data operations Part VI. A seamless data supply chain will require specific interoperability provisions to be developed covering all relevant parties and functions. We therefore suggest to ensure proper coordination and consistency between Part V and Part VI.</p>	
response	<p><i>Accepted</i></p> <p>The Agency agrees with the comment.</p> <p>Moreover, the ToR of the related RMT.0593 reflect already the issues addressed in the comment. Please refer to <a href="https://easa.europa.eu/rulemaking/docs/tor/RMT/ToR%20RMT.0593%20&amp;%20RMT.0594%20Issue%201.pdf">https://easa.europa.eu/rulemaking/docs/tor/RMT/ToR%20RMT.0593%20&amp;%20RMT.0594%20Issue%201.pdf</a>.</p>	

comment	1054	comment by: French Civil Aviation Authority (DGAC)
	<p>French CAA comment The introduction of the <u>certified service</u> "data provision" is not justified. <u>Rationale</u>: the introduction of a "Data provision service" and its certification was</p>	

neither agreed nor debated at high level. The Agency seems to refer to the function consisting of the production and delivery of flight databases for FMS, an activity which is downstream AIS. For France, this is not an "ATM/ANS service". (comment to be linked with the comment on the definition of ATM/ANS provider).

We acknowledge that some requirements may be considered for the Data provision activity. However:

- data provision falls under interoperability domain, and will be covered by ADQ-2.
- at the time being, it does not seem a good idea to impose a certification of organisations such as Jeppesen, an editor with a worldwide activity. Can we imagine to revoke such an organisation's certificate? The products may possibly be subject to certification, but not the organisation.
- the cost for the NSA would be cumbersome.

Related paragraphs: definition of ATM/ANS provider, Annex VI: specific requirements for the provision of data for airspace users for the purpose of air navigation.

Suggestion: suppression of annex VI.

response

*Not accepted*

The Agency takes the comment into consideration.

However, it needs to be pointed out that the Basic Regulation defines the scope of ATM/ANS and the related safety objectives to be complied with through the appropriate implementing measures which shall be developed. It also defines the ATM/ANS in the definition in its Article 3, and the related safety objectives are laid down in the Essential Requirements of Annex Vb thereto. This scope definition is similar to the SES service provision Regulation, but with some explicit differences which are to be included in the implementing measures and are proposed in NPA 2013-08. The Basic Regulation's definition of ATM/ANS consists of the SES service provision Regulation's definitions for ATM and ANS complemented with the services consisting in the origination and processing of data and formatting and delivering data to general air traffic for the purpose of safety-critical air navigation.

Moreover, the ToR of the RMT.0593 dealing with the subject further elaborate the necessity of such implementing measures to be developed. Please refer to <https://easa.europa.eu/rulemaking/docs/tor/RMT/ToR%20RMT.0593%20&%20RMT.0594%20Issue%201.pdf>.

Furthermore, it should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3<sup>rd</sup> quarter of 2014.

comment

1300

comment by: *Romanian Civil Aviation Authority*

Comment:

It needs to be developed – linked to Part A – Explanatory Note (73), second thesis, 3<sup>rd</sup> line.

Justification:

Part A (Explanatory Note) (para 73), 3rd line stipulates that `for ATM/ANS providers which were not in the scope of Commission Implementing Regulation (EU) No 1035/2011, such as ATFM, ASM, DAT and ASD providers, the Agency proposes two years transition with a maximum opt out by the Member States for one additional year...`

It is important first to develop the requirements to be undertaken by the above mentioned service providers in order to define a calendar for transition and implementation.

response *Accepted*

The Agency takes the comment into consideration.

It should be noted that the outcome of the subject rulemaking task (RMT.0593) is anticipated to be issued for consultation in the 3<sup>rd</sup> quarter of 2014. The 'transitional provisions' applicable to these providers of DAT will be included in the subject forthcoming NPA.

**ANNEX VII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SUREVEILLANCE SERVICES (Part-CNS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SURVEILLANCE SERVICES (CNS.OR) – Section 1 – General requirements – CNS.OR.105 Scope**

p. 63

comment 194

comment by: AENA-NPA2013-08

**Page 63, Annex VII Specific requirements for CNS.**

No reference is done to ATS.OR.210 and ATS.OR.215. Are not these activities (risk analysis for changes and SW assurance) applicable for CNS providers?

response *Noted*

The Agency takes note of the comment.

Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of the new numbered Annex III to this draft Rule and risk analysis of changes and SW assurance will be address therein.

Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment 332

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex VII Part-CNS	<p>Each CNS service and sub-service should be defined, identifying the points where the service “begins” and “ends”.</p> <p>To this end AESA would propose the inclusion of a new paragraph: "<i>Description of services</i>" as follows:</p> <p>"AMC/GM Annex II Subpart A <b>GM1 ATM/ANS.OR.A005 d)</b> <i>Services means those specified in Annex Vb(2).</i>"</p>	<p>Despite the fact that the definition of some of these services can be found in ICAO’s Annexes, the scope of the sub-services is not clearly identified and described, resulting in difficulties when providers apply for the certification of a particular service.</p> <p><b>Example 1.-</b> Regarding the Communication stream “Aeronautical Mobile Service”, a Data Link (DL) communications subservice might be defined, and within the latter, the CPDLC service. The problem arises identifying the scope of the CPDLC service: does it include any kind of DL communications between controllers and pilots? Can it be divided in CPDLC en route and CPDLC in airports in order to limit the certificate of a service provider depending on his capability?</p> <p><b>Example 2.-</b> Where do the surveillance systems end and the [surveillance] data processing systems begin?</p>

response *Noted*

The Agency takes the comment into consideration.

CNS providers should be compliant with the requirements of Annex II and the specific requirements laid down in Annex VII of the proposed draft rule in this NPA. The sub-services should be indicated in the certificate of the CNS providers as described in Appendix I to Annex I (new Annex II). Further GM will be provided on how to indicate in the certificate the privileges and limitations of its holder.

comment 797

comment by: *NATS National Air Traffic Services Limited*

**CNS.OR.105**

The numbering convention appears to be quite different amongst the Annexes. Here CNS.OR.105 is followed by CNS.OR.110.

response Annex I starts at 001; Annex II and IV at 005; Annex V starts at 105 as do Annexes III, VII, VIII and XI;with XII starting at 005.

*Accepted*

The Agency takes the comment into consideration, and the numbering convention is made uniform for all the Annexes.

**ANNEX VII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SUREVEILLANCE SERVICES (Part-CNS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SURVEILLANCE SERVICES (CNS.OR) – Section 1 – General requirements – CNS.OR.110 Technical and operational competence and capability** p. 63

comment 260 comment by: AENA-NPA2013-08

**Page 63, ATM/ANS.OR.B.005 Technical and operational competence and capability**

To clarify where the requirements related to 'technical and operational competence and capability' of ATM systems are included. To clarify if it is included in the Annex III (related to specific requirements for the provision of ATS), in the Annex VII (related to specific requirements for the provision of CNS services), or in the Annex V (related to specific requirements for the provision of Data providers).  
 From Aena point of view, it should be included like a new service, and have the same specific requirements as CNS providers.

response *Noted*

The requirements for the ATM/ANS systems and constituents are outside of the scope of the commented NPA. The development of such requirements is subject of further rulemaking planning. This NPA proposes provisions for service provider organisations only.

comment 333 comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex VII CNS.OR.110 (a) <b>Technical and operational competence and</b>	This paragraph should: 1) lay down the definition of these indicators; and 2) be more explicit about which of the indicators apply to each sub-	Doubts on which of the indicators mentioned in this requirement apply to each sub-service and how to measure them have been

<p><b>capability</b></p>	<p>service and give some guidance on how to measure them (in particular the integrity of services) (guidance could be given in some AMC or GM).</p> <p>In addition, Annex Vb.2(d), (e) and (f) of regulation (CE) No 216/2008 refer to some indicators for each CNS service which in some cases differ from the ones established in this NPA.</p>	<p>detected.</p> <p>The most common doubts come from the integrity of services and how to measure it.</p> <p>It would be advisable to follow the same criteria in both regulations to ensure consistency between them.</p>
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response *Noted*

It should be noted that for the time being in the Subpart of the commented Annex, references to ICAO Annex 10 are made. The requirements for the integrity and continuity of services are laid down therein. In the future, the Agency will consider the transposition of the provisions of Annex 10 into the EU law amending the subject Annex that would replace the references to ICAO Annex 10. This will be done with (a) separate rulemaking task(s).

comment 334

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>Annex VII CNS.OR.110 (b) <b>Technical and operational competence and capability</b></p>	<p>This paragraph should be written in a more throughout way in order to clarify what does "quality of service" exactly mean.</p>	<p>When carrying out inspections to any CNS system, inspectors find some difficulties deciding whether a deficiency is related to the "quality of the service" or to the safety of the service. Since both of them are closely related, more detailed information should be given for a better understanding of the regulation.</p>

response *Noted*

The requirements of the management system for service providers are proposed in Annex II (new Annex III) to the current draft regulation. The associated AMC and GM provide further clarifications on managing the quality and the safety of the services provision.

comment 662

comment by: AENA-NPA2013-08

**Page 63, CNS.OR.110 Technical and operational competence and capability.**

Where are included the requirements related to 'technical and operational competence and capability' of ATM systems? There is no reference to them in the Annex III, related to specific requirements for the provision of ATS, neither in the Annex VII, related to specific requirements for the provision of CNS services, nor in the Annex VI, related to specific requirements for the provision of Data providers. From Aena point of view, it should be included like a new service, and have the same specific requirements as CNS providers.

response *Noted*

The requirements for the ATM/ANS systems and constituents are outside of the scope of the commented NPA. The development of such requirements is subject of further rulemaking planning. This NPA proposes provisions for service provider organisations only.

**ANNEX VII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SUREVEILLANCE SERVICES (Part-CNS) – SUBPART A – ADDITIONAL ORGANISATION REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SURVEILLANCE SERVICES (CNS.OR) – Section 1 – General requirements – CNS.OR.115 Safety of services**

p. 63

comment 37

comment by: Swedavia CNS Safety

Reference to ATS.OR.215 is missing. What is EASA plan for the regulation on software assurance.

response *Noted*

The Agency takes note of the comment.

Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of the new numbered Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed in that NPA.

Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment

335

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex VII CNS.OR.115 <b>Safety of services</b>	<p>CNS service providers do not currently have to comply with the requirements related to changes (safety requirements for risk assessment and mitigation with regard to changes as well as software safety assurance system).</p> <p>In particular, <b>CNS.OR.115</b> does not include any of the following requirements:</p> <ul style="list-style-type: none"> <li>- <b>ATS.OR.210</b> (safety requirements for risk assessment and mitigation with regard to changes); and</li> <li>- <b>ATS.OR.215</b> (Software safety assurance system).</li> </ul> <p>This requirement should be reinstated to ensure safety of treatment of any change in the systems.</p>	<p>The current regulation (UE) No 1035/2011 establishes in section 2 of Annex V that "<i>providers of communication, navigation or surveillance services shall comply with this requirement (II.3.2), including software safety assurance system (Reg. 482/2008)</i>".</p>

response

*Noted*

The Agency takes note of the comment.

Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of the new numbered Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed in that NPA.

Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment

714

comment by: *Federal Office of Civil Aviation FOCA*

Please rephrase this paragraph. The use of references impairs the readability and could eventually lead to omissions. Furthermore, FOCA would like to point to the following: providers of communication, navigation and surveillance services are not necessarily air traffic service providers (therefore ATS.OR.205 and ATS.OR.225 are not appropriate references).

response

*Partially accepted*

The paragraph is amended making reference to ATS.OR.220 on requirements for air traffic safety electronic personnel (ATSEP). It is acknowledged that CNS providers are not necessary ATS too and vice versa. However, both CNS and ATS providers may employ ATSEPs and the requirements for such personnel should be the same. Therefore, a reference to ATS.OR.220 is made instead of repeating the same provision.

comment

799

comment by: *NATS National Air Traffic Services Limited*

### **CNS.OR.115**

Whilst it is understood that the CNS Safety of Services reflects the current Common Requirements, EASA should take the opportunity to consider whether CNS has a true "view of safety" as it is how these services are used that determines how "safe" they need to be and this cannot always be determined by the CNS provider. The Management System requirements need to be sufficiently robust and necessary to ensure that CNS providers deliver a fit for purpose service.

response

*Accepted*

The Agency takes the comment into consideration.

Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of

the new numbered Annex III to this draft Rule and risk analysis of changes.  
 Furthermore, the commented provision is amended by making reference to requirements for ATSEP only.  
 Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

comment 928 comment by: *NATS National Air Traffic Services Limited*

**CNS.OR.115**

Whilst it is understood that the CNS Safety of Services reflects the current Common Requirements, EASA should take the opportunity to consider whether CNS has a true "view of safety" as it is how these services are used that determines how "safe" they need to be and this cannot always be determined by the CNS provider. The Management System requirements need to be sufficiently robust and necessary to ensure that CNS providers deliver a fit for purpose service.

response *Accepted*

Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of the new numbered Annex III to this draft Rule and risk analysis of changes.

Furthermore, the commented provision is amended by making reference to requirements for ATSEP only.

Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.

The Agency takes the comment into consideration.

comment 1174 comment by: *French Civil Aviation Authority (DGAC)*

French CAA comment

CNS.OR.115 – Safety of services (p63):

This paragraph introduces requirements for CNS provider on the implementation of SMS (ATS.OR.205), and on the competence of the technical personal (ATS.OR.225).

However, no requirement is laid on risk assessment and mitigation with regard to changes (ATS.OR.210), or software safety assurance system (ATS.OR.215), on the contrary of the current regulation (EU) n°1035/2011. Even if it is noted that the RMT.0469 and RMT.0470 are going on developing these requirements, a clear link should be built already now, without waiting for the conclusions of these groups.

It is then suggested to modify this sentence:

*"Providers of communication, navigation, or surveillance services shall comply*

	<p>with the requirements in <i>ATS.OR.205</i>, <b>ATS.OR.210</b>, <b>ATS.OR.2015</b> and <i>ATS.OR.225</i>.</p>
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment.</p> <p>Another NPA relevant to this subject is to be published for consultation in the 2<sup>nd</sup> quarter of 2014. That NPA will propose provisions for Subpart C (Specific organisational requirements for service providers other than ATS providers) of the new numbered Annex III to this draft Rule and risk analysis of changes. Assessment of changes involving SW and SW assurance will be addressed in that NPA.</p> <p>Based on the outcome of the current NPA and the mentioned one, the Agency will issue a single Opinion as described in the Explanatory Note to the CRD.</p>

<p><b>ANNEX VII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION, AND SUREVEILLANCE SERVICES (Part-CNS) – SUBPART B – TECHNICAL REQUIREMENTS FOR THE PROVISION OF COMMUNICATION, NAVIGATION AND SURVEILLANCE SERVICES (CNS.TR) – Section 1 – General requirements – CNS.TR.105 Working methods and operating procedures</b></p>	<p>p. 63-64</p>
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comment	<p>336 <span style="float: right;">comment by: AESA / DSANA</span></p>						
	<table border="1"> <thead> <tr> <th data-bbox="363 1227 544 1308">PART</th> <th data-bbox="544 1227 963 1308">COMMENT</th> <th data-bbox="963 1227 1447 1308">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td data-bbox="363 1308 544 1765"> <p>Annex VII CNS.TR.105 <b>Working methods and operating procedures</b></p> </td> <td data-bbox="544 1308 963 1765"> <p>It is very important to complete this part in a meaningful manner by transposing the relevant parts of Annex 10 for each stream (C,N and S) and specifying for each sub-service under the umbrella of each stream. For this purpose it is highly important to provide an accurate definition of each sub-service.</p> </td> <td data-bbox="963 1308 1447 1765"> <p>Although the details of this may be part of the activities undertaken in <b>RMT.0479 &amp; RMT.0480</b>, it is important that the services and sub-services are accurately defined in order to ensure a common and proper treatment of all possible services. This would also facilitate mutual recognition of certificates as indicated in (A) 102.</p> </td> </tr> </tbody> </table>	PART	COMMENT	JUSTIFICATION	<p>Annex VII CNS.TR.105 <b>Working methods and operating procedures</b></p>	<p>It is very important to complete this part in a meaningful manner by transposing the relevant parts of Annex 10 for each stream (C,N and S) and specifying for each sub-service under the umbrella of each stream. For this purpose it is highly important to provide an accurate definition of each sub-service.</p>	<p>Although the details of this may be part of the activities undertaken in <b>RMT.0479 &amp; RMT.0480</b>, it is important that the services and sub-services are accurately defined in order to ensure a common and proper treatment of all possible services. This would also facilitate mutual recognition of certificates as indicated in (A) 102.</p>
PART	COMMENT	JUSTIFICATION					
<p>Annex VII CNS.TR.105 <b>Working methods and operating procedures</b></p>	<p>It is very important to complete this part in a meaningful manner by transposing the relevant parts of Annex 10 for each stream (C,N and S) and specifying for each sub-service under the umbrella of each stream. For this purpose it is highly important to provide an accurate definition of each sub-service.</p>	<p>Although the details of this may be part of the activities undertaken in <b>RMT.0479 &amp; RMT.0480</b>, it is important that the services and sub-services are accurately defined in order to ensure a common and proper treatment of all possible services. This would also facilitate mutual recognition of certificates as indicated in (A) 102.</p>					
response	<p><i>Noted</i></p>						

It should be noted that, for the time being, in the Subpart of the commented Annex VII (new Annex VIII), references to ICAO Annex 10 are made. The requirements for the integrity and continuity of services are laid down therein. In the future, the Agency will consider the transposition of the provisions of ICAO Annex 10 into the EU law amending the subject Annex that would replace the references to ICAO Annex 10. This will be done with (a) separate rulemaking task(s).

