



Terms of Reference

for a rulemaking task

Updating Air OPS Regulation (EU) No 965/2012 Implementing Rules and related Acceptable Means of Compliance (AMC) & Guidance Material (GM)

RMT.0516 AND RMT.0517 — ISSUE 2 — 6.10.2014

| Applicability | | Process map | |
|-------------------------------------|--|---|----------|
| Affected regulations and decisions: | Commission Regulation (EU) No 965/2012, Annex I (Part-DEF), Annex II (Part-ARO), Annex III (Part-ORO), Annex IV (Part-CAT), Annex V (Part-SPA) and associated AMC/GM. | Concept Paper: | R3 |
| Affected stakeholders: | — National aviation authorities — Operators | Rulemaking group: | No |
| Driver/origin: | — Safety — Level playing field | RIA type: | Light |
| Reference: | — Rulemaking Programme 2013-2016 — Agency taskforce on Flight Operation — Inspectors' qualifications — Standardisation findings/reports — Safety recommendations | Technical consultation during NPA drafting: | Yes |
| | | Publication date of the NPA: | 2015/Q3 |
| | | Duration of NPA consultation: | 3 months |
| | | Review group: | TBD |
| | | Focussed consultation: | TBD |
| | | Publication date of the Opinion: | 2016/Q3 |
| | | Publication date of the Decision: | 2017/Q3 |



1. Issue and reasoning for regulatory change

This task aims at updating the Air OPS Regulation (EU) No 965/2012, in particular Part-DEF, Part-ARO, Part-ORO, Part-CAT and Part-SPA, as well as related Acceptable Means of Compliance (AMC) and Guidance Material (GM). The issues to be considered are as follows:

- 1.1. Part-ARO
- 1.2. Annual Standardisation Reports, including related findings in Member States, have highlighted implementation difficulties relating to the qualification and training of inspectors for the oversight of Air Operator Certificate (AOC) holders; as well as insufficient compliance verification for AOC holders upon initial certification and for their continuing oversight. A task force composed of Agency staff from the Standardisation and Rulemaking Directorates and some Member State representatives has developed a Flight Operations Inspector (FOI) competency matrix that is proposed to be included in AMC or GM.
- 1.3. Another gap analysis with ICAO Doc 8335 Manual of Procedures for Operations Inspection, Certification and Continued Surveillance should be performed to ensure correct transposition of ICAO guidance and Member States' compliance with ICAO Standards and Recommended Practices (SARPs).
- 1.4. Some authority requirements should be complemented by AMC or GM to better explain the intent of the rule and the obligation of the authority. This is, for example, the case relating to new AMC or GM on the type of information to be provided from authorities to the Agency contained in point (b) of ARO.GEN.125 Information to the Agency.
- 1.5. Differences have been identified on how Performance-Based Navigation (PBN) operations are encoded in the Operations Specifications (OPSSPECS) of Appendix II to Part-ARO. Further guidance may have to be provided for filling in the OPSSPECS form.
- 1.6. The authority requirements introduced some elements of risk-based oversight. Additional AMC or GM should be developed to better illustrate how to accomplish compliance verification in terms of focus, sampling and depth of audits and inspections as well as the assessment of safety performance and regulatory compliance.
- 1.7. Safety Management System in Part-ORO
- 1.8. As the safety management concept is introduced in the different domains, consistency, especially for the Subpart GEN items, has to be ensured. Examples are the organisation requirements for aerodromes in Regulation (EU) No 139/2014 (ADR.OR.D.025), for which it is clearly mentioned that the management system has also to address those safety risks stemming from interactions with other organisations. Other consistency items stem from the recently published NPA 2013-01 and NPA 2013-19 on the Embodiment of Safety Management System (SMS) requirements into Commission Regulation (EC) No 2042/2003 relating to continuing airworthiness.
- 1.9. The Safety Management International Collaboration Group (SMICG) has been developing new guidance material, e.g. on SMS terminology, hazard taxonomy, safety performance measurements, or SMS Evaluation Tool as a means to assess the effectiveness of an organisation's SMS. The results of this guidance should be reviewed and assessed for inclusion in related AMC or GM.



1.10. Part-ORO occurrence reporting requirements:

1.10.1. Alignment with Regulation (EU) No 376/2014 on Occurrence Reporting and strengthening of the internal reporting provisions in ORO.GEN.200.

1.11. Cabin Crew requirements for NCC operators in Part-ORO:

1.12. Non-commercial operators of complex motor-powered aircraft (NCC-operators) advised the Agency on the potential difficulties raised by some cabin crew requirements in Section 1 of Subpart Cabin Crew (CC) of Part-ORO. Those operators did not comment on the related Part-ORO proposals during the consultation process leading to Opinion 04/2011, because they wrongly believed at the time of consultation that the proposed cabin crew requirements of Part-ORO would not apply to them. When becoming aware of this, NCC operators informed the Agency on the possible negative impacts on their operations that could result from some of the cabin crew requirements, which they considered inappropriate or disproportionate for their particular type of operation.