Furthermore, it should be noted that the sub-services should be indicated in the certificate of the CNS providers as described in Appendix I to Annex I (new Annex II). An associated GM is provided on how to indicate in the certificate the privileges and limitations of its holder.

comment

337

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex VII CNS.TR.105 <b>Working methods and operating procedures</b>	There are no requirements established in ICAO Annex 10 for some of the systems used for the provision of CNS services. For these systems, reference to the applicable interoperability regulations and/or technical specifications (e.g. Eurocae's) could be included (at least as AMC/GM) in order to ensure a better certification of a CNS provider that intends to provide any of those services.	E.g. there are no requirements established in Volumes II and III of ICAO Annex 10 for some of the systems used for the provision of communication services (e.g. CPDLC for FANS 1/A).  AESA proposes to analyse and develop this issue in the rulemaking task <b>RMT.0479 &amp; RMT.0480</b> 'Technical requirement and operation procedures for CNS'.

response

*Noted*

For the time being, in the Subpart of the commented Annex (new Annex VIII), references to ICAO Annex 10 are made. The requirements for the integrity and continuity of services are laid down therein. In the future, the Agency will consider the transposition of the provisions of ICAO Annex 10 into the EU law

amending the subject Annex that would replace the references to ICAO Annex 10. This will be done with (a) separate rulemaking task(s).

Furthermore, the requirements for the ATM/ANS systems and constituents are outside of the scope of the commented NPA. The development of such requirements is subject of further rulemaking planning. This NPA proposes provisions for service provider organisations only.

comment 712

comment by: *Federal Office of Civil Aviation FOCA*

We suggest to remove the requirements from Annex II and place them in this section to improve readability.

response *Not accepted*

If the comment is correctly understood, it suggests to remove Annex II and place all the requirements in Annex VII. It should be noted that Annex II laid down requirements which are applicable for all service providers (ATS, CNS, AIS, MET, NM, etc.) and if such approach would be applied into the rule structure, there would be a lot of repetitions of the same provisions in the draft rule which the Agency doesn't consider as an appropriate style of rulemaking.

**ANNEX VIII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC FLOW MANAGEMENT (Part-ATFM) – SUBPART A – TECHNICAL REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC FLOW MANAGEMENT (ATFM.TR) – Section 1 – General requirements – ATFM.TR.105 Scope**

p. 65

comment 195

comment by: *AENA-NPA2013-08*

**Page 65, ANNEX VIII specific requirements for ATFM.**

No reference is done to the annex XII (ATSEPs) as it is done for ATS and CNS in article ATS.OR.225. According to ATSEP.OR.005, ATFM would be under the scope of Annex XII, however it is quite confusing due to the definition of ATM/ANS provider and to the ATSEP definition itself.

response *Accepted*

The Agency takes the comment into consideration.

It is acknowledged that ATFM providers fall under the scope of Annex XII (new Annex XIII) as well. The text of the ATSEP definition is amended.

comment	<p>300</p> <p style="text-align: right;">comment by: <i>skyguide Corporate Regulation Management</i></p> <p>SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIRT TRAFFIC FLOW MANAGEMENT (Part-ATFM) <u>Typo:</u> SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIRF TRAFFIC FLOW MANAGEMENT (Part-ATFM)</p>
response	<p><i>Accepted</i></p>

comment	<p>338</p> <p style="text-align: right;">comment by: <i>AESA / DSANA</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">PART</th> <th style="width: 45%;">COMMENT</th> <th style="width: 45%;">JUSTIFICATION</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">Annex VIII <b>Part-ATFM</b></td> <td style="vertical-align: top;"> <p>According to articles 4.1, 4.2 and 4.8, an ATFM provider shall be certified and shall comply with:</p> <ul style="list-style-type: none"> <li>- Subparts A, B and C of Annex II (Part-ATM/ANS.OR); and</li> <li>- Annex VIII (Part-ATFM).</li> </ul> <p>Annex VIII then refers to regulation (CE) No 255/2010 (ATFM IR). AESA would request that AMC/GM be developed for this Annex, especially at local level (FMP).</p> </td> <td style="vertical-align: top;"> <p>This regulation establishes obligations and requirements to be met by the parties involved in the provision of ATFM (ATSP, ARO, AIO, AO, FMA,...) which makes it quite difficult to supervise both the ATFM IR and the interfaces between ATFM, ASM and ATS (all of which make up ATM).</p> </td> </tr> </tbody> </table>	PART	COMMENT	JUSTIFICATION	Annex VIII <b>Part-ATFM</b>	<p>According to articles 4.1, 4.2 and 4.8, an ATFM provider shall be certified and shall comply with:</p> <ul style="list-style-type: none"> <li>- Subparts A, B and C of Annex II (Part-ATM/ANS.OR); and</li> <li>- Annex VIII (Part-ATFM).</li> </ul> <p>Annex VIII then refers to regulation (CE) No 255/2010 (ATFM IR). AESA would request that AMC/GM be developed for this Annex, especially at local level (FMP).</p>	<p>This regulation establishes obligations and requirements to be met by the parties involved in the provision of ATFM (ATSP, ARO, AIO, AO, FMA,...) which makes it quite difficult to supervise both the ATFM IR and the interfaces between ATFM, ASM and ATS (all of which make up ATM).</p>
PART	COMMENT	JUSTIFICATION					
Annex VIII <b>Part-ATFM</b>	<p>According to articles 4.1, 4.2 and 4.8, an ATFM provider shall be certified and shall comply with:</p> <ul style="list-style-type: none"> <li>- Subparts A, B and C of Annex II (Part-ATM/ANS.OR); and</li> <li>- Annex VIII (Part-ATFM).</li> </ul> <p>Annex VIII then refers to regulation (CE) No 255/2010 (ATFM IR). AESA would request that AMC/GM be developed for this Annex, especially at local level (FMP).</p>	<p>This regulation establishes obligations and requirements to be met by the parties involved in the provision of ATFM (ATSP, ARO, AIO, AO, FMA,...) which makes it quite difficult to supervise both the ATFM IR and the interfaces between ATFM, ASM and ATS (all of which make up ATM).</p>					
response	<p><i>Noted</i></p> <p>The Agency takes note of the comment and will take it into due consideration.</p> <p>As a first reflection, the Agency considers that developing AMC/GM by EASA to implement Regulation (EU) No 255/2010 would necessitate more detailed understanding of the difficulties encountered by the States and a thorough consideration also by the European Commission. Furthermore, as an element of consideration, the ATM roadmap prepared by the Commission has included</p>						

plans to revise the Regulation on ASM, particularly as regards the flexible use of airspace concept. The commentator is kindly invited also to consider whether a more detailed rulemaking proposal on the issue would be possible.

comment 606

comment by: *CANSO Civil Air Navigation Services Organization*

ANNEX VIII  
SPECIFIC  
REQUIREMENTS FOR  
THE PROVISION OF AIR  
TRAFFIC FLOW  
MANAGEMENT  
(Part-ATFM)

SPECIFIC  
REQUIREMENTS FOR  
THE PROVISION OF AIR  
TRAFFIC FLOW  
MANAGEMENT  
(Part-ATFM)

Typo: SPECIFIC  
REQUIREMENTS FOR THE  
PROVISION OF AIR  
TRAFFIC FLOW  
MANAGEMENT  
(Part-ATFM)

response

*Accepted*

**ANNEX VIII – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC FLOW MANAGEMENT (Part-ATFM) – SUBPART A – TECHNICAL REQUIREMENTS FOR THE PROVISION OF AIR TRAFFIC FLOW MANAGEMENT (ATFM.TR) – Section 1 – General requirements – ATFM.TR.110 Working methods and operating procedures for the provision of air traffic flow management**

p. 65

comment

196

comment by: *AENA-NPA2013-08*

**Page 65, ANNEX VIII specific requirements for ATFM.**

The lack of integration of (EU) N° 255/2010 into the NPA may lead to inconsistencies or double regulation comparing to annex II of the NPA applicable to ATFM service.

response

*Noted*

The Agency takes note on the comment.

Furthermore, the Agency considers that an integration of Regulation (EC) No 255/2010 would necessitate more thorough discussion at EU level. Therefore, as it is not included in the scope of this NPA, the Agency can only take note of this proposal. The commentator is kindly invited to consider a more detailed rulemaking proposal on the issue.

comment

464

comment by: CAA-NL

**ATFM.TR.110**

Please refrain from introducing technical requirements here by referring to a current EC regulation (EC 255/2010) but have this reserved for further work as is the case with Part-ASM. We would like to see that a proper update of 255/2010 will be included in the rulemaking work program as it is for instance for Part DAT.

*Rationale:*

In the first place, EC 255/2010 has not been created as a basis for the certification of ATFM-providers.

In the second place, EC 255/2010's set-up is confusing. It contains requirements for States, ANSPs, airports and airspace users without a clear and unambiguous separation between these types of requirements. Furthermore, the requirements for States could in a number of instances actually in practice be regarded as requirements for ANSPs (however this is not formalized in the text of the requirements).

Seen the above, in practice unambiguous adherence to the requirements of EC 255/2010 by ANSPs and proper oversight on this adherence by CAs/NSAs has proved to be a very difficult and confusing process. Introducing EC 255/2010 as the certification-basis for ATFM-providers would therefore in our opinion lead to the introduction of an unclear and confusing certification basis, which can be regarded to be not sufficiently workable for providers and CAs alike.

response

*Noted*

The Agency takes due consideration of the comment and shares the view that Regulation (EC) No 255/2010 may not lay down clear requirements and privileges for the certification of ATFM providers. For this purpose, a more thorough discussion at expert level and in Comitology would be helpful. However, and as it is not included in the scope of this NPA, the Agency can only take note of this proposal. The commentator is kindly invited to consider a more detailed rulemaking proposal on the issue.

<b>ANNEX IX – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIRSPACE MANAGEMENT</b>
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p. 66

comment

1058

comment by: French Civil Aviation Authority (DGAC)

French CAA comment

The "service" covered by this denomination is not clearly circumscribed and does not lend itself to certification.

Rationale:

The certificate model proposed in the IR indicates that what is meant is ASM level 3 (tactical/local ASM). This activity consists in reality of coordination between ANSP (between heads of civil and military control rooms). It does not seem possible to identify and isolate a service provider for ASM level 3. We do not believe this activity can be described as a service and certified. SES

regulations use the word “function”, which is more appropriate. Requirements can be put on this function but certification is not pertinent here. Introducing certification would bring useless burden. Even certifying ASM level 2 (Airspace Management Cells and NMOC) would probably be questionable. AMC are small mixed entities, including a military part. And the risk associated to their activity is not obvious, as an undue reservation of airspace would have consequences on the capacity of the sectors concerned (ATFCM regulation generating delays) but not directly on safety.

Related paragraphs: Appendix 1 to Annex I (table).  
Suggestion: not require certification for ASM level 3.

response

*Noted*

The Agency takes note of the commentator’s concerns. However, Regulation (EC) No 549/2004 (the Framework Regulation) provides the definition of ASM and also the definition of ATM as ASM is included therein. The Basic Regulation in its Article 8b requires that providers of ATM/ANS are subject of certification. Both Regulations are adopted by the European Parliament and the Council. With this proposed draft Implementing Rule, which has a dual legal basis, the above provisions should be reflected accordingly.

**ANNEX X – SPECIFIC REQUIREMENTS FOR THE PROVISION OF AIRSPACE DESIGN** p. 67

comment

340

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex X <b>(Part-ASD)</b>	AESA would like to remind of the comments made by the Spanish ATM/ANS TAG at the TAG meetings held in 2013 in relation to this part and the related <b>RMT.0445 &amp; RMT.0446</b> .	For completeness and clarity's sake, and in order to ensure the fullness of the comments made by AESA.

response

*Noted*

comment

1084

comment by: French Civil Aviation Authority (DGAC)

The definition of Airpace design (GM1 ATM/ANS.OR.A.005), combined with Art.8.b) of the BR implies certification for the activity of design airpace structures.

Rationale:

We believe that the certification should only encompass the design of IFR procedures. This activity is harmonised at global level by ICAO's PANS-OPS. But certifying the design of ATS routes, control sectors, CTR or TMA in an "ASD service" would probably be counter-productive. This activity is initiated by every ATS unit in a widely coordinated approach. For example, in France, the formal decision for creation of such ATS structure is made at government level, based on the work produced by local airspace committees in which airspace users, civil and military ATS units take part. Designating an ASD provider for such a process involving public consultation (airspace users, but also residents, for noise et environment considerations) and State authority will be very complicated (no isolated entity to certify) and would not really make sense. This will put useless burden and complexity on all these actors.

What's more, at the time being, very few rules (which would be part of ASD.TR) exist for airspace structures design in the ICAO regulatory framework. Hence, the basis for certification would be very small. If some work had to be carried out by EASA in this domain, the priority should be to establish these rules.

Suggestion:

- exclude the designing of airspace structures such as routes, sectors, control area from the scope of certification.
- possibly consider the establishment of rules (TR) for this activity.

response

*Accepted*

On the one hand, the Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in Regulation (EC) No 216/2008 nor in Regulation (EC) 549/2004, thus it may appear excessive to regulate it as an ATM/ANS service according to Art 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements included in Paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation for the Agency to ensure safe airspace structure and flight procedures designs, and, hence, the legal basis for its regulation. The commentator is right in the sense that including ASD in the definition of ATM/ANS would mean that the ASD service should be certified. The concern that a certification process for ASD providers may be too cumbersome in certain situations (e.g. airspace structures) is acknowledged; moreover, any Implementing Rule, in accordance with Article 8b.(7)(b) of the Basic Regulation, should be 'proportionate to the type and complexity of the services provided.' Therefore, it could be reasonable in the case of ASD to envisage a leaner certification process, if any.

On the other hand, it is obvious that Airspace Design has a direct effect on the trajectory followed by aircraft; poor and/or erroneous designs of airspace structures and flight procedures can increase the risks of incidents or accidents. The correct and harmonised design of the airspace structures and flight procedures should, therefore, contribute to ensuring safe operations within European airspace. Furthermore, the ASD plays a key role in the safety of air operations and is also a key enabler for the implementation of new navigation concepts such as Performance-Based Navigation (PBN).

Since the Agency is launching a Rulemaking task (RMT.0445) with the aim to propose Implementing Rules and AMC/GM on airspace design including procedure design, with the aim to ensure that the airspace structures and flight procedures are appropriately surveyed, designed, and validated, it seems appropriate that this RMT analyses and decides the most appropriate way to regulate the organisations that design these elements. It is, therefore, proposed that the decision about the need of certification will be addressed by

that rulemaking task without prejudging the approach in this NPA. The ASD will, therefore, be removed from the definition of ATM/ANS provider and certificate until the output of RMT.0445. The comment will be duly considered during the work of the above-mentioned rulemaking task.

comment

1203

comment by: UK CAA

**Page No:** 67**Paragraph No:** ANNEX X and Cover Regulation Article 2**Comment:** This Annex refers to a term 'Airspace Design' which is not defined in scope and which has not, in European regulatory terms been regarded as a 'service'**Justification:** As the inclusion of an Annex of this kind would also introduce a requirement for such organisations to be Certified – a suitable definition for this term should be added to Article 2 in order to bring clarity concerning which organisations would be within scope.

response

*Partially accepted*

On the one hand, the Agency acknowledges that Airspace Design (ASD) is not clearly defined as an ATM/ANS service neither in Regulation (EC) No 216/2008 nor in Regulation (EC) 549/2004, thus it may appear excessive to regulate it as an ATM/ANS service according to Art 8b of Regulation (EC) No 216/2008 (e.g. requiring a certificate to provide the ASD service). However, the Essential Requirements included in Paragraph 2(i) of Annex Vb to the Basic Regulation address the obligation for the Agency to ensure safe airspace structure and flight procedures designs, and, hence, the legal basis for its regulation. The commentator is right in the sense that including ASD in the definition of ATM/ANS would mean that the ASD service should be certified. The concern that a certification process for ASD providers may be too cumbersome in certain situations (e.g. airspace structures) is acknowledged; moreover any Implementing Rule, in accordance with Article 8b.(7)(b) of the Basic Regulation, should be 'proportionate to the type and complexity of the services provided.' Therefore, it could be reasonable in the case of ASD to envisage a leaner certification process, if any.

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until the output of RMT.0445. The comment will be duly considered during the work of the mentioned rulemaking task.

**ANNEX XI – SPECIFIC REQUIREMENTS FOR THE NETWORK MANAGER (Part-NM) – SUBPART A – TECHNICAL REQUIREMENTS FOR THE NETWORK MANAGER (NM.TR) – Section 1 – General requirements – NM.TR.105 Scope** p. 68

comment

342

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex XI (Part-NM)	The coherence/consistency of <b>Annex XI (Part-NM)</b> with <b>Annex VIII (Part-ATFM)</b> must be fully ensured.	In order to avoid discrepancies between two annexes that are intimately connected by the particular nature of the organization that provides both these services (NM).

response

*Noted*

The Agency takes the comment into consideration.

**ANNEX XI – SPECIFIC REQUIREMENTS FOR THE NETWORK MANAGER (Part-NM) - SUBPART A – TECHNICAL REQUIREMENTS FOR THE NETWORK MANAGER (NM.TR) – Section 1 – General requirements – NM.TR.110 Working methods and operating procedures for the provision of air traffic management network functions** p. 68

comment

381

comment by: EUROCONTROL

**Page 68 - Annex XI - Part-NM - Sub-part A - Section 1 NM.TR.105 Scope**

The EUROCONTROL Central Route Charges Office (CRCO) is concerned by AIS data (for the 'Route per State Overflown' distance calculation). However, CRCO relies on NM for actual data provision.

There is no mention of any requirement for flight data provision to charging agencies in current NPA 2013 - 08. What will be the impact on the Route

Charges Offices (RCOs') capability to fulfill their missions? In particular:

- Gathering flight data, and complementing the data with billing parameters (exemptions, diversions, operator identification);
- Inquiring on CRCO requests following to unbillable flights and claimed flights;
- Rewieving CRCO decisions such as suppressions of duplicates.

We recommend complementing NM.TR.105 with a view to ensuring that, in the end, the state-based RCO network can be properly serviced through these ATM/ANS providers specifications.

The same observation applies also to the statistics and forecast service of NM.

response

*Noted*

The Agency takes note of the comment.

However, since the issues raised are not in the scope of the proposed rule, the Agency considers that it would be more suitable to include them in the actual Network Manager Regulation. Therefore, the Agency will bring this comment to the attention of the European Commission which is currently in the process of amending the said Regulation.

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 1 – General – ATSEP.OR.005 Scope**

p. 69

comment

38

comment by: *Swedavia CNS Safety*

Please, consider changing the abbreviation to "Air Traffic Engineering Personnel". This will widen the scope and align the statement of "safety related personnel".

response

*Not accepted*

The Agency is not in favour of changing the abbreviation as the term 'ATSEP' is a well-recognised ICAO term and is currently accepted worldwide.

comment

75

comment by: *ATC the Netherlands*

	Confusion between definition of ATSEPs between EN and IR. Clarity on definition is needed
response	<p><i>Noted</i></p> <p>The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II (new Annex III) ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more that ATM/CNS systems, e.g. Network Manager services.</p>

comment	<p>140 <span style="float: right;">comment by: LfV</span></p>
	<p>Not the same definition of ATSEP in the Explanatory Note and in the IR. Propose the scope "safety-related air traffic management and communication, navigation, and surveillance systems".</p> <p><i>Expl. Note: "224. The Agency, therefore, proposes to define ATSEPs in ATSEP.OR.005(b) as 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related <b>ATM/ANS systems</b> shall be considered to be an ATSEP'. "</i></p> <p><i>IR: "(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related <b>air traffic management and communication, navigation, and surveillance systems</b> shall be considered to be ATSEP;"</i></p>
response	<p><i>Noted</i></p> <p>The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II (new Annex III) ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more that ATM/CNS systems, e.g. Network Manager services.</p>

comment	<p>197 <span style="float: right;">comment by: AENA-NPA2013-08</span></p>
	<p><b>Page 69, ATSEP OR.005 scope.</b></p> <p>MET services are supposed to be out of the scope. However in GM1 ATSEP.OR.005 b) one of the examples refers to the calibration of IRVR systems.</p> <p>According to the definition, ATFM and ASM providers also have ATSEPs. Clarify the scope of annex XII not mentioning ATM/ANS service provider but only ATM/CNS or ATS/CNS as the rest of service providers (DAT, AIS, ASD and MET) don't have ATSEPs. The structure of the regulation is mixing two criteria: one attending to service and another one attending to type of element within the organization, in this case personnel. The mix of criteria is adding complexity to the implementation of the regulation, considering in addition that annexes by service also contain requirements regarding personnel. For example, in Page 67 of Document A, RIA states that ASD and DAT are affected, when they are out of</p>

response	the scope.
	<p><i>Noted</i></p> <p>The example of calibration of IRVR systems is now deleted.</p> <p>With regard to the definition, it was not the intention of the Agency to limit the scope of Annex II (new Annex III) ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.</p>
comment	<p>233 <span style="float: right;">comment by: <i>Irish Aviation Authority</i></span></p> <p><b>Page No:</b> 69 and following pages  <b>Paragraph No:</b> Whole of ANNEX XII SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) SUB PART A-TECHNICAL AND ENGINEERING PERSONNEL Section 1-Air Traffic Safety Electronics Personnel  <b>Comment:</b> THE ATSEP provisions are focussed on requirements for large, often state-run, en-route ANSPs and do not have sufficient flexibility provisions to accommodate states, like Ireland, where there is a market of contestability, with many smaller ANSPs in competition with each other. The measures proposed will endanger the financial health of many of these smaller entities, to the benefit of larger providers, as these smaller businesses would have over-proscriptive and dis-proportionate requirements, which will not improve safety, imposed upon them.  The use of such training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified.  Instead of focusing on the training and competence objectives of a particular set of tasks in a particular operational environment, the addition of the Appendix 2 and 3 text drives the requirements into a concept of training subjects instead. Furthermore, although the related AMC and GM material is detailed, the really important topics of System and Equipment rating training and competence requirements are not dealt with in any detail. Why is there so much detail for theoretical/academic training and competence and not the actual work oriented aspects? This strengthens the argument that the ATM/ANS Provider should have the responsibility of determining training/competence requirements for actual tasks and not be driven by academic/theoretical training requirements. The legally mandated requirements in Annex XII should therefore be simplified with Appendix 2 and 3 material removed to GM. The related AMC/GM material should also be defined as GM so that ATM/ANS Providers can reference guidance on how to derive training and competence arrangements for their staff.  <b>Justification:</b> Justification provided in comment above.  <b>Proposed Text:</b>  The following text is a suggestion for a more flexible and simplified Annex XII Subpart A:  <b>ANNEX XII</b>  <b>SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS)</b></p>

**SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL****Section 1 – Air Traffic Safety Electronics Personnel****Chapter 1 – General****ATSEP.OR.005 Scope**

(a) This section establishes the requirements to be met by an ATM/ANS provider with respect to the training and competence assessment of Air Traffic Safety Electronics Personnel (ATSEP);

(b) Any authorised personnel who is competent to operate, maintain, request release from, and make available for return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP; and

(c) The design, testing, installation, and commissioning of operational systems and equipment are excluded from the scope of this section.

**ATSEP.OR.010 Identification of safety-related systems**

An ATM/ANS provider shall identify safety-related air traffic management and communication, navigation, and surveillance systems through their management systems in relation to their service.

**ATSEP.OR.015 Training and competence assessment programme**

An ATM/ANS provider that employs ATSEP shall:

(a) establish a training and competence assessment programme to cover the duties and responsibilities to be performed by ATSEP; and

(b) maintain records of all training completed by and competence assessment of ATSEP and make such records available:

(1) on request, to the ATSEP concerned; and

(2) on request, and with the agreement of the ATSEP, to the new ATM/ANS provider when the ATSEP changes ATM/ANS provider.

**ATSEP.OR.020 Language proficiency**

An ATM/ANS provider shall ensure that ATSEPs are proficient in the language(s) required to perform their duties.

**Chapter 2 – Training requirements****ATSEP.OR.100 Training requirements – General**

An ATM/ANS provider shall ensure that ATSEPs:

(a) have successfully completed:

(1) the basic training as set out in ATSEP.OR.105;

(2) the qualification training as set out in ATSEP.OR.110; and

(3) the system/equipment rating training as set out in ATSEP.OR.115; and

(b) complete continuation training in accordance with ATSEP.OR.120.

Such training being defined by the ATM/ANS provider as applicable to the system/equipment and operational environment. GM material is provided at XXXXXXXXXXXX. This GM material includes guidance on what is basic, qualification, system/equipment rating and continuation training. The ATM/ANS Provider may define such phases of training that are applicable to their operations.

**ATSEP.OR.105 Basic training**

~~(a) An ATM/ANS provider that employs ATSEPs shall ensure that basic training comprises:~~

~~(1) the subjects, topics, and sub-topics contained in Appendix 1 to this Annex; and~~

~~(2) where relevant to its activities, the subjects, topics, and sub-topics contained in Appendix 2 to this Annex.~~

(b) An ATM/ANS provider may determine the most suitable entry level for their candidate ATSEP and, consequently, adapt the number and/or level of subjects, topics or sub-topics in ~~(a)~~ Basic Training where relevant.

**ATSEP.OR.110 Qualification training**

~~An ATM/ANS provider that employs ATSEP shall ensure that qualification training comprises the subjects, topics, and sub-topics contained in Appendix 3~~

to this Annex.

~~(a) In addition, the qualification training shall contain, as a minimum, one of the qualification streams, contained in Appendix 4 to this Annex.~~

~~(b) The qualification stream shall be determined by the ATM/ANS Provider by associating the safety-related air traffic management and communication, navigation, and surveillance system(s) the candidate ATSEP will ultimately be working with, to the applicable stream(s).~~

#### **ATSEP.OR.115 System and equipment rating training**

(a) The system/equipment rating training shall be applicable to the duties to be performed and include:

- ~~(1) theoretical courses; and/or~~
- ~~(2) practical courses; and/or~~
- ~~(3) on-the-job training.~~

(b) An ATM/ANS provider shall ensure that candidate ATSEP acquire knowledge and skills pertaining to:

- (1) the functionality of the system/equipment;
- (2) the actual and potential impact of ATSEP actions on the system/equipment; and
- (3) the impact of the system/equipment on the operational environment

#### **ATSEP.OR.120 Continuation training**

An ATM/ANS provider shall ensure that ATSEP undertake appropriate continuation training, including refresher, equipment/systems upgrades and modifications, and/or emergency training.

### **Chapter 3 – Competence assessment requirements**

#### **ATSEP.OR.125 Competence assessment – General**

An ATM/ANS provider shall ensure that ATSEPs:

- (a) have been assessed as competent before performing their duties; and
- (b) are subject to ongoing competence assessment ~~in accordance with ATSEP.OR.130.~~

#### **ATSEP.OR.130 Assessment of initial and ongoing competence**

An ATM/ANS provider that employs ATSEP shall:

- (a) establish, implement, and document processes for:
  - (1) assessing the initial and ongoing competence of ATSEP;
  - (2) addressing a failure or degradation of ATSEP competence; and
  - (3) ensuring the supervision of personnel who have not been assessed as competent; and
- (b) define the following criteria against which initial and ongoing competence shall be assessed:
  - (1) technical skills;
  - (2) behavioural skills;
  - (3) knowledge;
  - (4) experience; and
  - (5) language proficiency.

### ~~Chapter 4 – Instructors and assessors~~

#### ~~ATSEP.OR.135 ATSEP training instructors~~

~~(a) An ATM/ANS provider shall ensure that ATSEP training instructors are suitably experienced and have appropriate knowledge in the field where instruction is to be given.~~

~~(b) In addition, an ATM/ANS provider shall ensure that on-the-job training instructors have the skills to intervene in instances where safety may be compromised during the training.~~

#### ~~ATSEP.OR.140 Technical skills assessors~~

~~An ATM/ANS provider that employs ATSEP shall ensure that technical skills assessors are suitably experienced to assess the criteria defined in ATSEP.OR.130(b).~~

~~(The Appendices 2, 3 and 4 in Annex XII Sub Part A should be GM only. Should~~

response

be removed to GM material.  
Hence Delete Appendices 2, 3 and 4)

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

The Agency would like to remind the approach adopted in Annex XII to the NPA:

Basic Training:

- Mandatory: Induction and Air Traffic Familiarisation --> subject, topics and sub-topics.
- Means of compliance --> all the objectives
- Optional: MET, AIS, COM, NAV, SURV, DP, SMC & MP
- If one chosen, then only subject --> mandatory while topics, sub-topics and objectives --> AMC

Qualification training

- Mandatory: The Shared --> subjects, topics & sub-topics
- Means of compliance --> objectives
- Optional: the Streams
- If one chosen, then same principle as for the Shared.

In summary, not all the basic training needs to be attended.

Only the 2 compulsory subjects + minimum one subjects need to be included in the training; Moreover, when the relevant subject(s) is (are) selected by the service provider, it has the possibility to propose an alternative means of compliance to the training objectives (corpus and content). In practice, service providers can select from minimum 3 subjects to maximum 10 subjects according to their activities. It is up to them to decide which one they select.

The same applies to the qualification training were the 3 subjects in the Shared training need to be selected whereas only 1 stream can be selected. All the training objectives of the selected subjects of the Shared and the Streams can be complied with differently, if needed, by a service provider as they are contained in AMC. Service providers may then select 4 subjects maximum if needed.

In conclusion, this approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

comment

298

comment by: HungaroControl

To Annex XII in general:

This annex is focusing on current ATM / CNS systems and does not allow for flexibility or proportionality and it is future-proof, particularly with regards to future technology. The means and process to update and revise this annex needs to be specified and assurance should be given that the relevant expertise will be sought for such updates.

Annex XII should be reviewed for any undefined terms.

Both appendix 1 and 2 are called ATSEP.OR.105. Basic training. Re-wording of titles is proposed for clarity as follows: ATSEP.OR.105 **shared** (for appendix 1) and **streams** (for appendix 2). This will be consistent with the appendices 3 and 4.

response

Accepted

The scope of Annex II (new Annex III) ATSEP is not limited to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

Shared and Streams are added to the Basic Training title in the appendices.

comment

324 ❖

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
Annex III ATS.OR.225 <b>Safety requirements for engineering and technical personnel undertaking operational safety-related tasks</b>	This point describes the safety requirements for engineering and technical personnel undertaking operational safety-related tasks and it has a specific paragraph (d) which references Annex XII establishing the requirements for air safety electronics personnel regarding training and competence assessment.	Recurrent misunderstandings about the appliance of this requirement to personnel undertaking safety-related tasks <b>on power supply and climatization systems</b> have been detected when treating this point with ANSPs both during the certification and inspections processes.
Annex XII <b>Part-PERS</b>	Training for the different types of safety-related personnel (other than ATSEP) should be included as well.  In particular, explicit reference to	

	<p>engineering and technical personnel (exclusively) undertaking operational safety-related tasks on power supply and climatization systems that support ATM/ANS systems should be made both in ATS.OR.225 and in Annex XII, not as ATSEP but as a different category within the personnel undertaking operational safety-related tasks.</p>	
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response *Accepted*

Training for the different types of safety-related personnel (other than ATSEP) is subject of further rulemaking planning.

comment 326 ❖

comment by: AESA / DSANA

PART	COMMENT	JUSTIFICATION
<p>Annex III ATS.OR.225(d) <b>Safety requirements for engineering and technical personnel undertaking operational safety-related tasks</b></p> <p>Annex XII <b>Part-PERS</b></p>	<p>The term ATSEP (Air Traffic Electronics Personnel) has been added to the regulation but:</p> <ul style="list-style-type: none"> <li>- it has not been included in definitions (article 2); and</li> <li>- a clarification of the distinction between the terms “ATSEP” and “engineering and technical personnel undertaking operational safety-related tasks” is needed (differences, definitions,...).</li> </ul>	<p>Although explanation on this in (A) 243 is noted, AESA deems this would be convenient for completeness and clarity's sake, and in order to avoid misinterpretations.</p>

response *Accepted*

The definition of ATSEP is now included in the new Annex I. The revised ATS.OR.225 now only relates to ATSEP. The phrase 'undertaking operational safety-related task' is not used anymore in the revised rule text. Appropriate definition for such personnel will then be provided and the Agency will ensure that no confusion will be made with the definition of ATSEP.

comment 468

comment by: CAA-NL

**ATSEP.OR.005**

Please Introduce an amended paragraph (b) this proposal has to be read in conjunction with the comments on ATM/ANS.OR.B.030 and ATS.OR.025:

**(b) Any personnel who is authorised by the ATM/ANS organisation to release from operations for maintenance, and return into operations after maintenance any safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP; and**

*Rationale:*

In line with aircraft maintenance not all personal that touches a piece of equipment has to be fully qualified, with the introduction of 'certifying staff' ATSEPS who have the responsibility for the organisation to release from and back into operations, the organisations have more flexibility in organising its maintenance and this may lead to cost reductions without quality losses. This builds on similarity with aircraft maintenance in the airworthiness field.

response *Not accepted*

Some additional guidance regarding maintenance has been added in order to provide better understanding of the circumstances and scenarios of when maintenance must be carried out by an ATSEP. As a system released from operation for routine maintenance is still considered to be within the operational environment due, for example, to system interaction/connectivity, any maintenance activity on systems should be carried out/supervised by a competently qualified ATSEP who then provides assurance that the system/service is fit for purpose before being offered back for operational use.

Where a system could be worked on by non-ATSEP is when a system has been taken out of the operational environment for a set period of time and has been completely isolated from the operational ATM (i.e. air gap). The isolation would be carried out and confirmed by an ATSEP, and on return, those non-ATSEPs that have been working on the system, would run through a set of agreed acceptance checks before the system is accepted back, at which point an ATSEP would then run through a set of maintenance checks to ensure that the system/service is fit for purpose before being offered back for operational use.

comment 593 comment by: *CANSO Civil Air Navigation Services Organization*

<b><u>Annex XII</u></b>	Maintenance of CCC (both ATCO and ATSEP).	How will EASA maintain and update these documents?
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response *Noted*

The Agency will ensure the update of the ATSEP (and ATCO) training rules through a continuous rulemaking task on the basis of the changes made at Eurocontrol level ATSEP (ATCO) CCC. Appropriate coordination with Eurocontrol will be ensured well in advance in order for the European rules to be adopted, as far as possible, in parallel with the adopted Eurocontrol CCC amendments.

comment 595 comment by: *CANSO Civil Air Navigation Services Organization*

<b><u>Annex XII</u></b>	<p><del>This annex is very prescriptive and focussed on current ATM / CNS systems. It should allow for flexibility, proportionality and be future-proof, particularly with regards to future technology. The means and process to update and revise this annex needs to be specified and assurance should be given that the relevant expertise will be sought for such updates.</del></p> <p><del>Annex XII should be reviewed for any undefined terms.</del></p> <p>Both appendix 1 and 2 are called ATSEP.OR.105. Basic training. We propose to clarify this by including in the title ATSEP.OR.105 <b>shared</b> (for appendix 1) and <b>streams</b> (for appendix 2). This will be consistent with the appendices 3 and 4.</p>	
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response *Accepted*

comment 656 comment by: *AENA-NPA2013-08*

**Page 69, ATSEP.OR.005.**

To align the scope of this requirement to the definition of ATSEP given in ATSEP.OR.005. From Aena point of view, this definition is better because it is easier to identify the safety related equipment than safety related tasks.

response *Noted*

The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II (new Annex III) ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

comment

659

comment by: AENA-NPA2013-08

**Page 69, ATSEP.OR.005. Scope.**

This approach avoiding to talk about safety related tasks (historically has supposed a problem for the ANSP to define them) is good and should be exported to the rest of the document.

response

*Noted*

comment

721

comment by: NATS National Air Traffic Services Limited

**ATSEP.OR.005 (a)**

Rather than "this section" it is "this subpart" that should apply.

response

*Accepted*

comment

729

comment by: NATS National Air Traffic Services Limited

**ATSEP.OR.005 (b)**

The regulation should foresee the possibility of third party maintenance of ATM and CNS systems once they have been removed from operational service by personnel other than ATSEP (e.g. original manufacturer's personnel, who would not be ATSEP) as well as non-ATSEP engineers employed by the ATM/ANS provider who are adequately trained and competent.

The definition of ATSEP used here is different to the one provided in the EN224. Which is correct?

The systems that the network manager uses do not appear to be in either of the definitions, is this intentional and if so why? Whilst it is understood that ATM includes ATFM, the network manager is separately identified within the rule.

**Suggested Resolution**

Presuming that the correct definition of ATSEP is (b) then modify 9b) to read:

"(b) Any authorised personnel who is competent to operate, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP;"

	And provide additional AMC/GM to explain who can maintain.
response	<i>Accepted</i>
	<p>The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II (new Annex III) ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.</p> <p>The proposal to add GM is accepted and is included to explain who can maintain the S/E.</p>
comment	730 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>
	<p style="text-align: center;"><b>ATSEP.OR.005 (c)</b></p> <p style="text-align: center;">Rather than “this section” it is “this subpart” that should apply.</p>
response	<i>Accepted</i>
comment	796 <span style="float: right;">comment by: <i>ROMATSA</i></span>
	<p>Comment:</p> <p>We propose to complete the definition of ATSEP as follows:  “Any authorised personnel who is competent to install, initial setup, commission, operate, maintain, release from, and return into operations and decommission safety-related air traffic management and communication, navigation, and surveillance systems, as well as systems used by the Network Manager, shall be considered to be ATSEP”.</p> <p>Also, the above mentioned definition to be included within Article 2 from the Cover Regulation</p>
response	<i>Not accepted</i>
	<p>The Agency's view is that the installation, initial set-up, commissioning and decommissioning of systems do not pertain to the duties of an ATSEP. The task of an ATSEP starts when the system is in operation. The 4 phases proposed are not considered to be in operational mode and are, therefore, not included in the scope of the definition.</p>
comment	931 <span style="float: right;">comment by: <i>Kerry Airport</i></span>

**Document:** B – Implementing Rule

**Page No:** 69 and following pages

**Paragraph No:** Whole of ANNEX XII SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) SUB PART A-TECHNICAL AND ENGINEERING PERSONNEL Section 1-Air Traffic Safety Electronics Personnel

**Comment:** THE ATSEP provisions are focussed on requirements for large, often state-run, en-route ANSPs and do not have sufficient flexibility provisions to accommodate states, like Ireland, where there is a market of contestability, with many smaller ANSPs in competition with each other. The measures proposed will endanger the financial health of many of these smaller entities, to the benefit of larger providers, as these smaller businesses would have over-proscriptive and dis-proportionate requirements, which will not improve safety, imposed upon them.

The use of such training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified.

Instead of focusing on the training and competence objectives of a particular set of tasks in a particular operational environment, the addition of the Appendix 2 and 3 text drives the requirements into a concept of training subjects instead. Furthermore, although the related AMC and GM material is detailed, the really important topics of System and Equipment rating training and competence requirements are not dealt with in any detail. Why is there so much detail for theoretical/academic training and competence and not the actual work oriented aspects? This strengthens the argument that the ATM/ANS Provider should have the responsibility of determining training/competence requirements for actual tasks and not be driven by academic/theoretical training requirements. The legally mandated requirements in Annex XII should therefore be simplified with Appendix 2 and 3 material removed to GM. The related AMC/GM material should also be defined as GM so that ATM/ANS Providers can reference guidance on how to derive training and competence arrangements for their staff.

**Justification:** Justification provided in comment above.

**Proposed Text:**

The following text is a suggestion for a more flexible and simplified Annex XII Subpart A:

**ANNEX XII**

**SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS**

**(Part-PERS)**

**SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL**

**Section 1 – Air Traffic Safety Electronics Personnel**

**Chapter 1 – General**

**ATSEP.OR.005 Scope**

(a) This section establishes the requirements to be met by an ATM/ANS provider with respect to the training and competence assessment of Air Traffic Safety Electronics Personnel (ATSEP);

(b) Any authorised personnel who is competent to operate, maintain, request release from, and make available for return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP; and

(c) The design, testing, installation, and commissioning of operational systems and equipment are excluded from the scope of this section.

**ATSEP.OR.010 Identification of safety-related systems**

An ATM/ANS provider shall identify safety-related air traffic management and communication, navigation, and surveillance systems through their

management systems in relation to their service.

**ATSEP.OR.015 Training and competence assessment programme**

An ATM/ANS provider that employs ATSEP shall:

- (a) establish a training and competence assessment programme to cover the duties and responsibilities to be performed by ATSEP; and
- (b) maintain records of all training completed by and competence assessment of ATSEP and make such records available:
  - (1) on request, to the ATSEP concerned; and
  - (2) on request, and with the agreement of the ATSEP, to the new ATM/ANS provider when the ATSEP changes ATM/ANS provider.

**ATSEP.OR.020 Language proficiency**

An ATM/ANS provider shall ensure that ATSEPs are proficient in the language(s) required to perform their duties.

**Chapter 2 – Training requirements**

**ATSEP.OR.100 Training requirements – General**

An ATM/ANS provider shall ensure that ATSEPs:

- (a) have successfully completed:
  - (1) ~~the basic training as set out in ATSEP.OR.105;~~
  - (2) ~~the qualification training as set out in ATSEP.OR.110; and~~
  - (3) ~~the system/equipment rating training as set out in ATSEP.OR.115; and~~
- (b) complete continuation training ~~in accordance with ATSEP.OR.120.~~

Such training being defined by the ATM/ANS provider as applicable to the system/equipment and operational environment. GM material is provided at XXXXXXXXXXXX. This GM material includes guidance on what is basic, qualification, system/equipment rating and continuation training. The ATM/ANS Provider may define such phases of training that are applicable to their operations.

**ATSEP.OR.105 Basic training**

~~(a) An ATM/ANS provider that employs ATSEPs shall ensure that basic training comprises:~~

- ~~(1) the subjects, topics, and sub-topics contained in Appendix 1 to this Annex; and~~
- ~~(2) where relevant to its activities, the subjects, topics, and sub-topics contained in Appendix 2 to this Annex.~~

(b) An ATM/ANS provider may determine the most suitable entry level for their candidate ATSEP and, consequently, adapt the number and/or level of subjects, topics or sub-topics in ~~(a)~~ Basic Training where relevant.

**ATSEP.OR.110 Qualification training**

~~An ATM/ANS provider that employs ATSEP shall ensure that qualification training comprises the subjects, topics, and sub-topics contained in Appendix 3 to this Annex.~~

~~(a) In addition, the qualification training shall contain, as a minimum, one of the qualification streams, contained in Appendix 4 to this Annex.~~

~~(b) The qualification stream shall be determined by the ATM/ANS Provider by associating the safety-related air traffic management and communication, navigation, and surveillance system(s) the candidate ATSEP will ultimately be working with, to the applicable stream(s).~~

**ATSEP.OR.115 System and equipment rating training**

(a) The system/equipment rating training shall be applicable to the duties to be performed ~~and include:~~

- ~~(1) theoretical courses; and/or~~
- ~~(2) practical courses; and/or~~
- ~~(3) on-the-job training.~~

(b) An ATM/ANS provider shall ensure that candidate ATSEP acquire knowledge and skills pertaining to:

- (1) the functionality of the system/equipment;

(2) the actual and potential impact of ATSEP actions on the system/equipment; and

(3) the impact of the system/equipment on the operational environment

**ATSEP.OR.120 Continuation training**

An ATM/ANS provider shall ensure that ATSEP undertake appropriate continuation training, including refresher, equipment/systems upgrades and modifications, and/or emergency training.

**Chapter 3 – Competence assessment requirements**

**ATSEP.OR.125 Competence assessment – General**

An ATM/ANS provider shall ensure that ATSEPs:

(a) have been assessed as competent before performing their duties; and

(b) are subject to ongoing competence assessment ~~in accordance with ATSEP.OR.130.~~

**ATSEP.OR.130 Assessment of initial and ongoing competence**

An ATM/ANS provider that employs ATSEP shall:

(a) establish, implement, and document processes for:

(1) assessing the initial and ongoing competence of ATSEP;

(2) addressing a failure or degradation of ATSEP competence; and

(3) ensuring the supervision of personnel who have not been assessed as competent; and

(b) define the following criteria against which initial and ongoing competence shall be assessed:

(1) technical skills;

(2) behavioural skills;

(3) knowledge;

(4) experience; and

(5) language proficiency.

~~**Chapter 4 – Instructors and assessors**~~

~~**ATSEP.OR.135 ATSEP training instructors**~~

~~(a) An ATM/ANS provider shall ensure that ATSEP training instructors are suitably experienced and have appropriate knowledge in the field where instruction is to be given.~~

~~(b) In addition, an ATM/ANS provider shall ensure that on-the-job training instructors have the skills to intervene in instances where safety may be compromised during the training.~~

~~**ATSEP.OR.140 Technical skills assessors**~~

~~An ATM/ANS provider that employs ATSEP shall ensure that technical skills assessors are suitably experienced to assess the criteria defined in ATSEP.OR.130(b).~~

~~(The Appendices 2, 3 and 4 in Annex XII Sub Part A should be GM only. Should be removed to GM material.~~

~~Hence Delete Appendices 2, 3 and 4)~~

response

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

The Agency would like to remind the approach adopted in Annex XII to the NPA:

Basic Training:

- Mandatory: Induction and Air Traffic Familiarisation --> subject, topics and sub-topics.
- Means of compliance --> all the objectives
- Optional: MET, AIS, COM, NAV, SURV, DP, SMC & MP
- If one chosen, then only subject --> mandatory while topics, sub-topics and objectives --> AMC

Qualification training

- Mandatory: The Shared --> subjects, topics & sub-topics
- Means of compliance --> objectives
- Optional: the Streams
- If one chosen, then same principle as for the Shared.

In summary, not all the basic training needs to be attended.

Only the 2 compulsory subjects + minimum one subjects need to be included in the training; Moreover, when the relevant subject(s) is (are) selected by the service provider, it has the possibility to propose an alternative means of compliance to the training objectives (corpus and content). In practice, service providers can select from minimum 3 subjects to maximum 10 subjects according to their activities. It is up to them to decide which one they select.

The same applies to the qualification training were the 3 subjects in the Shared training need to be selected whereas only 1 stream can be selected. All the training objectives of the selected subjects of the Shared and Streams can be complied with differently, if needed, by a service provider as they are contained in AMC. Service providers may then select 4 subjects maximum if needed.

In conclusion, this approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP training can therefore be tailored to the activities of the service provider and to the task ATSEP will perform.

comment 939

comment by: *ESSP*

The new definition of the ATSEP has a very important impact on our company as prior to this definition, none of the ESSP and Subcontractors staff members were considered as ATSEP. These staff members are involved in operation, maintenance, release from, and return into operations of our system that is a safety-related navigation system; but these staff members are not involved in safety related tasks as the result of their actions cannot have a direct impact on the signal integrity or continuity thanks to the specific design of EGNOS system. We request the agency to amend the proposed definition of ATSEP and reintroduce the concept of safety related tasks.

response *Not accepted*

The definition has been revised in order to ensure the coverage of the

necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services. The concept of safety related task is not maintained given that this concept has always been subject to many different interpretations and, therefore, very difficult to define. The Agency is ready to assess the specific mentioned situation of the ESSP staff and to discuss further this issue, if needed.

comment

1005

comment by: USAC-CGT

USAC-CGT expresses its disappointment regarding the scope of activity of ATSEPs, our conception of ATSEPs work is much wider (it includes the tasks of design, testing, installation).

response

Noted

The Agency's view is that the installation, design and testing of systems do not pertain to the duties of an ATSEP. The task of an ATSEP starts when the system is in operation. The 4 phases proposed are not considered to be in operational mode and are, therefore, not included in the scope of the definition.

comment

1045

comment by: ENAV

Refer to:

224. The Agency, therefore, proposes to define ATSEPs in ATSEP.OR.005(b) as 'Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related ATM/ANS systems shall be considered to be an ATSEP'.

**ATSEP.OR.005 Scope (b)** Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP;

The definitions in the EN 224 and the IR ATSEP.OR.005 (b) have different scopes. The systems that the NM uses are not included in either of these definitions.

Proposed rewording:

(b) Any authorised personnel who is competent to operate, maintain, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems, as well as systems used by the Network Manager, shall be considered to be ATSEP;

response

Noted

The Agency acknowledges this confusion. It was not the intention of the Agency to limit the scope of Annex II (new Annex III) ATSEP to ATM/CNS services. The definition has been revised in order to ensure the coverage of the necessary services defined in the EASA Basic Regulation. Therefore, the systems on which ATSEP operate shall be those that are necessary for the provision of services, which may be more than ATM/CNS systems, e.g. Network Manager services.

comment	1102	comment by: DFS Deutsche Flugsicherung GmbH
	<p>General comment: Some of the rules word "An ATM/ANS provider that employs ATSEP shall ...". Others word "An ATM/ANS provider shall ensure that ATSEPs ...". <b>DFS proposes to</b> review these differing wording with regard to consistency.</p>	
response	Accepted	
	<p>Consistency is now ensured throughout the text.</p>	

comment	1205	comment by: UK CAA
	<p><b>Page No:</b> 69 <b>Paragraph No:</b> ATSEP.OR.005 Scope (b) <b>Comment:</b> It is not clear where the term 'ATSEP' originates from and why there is a requirement to categorise personnel as such. <b>Justification:</b> To provide clarity and understanding.</p>	
response	Noted	
	<p>The term 'ATSEP' has been already used for many years in the field of ATM/ANS engineering and is recognised at ICAO level. The scope of their task is well defined as personnel working for an ANSP, and they need to be trained and assessed competent in accordance with the EASA Basic Regulation.</p>	

comment	1206	comment by: UK CAA
	<p><b>Page No:</b> 69 <b>Paragraph No:</b> ATSEP.OR.005 Scope (b) <b>Comment:</b> This paragraph attempts to define who shall be considered an ATSEP and includes the 'release from and return into operations safety related air traffic management and communication, navigation and surveillance systems'. UK CAA believes this must be incorrect as an engineer cannot 'release equipment/systems' or return equipment/systems into operations'. Such decisions can only be made by Operations Personnel. <b>Justification:</b> An Engineer is not qualified, or likely to have sufficient knowledge or understanding of the current operational environment to be able to release equipment from operations. This can only be allowed by the user i.e. normally the Air Traffic Controller. The same applies to returning systems to operations. The engineer can only offer system as being suitable and available for return to operation. Only the user can determine if the equipment or system can actually be returned to operation. <b>Proposed Text:</b> '(b) Any authorised personnel who is competent to operate, maintain, request</p>	

	release from, and <b>make available for</b> return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP; and'
response	<p><i>Not accepted</i></p> <p>The Agency acknowledges that, at the end, the ATCO supervisor is the person authorising the release and return into operations of systems. However, the purely technical work for the release and return into operations of systems needs to be done by ATSEP who performs the technical job before the decision to release the systems. Indeed, an ATSEP is responsible for determining operational system status and serviceability before offering it back to the operational environment. The definition, therefore, does not need to be amended and reflects the tasks ATSEP are responsible for.</p>

comment	<p>1207 <span style="float: right;">comment by: UK CAA</span></p>
	<p><b>Page No:</b> 69 and following pages  <b>Paragraph No:</b> Whole of ANNEX XII SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) SUB PART A-TECHNICAL AND ENGINEERING PERSONNEL Section 1-Air Traffic Safety Electronics Personnel  <b>Comment:</b> The introductory statement in the RIA, recognises that '<i>the level of competence of ATSEP in Europe is currently acceptable</i>'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, it appears that these regulations are over-proscriptive and disproportionate and are not designed to address a safety need.  <b>Justification:</b> These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. We suggest these new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency.  The use of such training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified.  Instead of focusing on the training and competence objectives of a particular set of tasks in a particular operational environment, the addition of the Appendix 2 and 3 text drives the requirements into a concept of training subjects instead. Furthermore, although the related AMC and GM material is detailed, the really important topics of System and Equipment rating training and competence requirements are not dealt with in any detail. There appears to be lots of detail for theoretical/academic training and competence but not the actual work oriented aspects. This strengthens the argument that the ATM/ANS Provider should have the responsibility of determining training/competence requirements for actual tasks and not be driven by academic/theoretical training requirements. The legally mandated requirements in Annex XII should therefore be simplified, with Appendix 2 and 3 material moved to GM. The related AMC/GM material should also be defined as GM so that ATM/ANS Providers can reference guidance on how to derive training and competence</p>

arrangements for their staff.

**Proposed Text:**

The following text is a suggestion for a more flexible and simplified Annex XII Subpart A:

**“ANNEX XII  
SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING  
PERSONNEL TRAINING AND COMPETENCE ASSESSMENT  
REQUIREMENTS  
(Part-PERS)  
SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL  
Section 1 – Air Traffic Safety Electronics Personnel  
Chapter 1 – General**

**ATSEP.OR.005 Scope**

(a) This section establishes the requirements to be met by an ATM/ANS provider with respect to the training and competence assessment of Air Traffic Safety Electronics Personnel (ATSEP);

(b) Any authorised personnel who is competent to ~~operate~~, maintain, *request* release from, and *make available for* return into operations safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP; and

(c) The design, testing, installation, and commissioning of operational systems and equipment are excluded from the scope of this section.

**ATSEP.OR.010 Identification of safety-related systems**

An ATM/ANS provider shall identify safety-related air traffic management and communication, navigation, and surveillance systems through their management systems in relation to their service.

**ATSEP.OR.015 Training and competence assessment programme**

An ATM/ANS provider that employs ATSEP shall:

(a) establish a training and competence assessment programme to cover the duties and responsibilities to be performed by ATSEP; and

(b) maintain records of all training completed by and competence assessment of ATSEP and make such records available:

(1) on request, to the ATSEP concerned; and

(2) on request, and with the agreement of the ATSEP, to the new ATM/ANS provider when the ATSEP changes ATM/ANS provider.

**ATSEP.OR.020 Language proficiency**

An ATM/ANS provider shall ensure that ATSEPs are proficient in the language(s) required to perform their duties.

**Chapter 2 – Training requirements**

**ATSEP.OR.100 Training requirements – General**

An ATM/ANS provider shall ensure that ATSEPs:

(a) have successfully completed:

(1) ~~the basic training as set out in ATSEP.OR.105;~~

(2) ~~the qualification training as set out in ATSEP.OR.110; and~~

(3) ~~the system/equipment rating training as set out in ATSEP.OR.115; and~~

(b) complete continuation training ~~in accordance with ATSEP.OR.120.~~

**Such training being defined by the ATM/ANS provider as applicable to the system/equipment and operational environment. GM material is provided at XXXXXXXXXXXX. This GM material includes guidance on what is basic, qualification, system/equipment rating and continuation training. The ATM/ANS Provider may define such phases of training that are applicable to their operations.**

**ATSEP.OR.105 Basic training**

~~(a) An ATM/ANS provider that employs ATSEPs shall ensure that basic training comprises:~~

~~(1) the subjects, topics, and sub-topics contained in Appendix 1 to this Annex;~~

and

~~(2) where relevant to its activities, the subjects, topics, and sub-topics contained in Appendix 2 to this Annex.~~

~~(b) An ATM/ANS provider may determine the most suitable entry level for their candidate ATSEP and, consequently, adapt the number and/or level of subjects, topics or sub-topics in (a) **Basic Training** where relevant.~~

**ATSEP.OR.110 Qualification training**

~~An ATM/ANS provider that employs ATSEP shall ensure that qualification training comprises the subjects, topics, and sub-topics contained in Appendix 3 to this Annex.~~

~~(a) In addition, the qualification training shall contain, as a minimum, one of the qualification streams, contained in Appendix 4 to this Annex.~~

~~(b) The qualification stream shall be determined **by the ATM/ANS Provider** by associating the safety-related air traffic management and communication, navigation, and surveillance system(s) the candidate ATSEP will ultimately be working with, to the applicable stream(s).~~

**ATSEP.OR.115 System and equipment rating training**

(a) The system/equipment rating training shall be applicable to the duties to be performed and include:

- ~~(1) theoretical courses; and/or~~
- ~~(2) practical courses; and/or~~
- ~~(3) on-the-job training.~~

(b) An ATM/ANS provider shall ensure that candidate ATSEP acquire knowledge and skills pertaining to:

- (1) the functionality of the system/equipment;
- (2) the actual and potential impact of ATSEP actions on the system/equipment; and
- (3) the impact of the system/equipment on the operational environment

**ATSEP.OR.120 Continuation training**

An ATM/ANS provider shall ensure that ATSEP undertake appropriate continuation training, including refresher, equipment/systems upgrades and modifications, and/or emergency training.

**Chapter 3 – Competence assessment requirements**

**ATSEP.OR.125 Competence assessment – General**

An ATM/ANS provider shall ensure that ATSEPs:

- (a) have been assessed as competent before performing their duties; and
- (b) are subject to ongoing competence assessment ~~in accordance with ATSEP.OR.130.~~

**ATSEP.OR.130 Assessment of initial and ongoing competence**

An ATM/ANS provider that employs ATSEP shall:

- (a) establish, implement, and document processes for:
  - (1) assessing the initial and ongoing competence of ATSEP;
  - (2) addressing a failure or degradation of ATSEP competence; and
  - (3) ensuring the supervision of personnel who have not been assessed as competent; and
- (b) define the following criteria against which initial and ongoing competence shall be assessed:
  - (1) technical skills;
  - (2) behavioural skills;
  - (3) knowledge;
  - (4) experience; and
  - (5) language proficiency.

**Chapter 4 – Instructors and assessors**

**ATSEP.OR.135 ATSEP training instructors**

~~(a) An ATM/ANS provider shall ensure that ATSEP training instructors are suitably experienced and have appropriate knowledge in the field where~~

instruction is to be given.

~~(b) In addition, an ATM/ANS provider shall ensure that on the job training instructors have the skills to intervene in instances where safety may be compromised during the training.~~

**~~ATSEP.OR.140 Technical skills assessors~~**

~~An ATM/ANS provider that employs ATSEP shall ensure that technical skills assessors are suitably experienced to assess the criteria defined in ATSEP.OR.130(b)."~~

In addition to the above changes, we suggest that the Appendices 2, 3 and 4 should be deleted from Annex XII Sub Part A and included in the Guidance Material.

response

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

The Agency would like to remind the approach adopted in Annex XII to the NPA:

Basic Training:

- Mandatory: Induction and Air Traffic Familiarisation --> subject, topics and sub-topics.
- Means of compliance --> all the objectives
- Optional: MET, AIS, COM, NAV, SURV, DP, SMC & MP
- If one chosen, then only subject --> mandatory while topics, sub-topics and objectives --> AMC

Qualification training

- Mandatory: The Shared --> subjects, topics & sub-topics
- Means of compliance --> objectives
- Optional: the Streams
- If one chosen, then same principle as for the Shared.

In summary, not all the basic training needs to be attended.

Only the 2 compulsory subjects + minimum one subjects need to be included in the training; Moreover, when the relevant subject(s) is (are) selected by the service provider, it has the possibility to propose an alternative means of compliance to the training objectives (corpus and content). In practice, service providers can select from minimum 3 subjects to maximum 10 subjects according to their activities. It is up to them to decide which one they select.

The same applies to the qualification training were the 3 subjects in the Shared training need to be selected whereas only 1 stream can be selected. All the training objectives of the selected subjects of the Shared and Streams can be complied with differently, if needed, by a service provider as they are contained

in AMC. Service providers may then select 4 subjects maximum if needed.

In conclusion, this approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

comment

1232

comment by: *NATS National Air Traffic Services Limited*

### General Comment

NATS has concerns that large areas of this may not work if the ANSP subcontracts a non-ANSP to provide engineering services which require ATSEPs. Please redraft the text to take this situation into account or advise how you see this working as currently drafted.

response

*Not accepted*

On the subject of subcontracting to another organisation part of an ANSP services, the Agency refers to 'contracted activities' (new ATM/ANS.OR.B.015) which requires that the subcontracted activity complies with the applicable requirements. Both this requirement and the related ensure that the level of safety remains as if the service were ensured by the organisation that contracted. Therefore, the situation is catered for. If this answer does not cover the intent of the comment, the Agency would like to have further comment details in order to provide an appropriate answer.

comment

1255

comment by: *NATS National Air Traffic Services Limited*

### **ANNEX XII - ATSEP.OR.005 (b)** **Aligned with Comment 509 of the AMC/GM**

Whilst the need for ATSEP to operate, release from, and return into operations safety-related air traffic management and communication, navigation, and surveillance systems is well understood and supported, understanding of the circumstances and scenarios of when maintenance must be carried out by an ATSEP is not fully clear.

A system released from operation for routine maintenance is still considered to be within the Operational Environment due, for example, to system interaction/connectivity. As such any maintenance activity on systems, in a reduced redundancy state, should be carried out/supervised by a competently qualified ATSEP who then provides assurance through SOCs ([Standard Operating Conditions](#)), that the system/service is fit for purpose before being offered back for operational use.

Where a system could be worked on by non ATSEP is when a system has been taken out of the Operational Environment for a set period of time and has been completely isolated from the operational ATM (i.e. air gap). The isolation would be carried out and confirmed by an ATSEP, and on return, those non ATSEPs that have been working on the system, would run through a set of agreed acceptance checks before the system is accepted back, at which point an ATSEP would then run through a set of maintenance checks/SOCs to ensure that the

system/service is fit for purpose before being offered back for operational use.

#### **Suggested Resolution**

Additional guidance to ATSEP.OR.005 (b) regarding maintenance should be considered in

GM1 ATSEP.OR.005(b)

"MAINTAIN

(1) An operational system that has been released from operational service but remains connected to the operational environment and so remains safety related, must be maintained by ATSEP.

(2) An operational system that has been removed and fully isolated by air gap from the operational environment by ATSEP, and cannot be returned without ATSEP intervention, may be maintained by a non ATSEP but will be subject to ATSEP SOC checks before return to the Operational Environment.

(3) A non ATSEP is not authorised to remove a safety-related air traffic management and communication, navigation, and surveillance system from the operational environment.

(4) A non ATSEP is not authorised to return into the operational environment a safety-related air traffic management and communication, navigation, and surveillance system.

(5) An ATSEP is responsible for determining operational system status / serviceability before offering it back to the Operational Environment.

(6) Non safety related systems are out of scope."

response

*Accepted*

The Agency welcomes the guidance material proposal made by NATS and is now included as the associated GM on the definition of ATSEP.

comment

1274

comment by: CAA CZ

#### **General comment**

The document defines ATSEP and their duties. At the same time it declares that members of the ATSEP shall hold an "authorization". The document does not state what subject is competent to issue such an authorization. In Czech Republic currently the ANSP that issues authorization (license) for its own staff. If in future such a power should only rest with designated training organization, it would require increased efforts in the beginning by the NSA and ANSP associated with the creation of such entities.

response

*Noted*

The Agency acknowledges the Czech situation and would like to refer to GM1 10 of the new Annex I which contains an explanation on the type of authorisation in the context of ATSEP. The Agency does not impose any specific requirements regarding who should give this authorisation, but only acknowledges the fact that in different Member States the situation can be different. The Agency leaves it to national requirements on how the authorisation must be covered. The 'delivery' of an authorisation is, by nature, not the task of a training organisation, whose only task is to provide training. For the Agency, this task is ensured by the body employing or overseeing ATSEP.

comment	1301	comment by: <i>Romanian Civil Aviation Authority</i>
	<p>Comment:</p> <p>We propose to complete the definition of ATSEP as follows:  <i>"Any authorised personnel who is competent to install, initial setup, commission, operate, maintain, release from, <del>and</del> return into operations and decommission safety-related air traffic management and communication, navigation, and surveillance systems shall be considered to be ATSEP"</i>.  Also, the above mentioned definition to be included within Article 2 from the Cover Regulation.</p>	
response	<i>Not accepted</i>	
	<p>The Agency's view is that the installation, initial set-up, commissioning and decommissioning of systems do not pertain to the duties of an ATSEP. The tasks of an ATSEP starts when the system is in operation. The 4 phases proposed are not considered to be in operational mode and are, therefore, not included in the scope of the definition.</p>	

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 1 – General – ATSEP.OR.010 Identification of safety-related systems**

p. 69

comment	239	comment by: <i>Icelandic Transport Authority</i>
	<p>We suggest that the ATM/ANS provider's definition of safety-related systems to be subject to CA approval.</p>	
response	<i>Not accepted</i>	
	<p>The revised definition of ATSEP does not contain the term 'safety-related systems' anymore.</p>	
comment	511	comment by: <i>HungaroControl</i>
	<p>Agreed.</p>	
response	<i>Noted</i>	

comment	671	comment by: AENA-NPA2013-08
	<p><b>Page 69, ATSEP.OR.010 Identification of safety-related systems.</b>          Complete the requirement with this sentence: An ATM/ANS provider shall identify safety related ATM/CNS systems through their management system in relation to their services, and the applicable stream to be able to fulfill ATSEP.OR.110 (b).</p>	
response	<p><i>Not accepted</i></p> <p>The revised text does not contain the provision in ATSEP.OR.010 anymore as the revised definition of ATSEP does not refer to safety-related systems.</p>	

comment	732	comment by: NATS National Air Traffic Services Limited
	<p style="text-align: center;"><b>ATSEP.OR.010</b></p> <p>Management system should be singular as ATM/ANS providers are unlikely to have more than one MS.</p>	
response	<p><i>Noted</i></p> <p>The revised text does not contain the provision in ATSEP.OR.010 anymore as the revised definition of ATSEP does not refer to safety-related systems.</p>	

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 1 – General – ATSEP.OR.015 Training and competence assessment programme**

p. 69

comment	76	comment by: ATC the Netherlands
	<p>b2) why is a situation whereas an employee changes provider only addressed for ATSEPs?          The same goes for other operational functions . Suggest to dele b)2)</p>	
response	<p><i>Noted</i></p> <p>ATSEP are not licensed. The only way to demonstrate their achievement of competence is through the ANSP records. Therefore, this situation is only addressed to ATSEP.</p>	

comment	512	comment by: HungaroControl
	Agreed.	
response	Noted	

comment	716	comment by: Federal Office of Civil Aviation FOCA
	Records should also be made available to the competent authority on request. FOCA suggests to include a link to the already defined safety related systems in order to define the training requirements based on the systems. Justification: This would ensure that when a new system is introduced the training requirements for ATSEP would also have to be defined.	
response	Accepted	
	The competent authority is required to have procedures to ensure the oversight records of all the elements required ATSEP.OR.015 (record keeping), so the competent authority will be provided with the relevant elements by the service provider.	

comment	1000	comment by: European Transport Workers Federation - ETF
	ATSEP could also not be employed by ATM/ANS provider so this is not applicable, a modification of this provision is needed.	
response	Not accepted	
	The revised text now replaces the term 'ATM/ANS providers' with 'service providers'. In case ATSEP are employed by other organisations than service providers, this requirement would not apply to those organisations. However, the Agency would like to remind that the definition of 'service providers' has a wide scope. It is expected that organisations employing ATSEP cover the services mentioned in the definition and would then be qualified as service providers.	

comment	1339	comment by: comments provided on behalf of FIT/CISL italian trade union
	ATSEP could also not be employed by ATM/ANS provider so this is not applicable, a modification of this provision is needed.	
response	Not accepted	
	The revised text now replaces the term 'ATM/ANS providers' with 'service providers'. In case ATSEP are employed by other organisations than service	

providers, this requirement would not apply to those organisations. However, the Agency would like to remind that the definition of 'service providers' has a wide scope. It is expected that organisations employing ATSEP cover the services mentioned in the definition and would then be qualified as service providers.

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 1 – General – ATSEP.OR.020 Language proficiency**

p. 69

comment	101	comment by: BCAA
	<p>"An ATM/ANS provider shall ensure that ATSEPs are proficient in the language(s) required to perform their duties" is too vague and therefore subject to interpretation.</p> <p>In view of a harmonization of language proficiency in Europe, the following additional text is suggested:</p> <p><i>ATSEP who have to communicate with pilots and/or ATCO in an operational environment shall have a minimum English language proficiency level B2 according to the Common European Framework of Reference for Languages (CEFR).</i></p> <p><i>A language proficiency assessment shall prove the language proficiency of the involved ATSEP and should comprise the following three elements, as follows:</i></p> <p><i>(1) listening – assessment of comprehension;</i></p> <p><i>(2) speaking – assessment of pronunciation, fluency, structure and vocabulary;</i></p> <p><i>(3) interaction</i></p>	
response	Not accepted	
	<p>The Agency is not in favour of imposing the English language to ATSEP. Although the majority of ATSEP in Europe use English as their working language, it is not always necessary for ATSEP to speak or understand English. The safety of operations is maintained if ATSEP are able to understand and work in the language they use every day, and this is not necessarily English. As mentioned in the Explanatory Note (248), the language requirement is kept to a minimum without compromising safety.</p>	
comment	1001	comment by: European Transport Workers Federation - ETF
	<p>We encourage EASA to take one step further and set objectives of language proficiency. As the current situation is very diverse from one provider to another, we encourage EASA to make this objective non-binding for the personnel in place and binding for newcomers.</p>	

response

*Not accepted*

The proposal is contrary to the intent of the rule which is made general to ensure that ATSEP are proficient in the language required to perform their duties. The level of proficiency is checked by the service provider, who will decide if ATSEP are able to perform their duties. The language level is one of the elements to assess their performance and competence. If deemed necessary in the future to strengthen the language requirements for ATSEP, the Agency will take the appropriate action in order to set more specific objectives in that field.

The proposal to differentiate between newcomers and 'existing' ATSEP is detrimental to the objective of the proposed text and can, therefore, not be accepted.

comment

1305

comment by: *Newcastle International Airport*

The specific requirements regarding personnel training for ATSEP remain very much biased towards larger ANSPs. Although some work has been undertaken to afford a degree of proportionality, the insistence on including what amounts to a syllabus within the IR very much ties the ANSP to a prescribed scheme. This scheme will add cost disproportionately to smaller ANSPs where competence has been evident to National Supervisory Authorities over previous years of audit.

The prescriptive, syllabus based, elements of the ATSEP training should be removed, with ANSPs free to produce their own schemes for initial training and ongoing competence.

The AMC & GM are to be commended as models to base elements of ATSEP training on where possible, however, ANSPs should have more flexibility to comply with the high level requirements set out in the IR, to the satisfaction of their National Supervisory Authority.

response

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

Only the 2 compulsory subjects + minimum one subjects need to be included in the training. Moreover, when the relevant subject(s) are selected by the service provider, it has the possibility to propose an alternative means of compliance to the training objectives (corpus and content). In practice, service providers can select from minimum 3 subjects to maximum 10 subjects according to their activities. It is up to them to decide which one they select.

The same applies to the qualification training were the 3 subjects in the Shared training need to be selected whereas only 1 stream can be selected. All the training objectives of the selected subjects of the shared and streams can be complied with differently, if needed, by a service provider as they are contained

in AMC. Service providers may then select 4 subjects maximum if needed.

In conclusion, this approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

comment

1340

comment by: *comments provided on behalf of FIT/CISL italian trade union*

We encourage EASA to take one step further and set objectives of language proficiency. As the current situation is very diverse from one provider to another, we encourage EASA to make this objective non-binding for the personnel in place and binding for newcomers.

response

*Not accepted*

The proposal is contrary to the intent of the rule which is made general to ensure that ATSEP are proficient in the language required to perform their duties. The level of proficiency is checked by the service provider, who will decide if ATSEP are able to perform their duties. The language level is one of the elements to assess their performance and competence. If deemed necessary in the future to strengthen the language requirements for ATSEP, the Agency will take the appropriate action in order to set more specific objectives in that field.

The proposal to differentiate between newcomers and 'existing' ATSEP is detrimental to the objective of the proposed text and can, therefore, not be accepted.

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 2 – Training requirements – ATSEP.OR.100 Training requirements – General**

p. 69-70

comment

103

comment by: *BCAA*

Concerning the subcontracted 'personnel of operating organisation', ATM/ANS may subcontract personnel to perform tasks on systems which may have an impact on safety-related ATM/ANS systems. For example works on no-break systems which feed ATM/ANS systems. History shows several examples of such cases where a partial/complete ATM/ANS failure occurred due to subcontracted personnel not being aware of the full technical chain.

For this reason it should become required that ATM/ANS comply to organize ATSEP supervision in the event subcontracted personnel are working on systems that are connected to safety-related ATM/ANS systems.

response	<p><i>Accepted</i></p> <p>The supervision of sub-contracted personnel by the service provider is implied in 'ATM/ANS.OR.B.020' requirement on 'contracted activities'. The contracting provider needs to ensure that the contracted organisation complies with the applicable requirements. This is also contractually done through the supervision of the personnel who work for the service provider. The Agency also refers to the related AMC1 ATM/ANS.OR.B.020 on the responsibility when contracting activities.</p>
comment	<p>720 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>The time element is missing / When should they have successfully completed the training ? There mustn't be any intervention on safety related systems until a training has been successfully completed.</p>
response	<p><i>Noted</i></p> <p>The Agency considers that ATSEP have successfully completed the training after the S/E rating training, which is the last phase of ATSEP training (see Explanatory Note 249). The requirement to assess ATSEP before they perform their duties (new ATSEP.OR.300) ensures that they can only start their duties after completion of full training.</p>
comment	<p>1303 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>ATSEP.OR.100</b> <b>Aligned with comment 540 of the AMC/GM</b></p> <p>Whilst NATS is happy with this rule we would not like to see it imposed retrospectively to ATSEPS currently in post. The impact of such retrospective action would potentially be to require us to retrain engineers currently in post</p> <p><b>Proposed new G.M:</b> Existing ATSEP's will be exempt from completing the basic and qualification training applicable to their role. However the SP must be satisfied, through competency assessment, that the ATSEP has the required competencies for the role.</p>
response	<p><i>Accepted</i></p> <p>The Agency agrees that rated ATSEP in position today should not go through all the training as long as they keep working on the same system. Any change to acquire another rating or a new position on system/equipment will necessitate the required training and competence assessment in accordance with the rules.</p>

**REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 2 – Training requirements – ATSEP.OR.105 Basic training**

comment 102

comment by: BCAA

Basic training should be the same for everyone in order to achieve a certain level of harmonization which is one of the principle aims of a European IR. It is also unwise to let basic training be depending on “relevant activities” as this opens the door to all kinds of (minimalist) interpretations. Consequently we strongly urge to delete the following sentence:

~~(2) where relevant to its activities, the subjects, topics, and sub-topics contained in Appendix 2 to this Annex.~~

response *Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

comment 352

comment by: HungaroControl

ATM / ANS providers that employ ATSEP vs ATM / ANS shall ensure that ATSEP...

[A clear definition of ATSEP shall be put in Art 2. which contains the reference regardless who provides the technical services \(contracted or own staff\)](#)

response *Accepted*

The revised definition of ATSEP is included in Annex I together with all the other definitions (link to Article 2).

comment 355

comment by: skyguide Corporate Regulation Management

(a)(1) IR p.70: An ATM/ANS provider that employs ATSEPs shall ensure that basic training comprises the subjects, topics and sub-topics contained in Appendix 1 and 2 to this Annex

Justification:

Flexibility Model on ATSEP Basic courses will decrease safety aspects on ATSEP side, due to the lack of Information about all other systems. It will increase costs, due to workload on planning and delivery of courses, and it will make

certification of ATSEP very complicated, because every individual ATSEP will need to be certified according to different requirements.

(a)(2) IR Page 70: Where special reasons makes it impossible or completely unnecessary for ATSEP to pass the full basic course, the corresponding NSA can define and document exceptions.

Justification:

This part will open the possibility in very special cases to make use of the flexibility model, but, again, the definition and documentation of exceptions for individual ATSEPs will generate more work intensive processes, thus making the certification of ATSEPs costlier. The statements made above with regard to the flexibility model also apply here.

response

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality for service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

comment

472

comment by: CAA-NL

**ATSEP.OR.105-115 (general comment)**

The level of detail of the proposed ATSEP-requirements is somewhat surprising, as it comes without a detailed analysis on its necessity. What makes it even more surprising is that in the EN it is stated that "the level of competence of ATSEPs is currently acceptable". Furthermore, no indication or evidence is given that the current acceptable level of competence of technicians is bound to degrade in the future without introducing the proposed detailed requirements.

The complexity of the work of ATSEPs is not such that this would warrant requirements as extensive and specific as the proposed ones, where a number of other functionaries of ANSPs have at least an equally important safety role (for example risk assessors). Besides from this, although in time equipment may have become more complex, this does not necessarily mean that the maintenance tasks also have become more complex and safety sensitive. Equipment nowadays often has a modular set up, reducing complexity and sensitive maintenance/modification activities.

ATSEP safety-requirements should give an ANSP the framework and responsibility to establish the needs for its ATSEPs within its actual operation and in line with its management system.

In our opinion, the proposed requirements do not quite live up to this. Instead of providing for a framework for a system that is tailored to an ANSP's operational needs and (Safety) Management System ((S)MS), it seems to provide for a greatly 'stand alone' theoretical and strict system. Such a system would imply a large extra administrative burden on ATM/ANS providers, consuming funds and capacity that might otherwise be used for the benefit of safety.

Seen the above and taking into account the proportionality principle, it is advised to simplify the proposed requirements in order to introduce a regulatory system that takes into account ANSPs' actual operations and their responsibilities under a (S)MS. In other words, a system that is competence-

driven instead of introducing strict detailed requirements. Within this framework, in the first place one should (as is already the case nowadays) generally rely on ATM/ANS.OR.B.025. This article already specifies that members of an ATM/ANS provider's personnel are to be trained properly and to be competent to perform their duties. In the second place, it is proposed to rationalize a number of main articles of Annex XII to appreciate the ATM/ANS providers' own responsibilities regarding ATSEPs under their (certificated) (S)MS. the appendixes and associated AMCs could then be transferred to the guidance material (GM). The concrete proposals for this simplification are given under the headers of the concrete articles and refer to this main comment.

response

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them.

The Agency would like to remind the approach adopted in Annex XII to the NPA:

Basic Training:

- Mandatory: Induction and Air Traffic Familiarisation --> subject, topics and sub-topics.
- Means of compliance --> all the objectives
- Optional: MET, AIS, COM, NAV, SURV, DP, SMC & MP
- If one chosen, then only subject --> mandatory while topics, sub-topics and objectives --> AMC

Qualification training

- Mandatory: The Shared --> subjects, topics & sub-topics
- Means of compliance --> objectives
- Optional: the Streams
- If one chosen, then same principle as for the Shared.

In summary, not all the basic training needs to be attended.

Only the 2 compulsory subjects + minimum one subjects need to be included in the training; Moreover, when the relevant subject(s) is (are) selected by the service provider, it has the possibility to propose an alternative means of compliance to the training objectives (corpus and content). In practice, service providers can select from minimum 3 subjects to maximum 10 subjects according to their activities. It is up to them to decide which one they select.

The same applies to the qualification training were the 3 subjects in the Shared training need to be selected whereas only 1 stream can be selected. All the training objectives of the selected subjects of the Shared and Streams can be complied with differently, if needed, by a service provider as they are contained in AMC. Service providers may then select 4 subjects maximum if needed.

In conclusion, this approach offers the necessary flexibility and proportionality

to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

comment

473

comment by: CAA-NL

**ATSEP.OR.105 Basic training**

It is proposed to adapt paragraph (a) as follows:

“(a) an ATM/ANS provider that employs ATSEPs shall establish subjects and topics for their basic training in line with its operational requirements”.

*Rationale:*

See under ‘general remark’.

response

*Not accepted*

For the reasons mentioned as in comment No 472 from CAA-NL above.

comment

475

comment by: Robert Horak / ATCNEA-President

Attachment [#2](#)

ATCNEA proposes to define the whole BASIC-Training as a mandatory minimum standard for all ATSEP.

In general ATCNEA fully supports all initiatives that focus on harmonization and standardisation of ATSEP-Training and ATSEP-Competency.

ATSEPs are playing a major role in the provision of a complete and safe Air Navigation Service in conjunction with all other contributing elements. Safely and reliably implemented and operated systems and equipment are a vital part of the performance of this whole system.

The upcoming Implementing Rule is a very important component to ensure those issues for the personnel involved now and in the future.

In the published NPA this standardisation and harmonization is based on a too weak level.

It is now on the ATM/ANS-Provider to determine/decide which (BASIC)-elements its ATSEP shall have completed!

BASIC-Training as a whole (with all elements) is not defined as a mandatory minimum standard.

This is a general Safety issue for the system.

This also raises the fact, that BASIC-Training for different ATSEPs (of different ANSPs, countries or even departments) is not based on a harmonized standard and no longer comparable.

Besides this comparability it is also an important SAFETY ISSUE, to give EVERY ATSEP A BROAD BASIC UNDERSTANDING OF ALL THE FUNCTIONALITIES and its interactions among each other.

This also generates difficulties for ANSPs or Training-Organizations to offer or for the ATSEP to participate in generic, standardized BASIC-Training. This may lead to additional costs.

**Therefore ATCNEA proposes to define the whole BASIC-Training as a mandatory minimum standard for all ATSEP.**

response	<p><i>Noted</i></p> <p>This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them. This approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.</p>
comment	<p>562                      comment by: <i>military safety expert/ safety management systeme inspector</i></p> <p>Within our military training organisation, three levels of recruitment are possible for ATSEP. Does it mean that we can adjust the training objectives? Consequently, can we disregard the point a) of this article and work just with the point b) to be compliant with the rules.</p>
response	<p><i>Noted</i></p> <p>The requirements in (a) need to be complied with. The training objectives can be 'adjusted' at the level of AMC.</p>
comment	<p>734                      comment by: <i>NATS National Air Traffic Services Limited</i></p> <p style="text-align: center;"><b>ATSEP.OR.105 (b)</b> The approach advocated here is fully supported.</p>
response	<p><i>Noted</i></p>
comment	<p>940                      comment by: <i>ESSP</i></p> <p>We request that all the list of subjects, topics and subtopics currently in appendixes 1 &amp; 2 to Annex XII (Referring to ATSEP.OR.105) and appendixes 3 &amp; 4 to Annex XII (Referring to ATSEP.OR.110) are transferred to AMC. The Basic training and qualification training as proposed in the IRs (Appendixes to Annex XII) will not enable at all the Staff involved in Operation and Maintenance of EGNOS System to be competent. Even the common core of the proposed Basic training doesn't fit ESSP training needs and doesn't favorize air safety enhancement in the frame of our system operation. The ESSP requests to propose specific training and qualification program for maintenance and operation of EGNOS system and subsystems, based on:</p> <ul style="list-style-type: none"> <li>• our expertise of the system we operate and maintain,</li> </ul>