1.13. Updating EASA OPS implementing rules (RMT.0292)

RMT.0292 ('Updating EASA OPS Implementing Rules') will be partly merged with this rulemaking task, due to a re-allocation of responsibilities within the Agency. This rulemaking task is therefore extended to include the following elements from RMT.0292:

1.13.1. a first editorial update of Annex I (Definitions), Annex II (Part-ARO), Annex III (Part-ORO) and Annex IV (Part-CAT) and Annex V (Part-SPA), Annex VI (Part-NCC) and Annex VII (Part-NCO) of Regulation 965/2012 (Air OPS);

1.13.2. an amendment to the provisions concerning reduced vertical separation minimum (RVSM) long-term monitoring requirements;

1.13.3. a review of the requirements for passenger seating and briefing, taking into consideration relevant findings from occurrences and measures taken by NAAs in order to clarify and update the existing Implementing Rules, Acceptable Means of Compliance (AMC) and Guidance Material (GM), as necessary, to ensure common interpretation and harmonised implementation.

1.14. The following safety recommendations will be addressed by this rulemaking task:

- Safety recommendation GERF-2006-009 and UNKG-2005-148: relating to the definition of requirements for de-icing providers. Today, de-icing service providers are outside the scope of the Basic Regulation (Regulation (EC) No 216/2008 of the European Parliament and of the Council). Yet, the Agency wishes to promote the use of pooled audits by operators as a response to the above safety recommendations, since operators are responsible for the monitoring of de-icing service providers. For this reason the JAA's Temporary Guidance Leaflets on pooled audits (JAA TGL 21) between operators should be reviewed and included into Part-ORO as appropriate.
- Safety recommendation DENM-2012-004, HUNG-2012-004 and ITAL-2012-009: The Agency to consider the need to harmonise the procedures, or to review the existing documentation, as necessary, in order to establish in all cases a time limit within which to make effective in the AFM (Aircraft Flight Manual) owned by operators the amendments



approved by the Agency. The Agency will evaluate if additional provisions to Part-ORO should be developed to address this issue.

- Safety recommendation SPAN-2009-025: It is recommended that aerial work operators involved in single-pilot activities be aware of the intrinsic risks resulting from the interruption of pre-flight processes or normal checks. Operational procedures should ensure that processes and checks conducted by crews prior to take-off, and which are suspended at any point, are restarted from a safe point prior to the interruption. The Agency should evaluate the need for additional AMC or GM for all type of operations included in ORO.GEN.110 Operator responsibilities.
- Safety recommendation SWED-2011-013: Ascertain that the instructions relating to the incapacitation of the cockpit crew are supplemented with restrictions for continued flight duty following the occurrence of an incident. (RL 2011:11, R1). The Agency will evaluate if new GM should be developed to ORO.GEN.110(f) on how operators should instruct crew members to proceed after the occurrence of temporary in-flight incapacitation of crew members.

1.15. The rulemaking activity will also take into account any future safety recommendations which will be published during this rulemaking task.

2. Objectives

The objectives of this rulemaking task are to improve the quality of Part-ARO and Part-ORO requirements:

- to have **state of the art authority and organisation requirements OPS** taking into account identified implementation issues;
- to **ensure compliance with ICAO SARPs**;
- to take into account the development of and lessons learned from the implementation of **safety management systems**;
- concerning general authority and organisation requirements, to **ensure consistency with the other domains of the Agency**, e.g. aerodromes, continuing airworthiness and air crew requirements;
- to **correct any editorial issues**;
- to address additional issues or **possible gaps** identified only during the implementation of Part-ARO and Part-ORO.

3. Activities

3.1. Scope

The scope of this rulemaking task is to update Part-ARO, Part-ORO, Part-CAT and Part-SPA and to prepare new AMC and GM or to update related AMC and GM in line with the explanations above.

- This task will not address items related to flight crew requirements in ORO.FC (will be addressed with RMT.0599), cabin crew requirements for Commercial air transport



operators (CAT) that are included in ORO.CC, nor requirements for technical crew included in ORO.TC.

3.2. Deliverables

- Notice of proposed amendment (NPA);
- Opinion with a draft amendment to Implementing Rules relating to Part-DEF, Part-ARO, Part-ORO, Part-CAT and Part-SPA;
- Decision with amendments to AMC/GM relating to Part-DEF, Part-ARO, Part-ORO, Part-CAT and Part-SPA.

3.3 Interfaces

3.3.1 Embodiment of Level of Involvement (LOI) and Safety Management System (SMS) requirements into Part-21

This rulemaking task will ensure coordination with MDM.060 (RMT.0262 & RMT.0611 and RMT.0550 & RMT.0612) on the Embodiment of Level of Involvement (LOI) and Safety Management System (SMS) requirements into Part-21.