	<ul style="list-style-type: none"> <li>• on the risk analysis we perform.</li> </ul> <p>This training program could be proposed to the authority as an alternative means of compliance; it will be justified and subject to prior approval of the authority.</p>
response	<p><i>Not accepted</i></p> <p>The level of transposition of the ATSEP CCC into IR and AMC should allow all kinds of service providers to tailor their training in accordance with their needs. The specific situation of ESSP should, therefore, be encompassed in the proposal. The Agency is, however, open to discuss more in detail about any further improvements that would enable ESSP to be compliant with the proposal.</p>

comment	<p>943</p> <p style="text-align: right;">comment by: <i>ESSP</i></p> <p>In the case the requests to change the ATSEP definition modification is not accepted, can you precise up to what extent the grandfather's law is applicable? Will there be provisions to authorize an experienced ATSEP, assessed competent, only on the basis of its prior authorization in the company or will he have to follow Basic, qualifying and S/E training as a newly employed ATSEP before he can be granted any authorization? Will the proof that a staff was authorised before the enforcement of this regulation, be taken into account as equivalent to the Basic, qualification and the S/E training?</p>
response	<p><i>Noted</i></p> <p>Grandfathering rights will be foreseen in the articles of the Cover Regulation, which are developed once the rules are mature (at the stage of the Opinion). Already trained and rated ATSEP will not need to go through the training again unless they change position or require another rating. The requirement on record keeping will ensure that ATSEP can demonstrate to the receiving service provider that they are competent on the related systems they are rated for.</p>

comment	<p>1041</p> <p style="text-align: right;">comment by: <i>Air Navigation Services of the Czech Republic</i></p> <p>We find the term "<a href="#">where relevant to its activities</a>" in (a)(2) being problematic, as it contradicts the idea of the Basic Training. The idea of the Basic Training is that all students (no matter what their specialisation is) get the basic knowledge from all CNS/ATM domains and awareness on interdependencies. See also EUROCONTROL-SPEC-132: <a href="http://www.eurocontrol.int/sites/default/files/content/documents/single-sky/specifications/20090827-atsep-ccc-initial-training-spec-v1.0.pdf">http://www.eurocontrol.int/sites/default/files/content/documents/single-sky/specifications/20090827-atsep-ccc-initial-training-spec-v1.0.pdf</a> which says (page 19, paragraph 7.1):</p> <p><b>7.1 Basic Training</b></p> <p>The training objectives detailed in the Basic Training syllabus are common to all learner ATSEPs undergoing Initial Training.</p> <p>The Implementing Rule proposal goes against the idea of mandatory Basic Training. This would not allow comparison of the level of knowledge based on</p>
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	<p>the training absolved (i. e. if a person passes Basic Training, what subjects he/she attended?).          The students' specialisation is taken into account in the following Qualification Training as a so called Stream.          We propose to delete "<a href="#">where relevant to its activities</a>", so the Basic Training can't be further divided.          In Explanatory Note, this is described on page 58, par. 230:  <a href="https://easa.europa.eu/rulemaking/docs/npa/2013/2013-08/NPA%202013-08%20(A).pdf">https://easa.europa.eu/rulemaking/docs/npa/2013/2013-08/NPA%202013-08%20(A).pdf</a>          The term "<a href="#">Mandatory for all ATM/ANS providers</a>" should be applicable also for Subjects 3 to 11.</p>
response	<p><i>Not accepted</i></p> <p>This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their basic training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the basic training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them. This approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP basic training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.</p>

comment	<p>1044 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span></p> <p><b>ATSEP.OR.105</b></p> <p>NATS is happy with the rule as drafted. There are two aspects that we consider to be essential:</p> <ol style="list-style-type: none"> <li>1. The construct of the basic training where only two modules are mandatory and the remaining modules are optional. This approach will reduce the need for unnecessary training and will reduce the cost of operating the competency scheme.</li> <li>2. The ability to be able to determine the suitable entry level (part b) as this will enable us to take into account previous knowledge and experience.</li> </ol>
response	<p><i>Noted</i></p>

comment	<p>1051 <span style="float: right;">comment by: <i>ENAV</i></span></p> <p>Subject and topic - needs sub-topic reference number as well as title.          It would be easier to read if the sub-topic were also referenced / named in the AMC.</p>
response	<p><i>Accepted</i></p>

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 2 – Training requirements – ATSEP.OR.110 Qualification training**

p. 70

comment

474

comment by: CAA-NL

**ATSEP.OR.110 Qualification training**

It is proposed to adapt paragraph (a) as follows:

“(a) an ATM/ANS provider that employs ATSEPs shall establish subjects and topics for their qualification training in line with its operational requirements”.

*Rationale:*

See under ‘general remark’.

response

*Not accepted*

Not accepted for the reasons mentioned in the similar comment for basic training in ATSEP.OR.105.

comment

677

comment by: AENA-NPA2013-08

**Page 70, ATSEP.OR.105.basic training. (a)(2).**

If basic training is understood as GM1 ATSEP.OR.100 (a), as being designed to impart fundamental knowledge of the ATM/ANS environment, it doesn't make sense to split the content depending on the relevant activities performed by the ATSEP. From Aena point of view, Basic training should be obligatory completely, for all ATSEP. It should work as a one part content.

response

*Not accepted*

This NPA proposes training and competence rules for the actual ATSEP tasks and offers flexibility and proportionality to service providers to develop their basic training syllabi in accordance with their needs. The NPA reproduces the Eurocontrol ATSEP CCC, but allows for flexibility, offering optional training and leaving all the content of the basic training to AMC level. Service providers may comply with the objectives (subject) in the way which they consider most appropriate to them. This approach offers the necessary flexibility and proportionality to all kinds of service providers according to the types of services they provide and the number of ATSEP they have. ATSEP basic training can, therefore, be tailored to the activities of the service provider and to the task ATSEP will perform.

comment	724 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span>
	This requirement is too detailed. ATSEP.OR.110 (b) could be considered guidance material (GM). The focus should remain on the technical domain, human factor should be addressed as a general requirement in the SMS.
response	<i>Not accepted</i>
	<p>The service provider may choose only 1 stream (relevant to its activities). In that stream, it may also propose another way how to comply with the requirements.</p> <p>Appropriate requirements on human factors will be considered at a later stage in a separate rulemaking task.</p>
comment	736 <span style="float: right;">comment by: <i>NATS National Air Traffic Services Limited</i></span>
	<p><b>ATSEP.OR.115 (b)</b> The approach advocated here is fully supported.</p>
response	<i>Noted</i>
comment	941 <span style="float: right;">comment by: <i>ESSP</i></span>
	<p>We request that all the list of subjects, topics and subtopics currently in appendixes 1 &amp; 2 to Annex XII (Referring to ATSEP.OR.105) and appendixes 3 &amp; 4 to Annex XII (Referring to ATSEP.OR.110) are transferred to AMC.</p> <p>The Basic training and qualification training as proposed in the IRs (Appendixes to Annex XII) will not enable at all the Staff involved in Operation and Maintenance of EGNOS System to be competent. Even the common core of the proposed Basic training doesn't fit ESSP training needs and doesn't favorize air safety enhancement in the frame of our system operation.</p> <p>The ESSP requests to propose specific training and qualification program for maintenance and operation of EGNOS system and subsystems, based on:</p> <ul style="list-style-type: none"> <li>• our expertise of the system we operate and maintain,</li> <li>• on the risk analysis we perform.</li> </ul> <p>This training program could be proposed to the authority as an alternative means of compliance; it will be justified and subject to prior approval of the authority.</p>
response	<i>Not accepted</i>
	<p>The level of transposition of the ATSEP CCC into IR and AMC should allow all kinds of service providers to tailor their training with their needs The specific situation of ESSP should, therefore, be encompassed in the proposal. The Agency is, however, open to discuss more in detail about any further improvements that would enable ESSP to be compliant with the proposal.</p>

comment	<p>944</p> <p style="text-align: right;">comment by: <i>ESSP</i></p> <p>In the case the requests to change the ATSEP definition modification is not accepted, can you precise up to what extent the grandfather's law is applicable? Will there be provisions to authorize an experienced ATSEP, assessed competent, only on the basis of its prior authorization in the company or will he have to follow Basic, qualifying and S/E training as a newly employed ATSEP before he can be granted any authorization? Will the proof that a staff was authorised before the enforcement of this regulation, be taken into account as equivalent to the Basic, qualification and the S/E training?</p>
response	<p><i>Noted</i></p> <p>Grandfathering rights will be foreseen in the articles of the Cover Regulation once the rules are mature (at the stage of the Opinion). The Agency agrees that already trained and rated ATSEP should not need to undergo the training again unless they change position or require another rating.</p>

comment	<p>1304</p> <p style="text-align: right;">comment by: <i>NATS National Air Traffic Services Limited</i></p> <p><b>ATSEP.OR.110</b> <b>Aligned with comment 541 of the AMC/GM</b></p> <p>It would be beneficial to have a GM that offers flexibility to add content to qualification streams if required. Whilst the rules may lay out core content, these may not be all that is required for all roles within an organisation. <b><u>Proposed text change G.M Qualification Training – Additional content</u></b> Organisations may choose to add content to a qualification stream to tailor the training to meet the needs of the individual or organisation.</p>
response	<p><i>Accepted</i></p> <p>The Agency agrees with this proposal which is now reflected in a GM to the new numbered ATSEP.OR.210.</p>

<p><b>ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL - Section 1 – Air Traffic Safety Electronics Personnel – Chapter 2 – Training requirements – ATSEP.OR.115 System and equipment rating training</b></p>	<p>p. 70</p>
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comment	<p>476</p> <p style="text-align: right;">comment by: <i>CAA-NL</i></p> <p><b>ATSEP.OR.115 System and equipment rating training</b></p>
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	<p>It is proposed to adapt paragraph (a) as follows:  “(a) an ATM/ANS provider that employs ATSEPs shall ensure that the system/equipment rating training shall be applicable to the duties to be performed”.</p> <p><i>Rationale:</i>  see under ‘general remark’.  Furthermore, adhering to paragraph (b) ensures anyhow that an ANSP’s ATSEPs acquire sufficient knowledge and skills.</p>
response	<p><i>Not accepted</i></p> <p>The Agency considers that the current text of the NPA provides better certainty on what should be included in the S/E rating training. It also ensures the necessary harmonisation at this very general requirement level.</p>
comment	<p>739 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>This requirement could be placed earlier in the requirement list of the proposed regulation. Awareness of the potential safety impact at the operational level is extremely relevant for the global safety.</p>
response	<p><i>Not accepted</i></p> <p>This requirement is located here because there is a logical sequence of the training phases, as explained in the Explanatory Note in 249.</p>
comment	<p>819 <span style="float: right;">comment by: <i>EUROCONTROL</i></span></p> <p><b>Page 70 - ATSEP.OR.115</b>  <b>Page 71 - ATSEP.OR.135 &amp; 140</b>  Could “System/Equipment rating” not be misunderstood with “rating” in the context of ATCO licensing?  The equivalent would be closer to a “rating endorsement”. Why not re-use the terminology in the context of ATCO licensing as far as possible (“rating”, associated with “rating endorsements”, “practical instructors”, “assessors”, etc.)?  Alternatively, since “rating” is defined in the Basic Regulation and does not fit in the context of ATSEPs, as stated in GM1 ATSEP.OR.115, would it not have been better to use other terms (to avoid using terms in a different meaning as defined in the BR)?</p>
response	<p><i>Not accepted</i></p> <p>The 'rating' in the Basic Regulation refers to the ATCO rating which is, as correctly mentioned in the comment, not understood as having the same meaning and effect as that of the S/E rating for ATSEP. The Agency acknowledges the proposal from EUROCONTROL to align with ATCO world. However, this approach was not taken as it was considered more appropriate to use and to keep the terminology already used, for decades now, at ICAO level, of S/E rating.</p>

comment	945	comment by: <i>ESSP</i>
	<p>In the case the requests to change the ATSEP definition modification is not accepted, can you precise up to what extent the grandfather's law is applicable? Will there be provisions to authorize an experienced ATSEP, assessed competent, only on the basis of its prior authorization in the company or will he have to follow Basic, qualifying and S/E training as a newly employed ATSEP before he can be granted any authorization?</p> <p>Will the proof that a staff was authorised before the enforcement of this regulation, be taken into account as equivalent to the Basic, qualification and the S/E training?</p>	
response	<i>Noted</i>	
	<p>Grandfathering rights will be foreseen in the articles of the Cover Regulation once the rules are mature (at the stage of the Opinion). The Agency agrees that already trained and rated ATSEP should not undergo the training again unless they change position or require another rating.</p>	

comment	1042	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p><b>ATSEP.OR.115</b></p> <p>NATS is happy with the rule and likes the emphasis on how the system equipment impacts the operational environment (b) (3).</p>	
response	<i>Noted</i>	

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 2 – Training requirements – ATSEP.OR.120 Continuation training**

p. 71

comment	487	comment by: <i>DSNA</i>
	<p>“Emergency training” is a copy-paste from the ATCO licence regulation, it does not make sense in the ATSEP world, because it is the standard ATSEP job to handle system failures (which are not emergency situations for them).</p> <p>Proposal:</p>	

	<p>ATSEP.OR.120 Continuation training An ATM/ANS provider shall ensure that ATSEP undertake appropriate continuation training, including refresher, equipment/systems upgrades and modifications, <del>and/or emergency training.</del></p>
response	<p><i>Noted</i></p> <p>The term 'emergency training' is explained in GM1 ATSEP.OR.120. It is considered sufficient to understand the scope of 'emergency training'.</p>

comment	<p>564 comment by: <i>military safety expert/ safety management systeme inspector</i></p> <p>"Emergency training" is a copy-paste from the ATCO licence regulation; it makes sense in the ATSEP world if an explanation is provided regarding emergency training for ATSEP It is better to talk about contingency plan as it is described in the 1035 regulation.</p> <p><u>Proposals :</u></p> <ul style="list-style-type: none"> <li>• To explain emergency training for ATSEP</li> <li>• To develop contingency plan or procedures</li> </ul>
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response	<p><i>Noted</i></p> <p>The term 'emergency training' is explained in GM1 ATSEP.OR.120. It is considered sufficient to understand the scope of 'emergency training'.</p>
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comment	<p>742 comment by: <i>Federal Office of Civil Aviation FOCA</i></p> <p>The use of the word "appropriate" should be avoided as it allows for interpretations resp. possibilities are left open. The training should be performed with the objective to maintain the required competences.</p>
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response	<p><i>Not accepted</i></p> <p>The term 'appropriate' here is linked with the emergency training, which is necessary to cover.</p>
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comment	<p>1006 comment by: <i>USAC-CGT</i></p> <p>What is an "Emergency training" for an ATSEP? An ATSEP's corrective maintenance job is based to repair degraded situations.</p>
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response

For us, emergency cases are a tower fire, a complete energy breakdown... Without definition of "Emergency" it's very difficult to put a scope on "Emergency training".

*Noted*

The term 'emergency training' is explained in GM1 ATSEP.OR.120. It is considered sufficient to understand the scope of 'emergency training'.

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 3 – Competence assessment requirements – ATSEP.OR.130 Assessment of initial and ongoing competence**

p. 71

comment

488

comment by: DSN

The definitions of "initial and on-going competence" are missing. These terms are confusing because they can either refer to initial training and unit training or to a first assessment and following renewal assessments.

In our opinion, assessment during initial training is meant to assess basic knowledge acquisition, and formal exams are appropriate at this stage. Whereas during unit training, we need to assess technical skills more deeply, and in operational environment.

That is why in the DSN model, assessment during initial training are differently organised than on-going (unit) assessments: assessment during initial training is conducted by ENAC instructors, whereas on-going (unit) assessment relies on a commission composed of different experienced ATSEP.

So continuous observation is more appropriate for unit (on going) assessment than formal exams.

We also consider that first unit assessments need to be more detailed than the following renewal assessments.

We suggest to use the following definitions:

Initial training = Basic + Qualification training

Unit training = System/Equipment training + continuation training

Initial assessment corresponds to initial training.

Unit assessment corresponds unit training. The first unit assessment gives the first authorization to operate, maintain, release from, and return into operations safety-related ATM/CNS systems.

"On-going assessments" allow to renew this authorization.

response

*Partially accepted*

The Agency has added a GM explaining that initial competence is the first instance where ATSEP acquire competency in a S/E rating training and for ongoing competence that it is associated with the maintenance of that competence.

There is no competence achieved after 'initial training' even if there is some form of assessment.  
 The Agency considers that the proposal is not relevant as the situation is different from ATCO.

comment

491

comment by: DSNA

ATSEP OR 130 (b)  
 We suggest to put the 5 criterias in GM, because they don't need to be systematically assessed at each assessment. This is especially true for behavioural skills and language proficiency.

We suggest to reword as such:

ATSEP OR 130 :

(b) define the following criteria against which initial and ongoing competence shall be assessed:-  
 (1) technical skills;  
 (2) behavioural skills;  
 (3) knowledge;  
 (4) experience; and  
 (5) language proficiency.

Relocate the criterias in GM:

GM ATSEP OR.130

Examples of criterias are :

- (1) technical skills;
- (2) behavioural skills;
- (3) knowledge;
- (4) experience; and
- (5) language proficiency.

response

*Partially accepted*

The Agency proposes to delete (4) 'experience' and (5) 'language proficiency', but to keep the others in the requirement. Both (4) and (5) are indeed not seen as being systematically assessed for the competence assessment.

comment

565

comment by: *military safety expert/ safety management systems inspector*

We suggest to put criteria in GM. Criteria should be defined by the ANSP to correctly assess ATSEP. Criteria may be different at the beginning, in the middle or at the end of a career. It depends also on the responsibility....

Proposal :

- Put the criterias in GM:

GM ATSEP OR 130:

	<p>Examples of criterias are :</p> <ul style="list-style-type: none"> <li>(1) technical skills;</li> <li>(2) behavioural skills;</li> <li>(3) knowledge;</li> <li>(4) experience; and</li> <li>(5) language proficiency.</li> </ul>
response	<p><i>Partially accepted</i></p> <p>The Agency proposes to delete (4) 'experience' and (5) 'language proficiency', but to keep the others in the requirement. Both (4) and (5) are indeed not seen as being systematically assessed for the competence assessment.</p>
comment	<p>942 <span style="float: right;">comment by: <i>Federal Office of Civil Aviation FOCA</i></span></p> <p>ATSEP.OR.130 par. (a) (3): is unclear, what is the intention of this requirement?</p>
response	<p><i>Noted</i></p> <p>The intention of this requirement is to cover situations where, for instance, an ATSEP is still being trained or undergoing remedial training due to loss of competence or the ATSEP has lost competence due to an extended absence.</p>
comment	<p>1007 <span style="float: right;">comment by: <i>USAC-CGT</i></span></p> <p>The assessment of initial and ongoing competence should not be defined in the same chapter.</p> <p>In France (DSNA), initial assessment is conducted by ENAC instructors and control centres' assessors and instructors. On-going assessment is checked by a local commission composed of assessors and hierarchic persons. The first assessment must be more detailed than the ongoing competence assessment because it takes in account more items and evaluations.</p>
response	<p><i>Noted</i></p> <p>The Agency understands DSNA situation, but is not sure if the comment relates to the content of the paragraph or to the structure of it. If it relates to the content, which seems to be wider in France, no proposal is made to suggest additional criteria. If it relates to the structure, the Agency would like to keep the current version of the text as it has no impact on the rule itself.</p>
comment	<p>1008 <span style="float: right;">comment by: <i>USAC-CGT</i></span></p>

ATSEP.OR.130(b)(2)

French ATESP don't have an mandatory training on soft skills.  
We think that this training should be mandatory, but not a specific assessment on this theme.  
Behavioural skills are very hard to assess and even it can be faulty without specific training.

Soft skills training shall be mandatory to make sure that behavioural risks will be detected and corrected.

response *Accepted*

Soft skills are already taken into account by the qualification training (HF subject).

**ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 4 – Instructors and assessors – ATSEP.OR.135 ATSEP training instructors**

p. 71

comment 174

comment by: EUROCONTROL

**Page 71 - ATSEP.OR.135**

This requirement focuses only on the instructor's technical skills. There is need to ensure that the instructors have the non-technical skills and knowledge appropriate to their role as instructors. The Organisational Requirement should also mandate that ATSEP training instructors receive the appropriate training as theoretical instructors and as on-the-job-instructors, as necessary.

response *Not accepted*

The Agency considers that this requirement does not focus only on the technical skills of instructors. They need to be suitably experienced and have the knowledge in the field where instruction is given. These criteria are also valid for theoretical instructors and ensure that they fulfil their role as instructor as efficiently as possible.

comment 247

comment by: EUROCONTROL

**Page 71 - ATSEP.OR.135 (b) - ATSEP training instructors**

The use of the term 'on-the-job training instructor' is misleading. This term is very well understood in ATCO training, however, it can be questioned whether the same term should be applied to ATSEP training. Does this mean that these instructors need to complete the same training course as for ATCO OJTIs? Is

response	<p>there such a need for intervention skills for an ATSEP compared to an ATCO? We therefore propose to use a different term or clarify the training requirements to become an OJTI for ATSEPs.</p> <p><i>Not accepted</i></p> <p>The use of the term 'on-the-job training instructor' is intentional in order to differentiate it from instructors who are teaching in an operational off-line environment.</p>
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comment	<p>964 <span style="float: right;">comment by: EUROCONTROL Safety Team</span></p> <p>Page 71 ATSEP.OR.135 This requirement focuses only on the instructor's technical skills. There is need to ensure that the instructors have the non-technical skills and knowledge appropriate to their role as instructors. The Organisational Requirement should also mandate that ATSEP training instructors receive the appropriate training as theoretical instructors and as on-the-job-instructors, as necessary. Currently there is no AMC No AMC or GM to ATSEP OR.135 e.g. qualifications and also instructional skills. Recommend adding the following text adapted from UK CAA CAP 624</p> <p><b>AMC Qualification of instructors</b> Appropriate professional qualification is ensured with a sufficient level of current knowledge, which is relevant to the subject and its application in ATM/CNS.</p> <p><b>AMC Instructional skills for theoretical instructors</b> A successful demonstration of instructional skills for theoretical instructors should establish competence in the following areas: (a) lesson objectives are defined and communicated; (b) subject questions are fully answered; (c) visual aids are used appropriately; (d) language is unambiguous; (e) the lesson is correctly summarised; (f) lesson objectives are fulfilled.</p>
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response	<p><i>Partially accepted</i></p> <p>The Agency considers that this requirement does not focus only on the technical skills of instructors. They need to be suitably experienced and have the knowledge in the field where instruction is given. These criteria are also valid for theoretical instructors and ensure that they fulfil their role as instructor as efficiently as possible.</p> <p>The Agency welcomes the proposal which has been included in the revised text.</p>
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<p><b>ANNEX XII – SPECIFIC REQUIREMENTS FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENTS (Part-PERS) – SUBPART A – TECHNICAL AND ENGINEERING PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – Chapter 4 – Instructors and assessors – ATSEP.OR.140</b></p>	p. 71
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**Technical skills assessors**

comment 39 comment by: Swedavia CNS Safety

Is the EASA view that an CNS provider themselves can appoint assessors or is special training required?

response *Noted*

For the Agency, it is both. A CNS provider can appoint assessors, but they need to ensure that they are suitably qualified.

comment 495 comment by: DSNA

To be consistent with ATSEP.OR.015, we suggest to replace “technical skills assessors” by “technical skills assessment procedures”.  
Indeed, ATSEP.OR.015 already specifies a “competence assessment program”.  
The use of assessor could be one of the multiple ways to comply with this requirement. But it has to be considered that other methods such as the definition of “technical skills assessment procedures” that don’t rely on dedicated assessors will provide the same safety level.

We consider that this process is more safe, balanced, fair, and lasting, since the responsibility of the assessment rely on an organisation rather than on one individual assessor.

Today we do not have dedicated technical skills assessors in unit training. Our current assessment process rely on several observations by peers. ATSEP authorisations are released by a local commission, composed of different experienced ATSEP, and the manager. In our opinion, this process allow to reduce biases.

(+ consistency with comment to ATSEP.OR.130(b))

Reword:

An ATM/ANS provider that employs ATSEP shall describe ~~ensure that~~ technical skills assessment procedures.

If procedures rely on technical skills assessors, ATM/ANS provider shall ensure that technical skills assessors are suitably experienced to assess the criteria defined in GM ATSEP.OR.130(b).

response *Not accepted*

The Agency acknowledges the situation of DSNA and the approach taken in its organisation with regard to how it manages the competence assessment. However, the requirement in ATSEP.OR.140 does not contradict DSNA's approach. If DSNA considers that it has no technical assessors, then the requirement would not have to be complied with (although the staff represented in the local commission and the manager would be considered as technical skills assessors?). So the requirements on technical skills assessors do not prevent that in other organisations assessment is done differently, but only ensure that if there exist technical skills assessors, then they have to follow the requirement.

comment

965

comment by: EUROCONTROL Safety Team

Page 71 ATSEP.OR.140

This requirement focuses only on the assessor's technical skills. There is need to ensure that the assessors have the non-technical skills and knowledge appropriate to their role as assessors. ATSEP.OR.130 Assessment of initial and ongoing competence mandates that behavioural skills have to be assessed as part of initial and ongoing ATSEP competence.

The Organisational Requirement should also mandate that ATSEP assessors receive the appropriate training as assessors.

The OR needs to address the following points:

- How are assessors trained and considered competent as assessor?
- What are the requirements for ongoing competence as assessor?
- What are the requirements for ongoing competence as assessor?

Consequently it is recommended to add to AMC1 ATSEP OR.140 the following text adapted from UK CAA CAP 624:

#### **AMC Training and Competence of assessors**

##### Assessor Training

A successful assessment for the purpose of the assessor training should establish competence in assessment techniques as follows:

- (a) regulatory environment and legal obligations;
- (b) types of assessment and their application;
- (c) performance objectives constituting ATSEP competence;
- (d) conditions of assessments to create reliable results;
- (e) process of assessments and administrative procedures;
- (f) giving verbal feedback and writing assessment reports;
- (g) vested interests and code of conduct;
- (h) competence is accurately assessed against the performance objectives.

##### Assessment Of Assessor Competence

The assessment of assessor competence should focus on the application of the skills of an assessor. The skills should represent at least a subset of the competences taught during the assessor training course.

##### Refresher Training On Assessment Skills

Refresher training on assessment skills should prevent knowledge and skills erosion and it should be designed to maintain skills in assessment techniques and awareness of the regulatory environment.

response

*Partially accepted*

The Agency acknowledges the need to ensure that the assessors (and instructors) should be appropriately trained to fulfil their role. However, during the drafting, the primary task of the rulemaking group was to focus on the

assessors' experience which was seen as an important criterion to ensure that they can assess ATSEP. Although the reference to the UK CAP is a good basis, the Agency would like to have proper consultation on this subject in order to ensure that the rule proposed reflects the European approach. Therefore, a GM is added to clarify that training for assessors and instructors has not been omitted, but only postponed with reference to CAP624 (and the content of it will be used if deemed necessary).

comment	1028	comment by: <i>NATS National Air Traffic Services Limited</i>
	<p><b>ATSEP.OR.140</b>  NATS is a happy with the rule. In particular we support the approach that continuous assessment is regarded as a valid means of assessment as stated in GM2 (a). This approach will, in instances where ATSEP's are performing duties on a regular basis, significantly reduce the cost of managing the process.</p>	
response	<i>Noted</i>	

<p><b>APPENDIX 1 TO ANNEX XII – SUBPART A – TECHNICAL AND ENGINEERING  ELECTRONIC PERSONNEL – Section 1 – Air Traffic Safety Electronics  Personnel – ATSEP.OR.105 Basic training</b></p>	p. 72
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comment	212	comment by: <i>Icelandic Transport Authority</i>
	<p>Regarding the word: <b>INDUCTION</b></p> <p>For non-native English speakers, the word „introduction“ is preferred, both in terms of being the most common term used for such introductory syllabus and also to be in alignment with f.ex. ATCO training as per the ATCO licencins regulation and NPA.</p>	
response	<i>Not accepted</i>	
	<p>The Oxford dictionary defines 'Induction' as the action or process of inducing someone to a post or organisation, a formal introduction to a new job or position. It gives the example of an induction course.</p>	

comment	478	comment by: <i>CAA-NL</i>
	<p><b>Appendix 1-4 to Annex XII</b>  It is proposed to transfer these appendixes to the guidance material (GM).  <i>Rationale:</i>  See under 'general remark'.</p>	

response	<p><i>Not accepted</i></p> <p>As this comment is linked to the comment to the general remarks, please see the Agency's response to comment No 472 from CAA-NL.</p>	
comment	1113	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	<p>Attachment <a href="#">#3</a></p> <p>Comment on Appendix 1 - 4:  On the level of individual objectives and sub-topics within one course, the designation of objectives is unambiguous. Across topics and subjects, identical numbers (e.g. "1.1.1") or sub-topics (e.g. "Functional Safety") are used. For traceability reasons, it is recommendable to establish a system of unique designators for each objective across the complete ATSEP CCC document. An example for such a designator system is attached.  <b>DFS proposes to</b> establish a system of unique designators for each objective across the complete ATSEP CCC document.</p>	
response	<p><i>Not accepted</i></p> <p>The Agency acknowledges that a system of unique identifier would probably be better in order to avoid the same numbering in the different subjects. However, the Agency would like to keep the numbering as it is used in the ATSEP Eurocontrol CCC so that the readers may easily identify and compare with the ECTL ATSEP CCC the equivalent in the proposed rules. For the Agency, this would also facilitate referencing when consistency updates will be made in the future. In addition, changing the reference number of all the subtopics may lead to some discrepancies with regard to the structure.</p>	
comment	1209	comment by: <i>UK CAA</i>
	<p><b>Page No:</b> 72 and following pages  <b>Paragraph No:</b> Appendices 1, 2, 3 and 4 to Annex XII Sub Part A material  <b>Comment:</b> Notwithstanding our previous comment to relocate Appendices 2, 3 and 4 to Guidance Material, UK CAA suggests that the current wording of the Appendices 1, 2, 3 and 4 do not provide maximum flexibility to a Provider to decide appropriate training requirements aimed at the specific job tasks.  <b>Justification:</b> Our previous comments on the whole of Annex XII refer.</p>	
response	<p><i>Not accepted</i></p> <p>Please see the Agency's response to the UK comment on the entire Annex XII.</p>	
comment	1240	comment by: <i>ENAV</i>

	Both appendix 1 and 2 are called ATSEP.OR.105. Basic training. We propose to clarify this by including in the title ATSEP.OR.105 <b>shared</b> (for appendix 1) and <b>streams</b> (for appendix 2). This will be consistent with the appendices 3 and 4.
response	<i>Accepted</i>

<b>APPENDIX 3 TO ANNEX XII – SUBPART A – TECHNICAL AND ENGINEERING ELECTRONIC PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – ATSEP.OR.110 Qualification training – Shared</b>	p. 76-77
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comment	175	comment by: <i>EUROCONTROL</i>
	<b>Page 76 - ATSEP.OR.110 - Sub-Topic 5.2</b> It is positive to have TRM training for ATSEP but its benefits will be lost if a TRM is not implemented by the provider. It seems that there is no requirement for CNS providers to implement TRM for ATSEP.	
response	<i>Noted</i>	

comment	1103	comment by: <i>DFS Deutsche Flugsicherung GmbH</i>
	In contrast to the other appendices here there is no course identifier like BASSUR or COMVCE (see appendices 2 or 4). <b>DFS proposes to</b> establish a course identifier in Appendix 3 of Annex XII as well.	
response	<i>Noted</i>	
	The Agency is not sure to understand the comment as Appendix 3 contains all the course identifiers, like in Appendices 2 or 4.	

<b>APPENDIX 4 TO ANNEX XII – SUBPART A – TECHNICAL AND ENGINEERING ELECTRONIC PERSONNEL – Section 1 – Air Traffic Safety Electronics Personnel – ATSEP.OR.110 Qualification training – Streams</b>	p. 78-98
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comment	176	comment by: <i>EUROCONTROL</i>
	<b>Page 78 - Subject 4: Functional Safety Topic 1</b> Typo in title.	

response	Title should read <i>Safety attitude</i> not <i>Safety altitude</i> . <i>Accepted</i>
comment	1116 comment by: <i>DFS Deutsche Flugsicherung GmbH</i>  "12. Data – Data Processing (...) Subject 2: Data Processing Systems (...) Topic 2 DATDP – System Components <del>Data</del> Sub-topic 2.1 DATDP <b>Data</b> Processing System (...) Editorial typo ☺ compared to Eurocontrol Spec-132. <b>DFS proposes to</b> correct this discrepancy to the Eurocontrol Spec-132.
response	<i>Accepted</i>
comment	1117 comment by: <i>DFS Deutsche Flugsicherung GmbH</i>  "Subject 3: SMC – Tools, Processes and Procedures Topic 1 SMCCOM – <b>Regulatory</b> Requirements ..." Editorial typo ☺ compared to Eurocontrol Spec-132. <b>DFS proposes to</b> correct this discrepancy to the Eurocontrol Spec-132.
response	<i>Accepted</i>
comment	1119 comment by: <i>DFS Deutsche Flugsicherung GmbH</i>  "TOPIC 1 SMCNAV – Technologies and Principles Sub-topic 1.1 SMCNAV – General Sub-topic 1.2 SMCNAV – <del>Communication</del> <b>Navigation</b> " Editorial typo ☺ compared to Eurocontrol Spec-132. <b>DFS proposes to</b> correct this discrepancy to the Eurocontrol Spec-132.
response	<i>Accepted</i>
comment	1120 comment by: <i>DFS Deutsche Flugsicherung GmbH</i>  "TOPIC 1 SMCNAV – Technologies and Principles Sub-topic 1.1 SMCNAV – General

	<p>Sub-topic 1.2 SMCNAV – Communication <b>Surveillance</b>”                  Editorial typo © compared to Eurocontrol Spec-132.  <b>DFS proposes to</b> correct this discrepancy to the Eurocontrol Spec-132.</p>
response	<p><i>Accepted</i></p>

comment	<p>1121 <span style="float: right;">comment by: DFS Deutsche Flugsicherung GmbH</span></p>
	<div style="border: 1px solid black; padding: 5px;"> <p>“TOPIC 1 SMCNAV – Technologies and Principles                  Sub-topic 1.1 SMCNAV – General                  Sub-topic 1.2 SMCNAV – Communication <b>Data Processing</b>”                  Editorial typo © compared to Eurocontrol Spec-132.  <b>DFS proposes to</b> correct this discrepancy to the Eurocontrol Spec-132.</p> </div>
response	<p><i>Accepted</i></p>

## **Appendix A - Attachments**

 [IFATCA Comments on NPA2013-08 131030.pdf](#)  
Attachment #1 to comment [#881](#)

 [ATCNEA Comment on EASA-NPA\\_2013-08.pdf](#)  
Attachment #2 to comment [#475](#)

 [ATSEP CCC designator system DFS.pdf](#)  
Attachment #3 to comment [#1113](#)