3.3.2 Embodiment of Safety Management System (SMS) requirements into Regulation (EC) No 2042/2003 for the implementation of a State Safety Plan

This rulemaking task will ensure full alignment with RMT.0251 on the Embodiment of Safety Management System (SMS) requirements into Regulation (EC) No 2042/2003 for the implementation of a State Safety Plan. The timelines of the two tasks are now aligned and allow for fully harmonised SMS provisions between Regulation (EC) No 2042/2003 (continuing airworthiness) and Regulation (EU) No 965/2012 (Air OPS).

3.3.3 Updating of Part-ARA and Part-ORO pertaining to Flight Crew Licensing Regulation (EU) No 1178/2011 amended by Regulation (EU) No 290/2012

This rulemaking task will ensure alignment with RMT.0412/0413 on updating Part-ARA and Part-ORA pertaining to Flight Crew Licensing (FCL).

3.3.4 Aerodrome Regulation

This rulemaking task will ensure alignment with Regulation (EU) No 139/2014 on Authority, Organisation and Operations requirements for Aerodromes. The coordination will consist of consultations, especially as far as subpart ORO.GEN provisions are concerned.

4. Profile and contribution of the rulemaking group

No rulemaking group is foreseen. However, it is envisaged to have **technical consultations** before publication of the NPA with:

- Member States on the proposed amendments for Part-ARO and Part-ORO and related AMC or GM.
- A selection of operators nominated by the respective members of the Agency's consultative bodies such as the Safety Standards Consultative Committee (SSCC), who will be affected by cabin



crew (CC) requirements of Part-ORO in the area of non-commercial operators with complex motor-powered aircraft (NCC).

5. Annex I: Reference documents

5.1. Affected regulations

Commission Regulation (EU) No 965/2012 of 28 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council.

Amended by:

- Commission Regulation (EU) No 379/2014
- Commission Regulation (EU) No 83/2014
- Commission Regulation (EU) No 71/2014
- Commission Regulation (EU) No 800/2013

5.2. Affected decisions

- Decision No 2012/015/R of the Executive Director of the Agency of 24 October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 — Acceptable Means of Compliance and Guidance Material to Annex I — Part-DEF.
- Decision No 2014/014/R of the Executive Director of the Agency of 24 April 2014 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 — Acceptable Means of Compliance and Guidance Material to Annex II — Part-ARO, Issue 2.
- Decision No 2014/017/R of the Executive Director of the Agency of 24 April 2014 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 — Acceptable Means of Compliance and Guidance Material to Annex III — Part-ORO, Issue 2.
- Decision No 2014/015/R of the Executive Director of the Agency of 24 October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 24 April 2014 — Acceptable Means of Compliance and Guidance Material to Annex III — Part-CAT, Issue 2.
- Decision No 2012/019/R of the Executive Director of the Agency of 24 October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 — Acceptable Means of Compliance and Guidance Material to Annex III — Part-SPA.
- Decision No 2013/020/R of the Executive Director of the Agency of 23 August 2013 on Amending Decision No 2012/019/R of the Executive Director of the European Aviation Safety Agency of 24 October 2012 on Acceptable Means of Compliance and Guidance Material to Part-SPA (Amendment 1).
- Decision No 2013/021/R of the Executive Director of the Agency of 23 August 2013 on Amending Decision No 2012/019/R of the Executive Director of the European Aviation Safety Agency of 24



October 2012 on Acceptable Means of Compliance and Guidance Material to Part-NCC (Initial issue).

- Decision No 2014/016/R of the Executive Director of the Agency of 24 April 2014 on Amending Decision No 2012/019/R of the Executive Director of the European Aviation Safety Agency of 24 October 2012 on Acceptable Means of Compliance and Guidance Material to Part-NCO, Issue 2.

5.3. Reference documents

- Convention on International Civil Aviation (Chicago Convention), signed at Chicago on 7 December 1944 and amended by the ICAO Assembly, 9th edition, 2006.
- ICAO Doc. 9734 Safety Oversight Manual, Part A — The Establishment and Management of a State's Safety Oversight System. This manual provides guidance on the establishment and management of a State's safety oversight system and explains the critical items for safety oversight, 2nd edition, 2006.
- ICAO Annex 6 (Operation of Aircraft) Part I, Part II and Part III to the Convention on International Civil Aviation.
- ICAO Annex 18 (The Safe Transport of Dangerous Goods by Air) to the Convention on International Civil Aviation.
- ICAO Doc. 8335, Manual of Procedures for Operations Inspection, Certification and Continued Surveillance, 5th edition, 2010.
- ICAO Annex 19 on Safety Management System, 1st edition, November 2013.
- JAA Administrative & Guidance Material, Section Four: Operations, Part Three: Temporary Guidance Leaflets (JAR-OPS), Section 4/Part 3 (JAR-OPS) 21-1 01.06.99, LEAFLET NO. 21: QUALITY INSPECTION/AUDIT POOLS.
- Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) Nos 1321/2007 and 1330/2007.

