



TERMS OF REFERENCE

Task Nr: M.022
Issue: 1
Date: 15 July 2009
Regulatory reference: Regulation (EC) No. 2042/2003¹
Reference documents: None

1. Subject:

Amendments to the AMC material to Part-M, additional text to AMC M.A.706 (e)(2):
Change AMC M.A. 706 (e) (2).

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

In accordance with Regulation (EC) No 2042/2003 Annex I, Part-M, paragraph M.A.706 "Personnel requirements" the organisation in charge of Continuing Airworthiness Management shall appoint an accountable manager. For commercial air transport, the accountable manager shall designate a nominated post holder. This person shall be responsible for the management and supervision of continuing airworthiness activities. This nominated post holder shall not be employed by a Part-145 approved organisation under contract to the operator, unless specifically agreed by the competent authority.

AMC M.A.706(e)(1) foresees that the competent authority of the operator should only accept that the nominated post holder be employed by the organisation approved under Part-145 when it is manifest that he/she is the only available competent person in a position to exercise that function, within a practical working distance. AMC M.A.706(e)(2) states that AMC M.A.706(e)(1) only applies to contracted maintenance and does not affect situations where the organisation approved under Part-145 and the operator are the same organisation.

These provisions aim at avoiding possible conflicts of interests: If the nominated post holder is also employed by the contracted Part-145 organisation, he/she may be reluctant to take actions against the Part-145 organisation should maintenance tasks have been performed improperly or should some provisions of the contract not have been met, as he/she is also paid by the Part-145 organisation. By contrast, in the case where the Part 145-organisation and the operator/Part-M Subpart G organisation are part of the same company, this company is globally responsible for the actions of its personnel, whether these belong to the operator/Part M Subpart G organisation or to the Part-145 organisation. In this case, this company is expected to take the appropriate actions to ensure that the procedures followed by the operator/Part-M Subpart G organisation and the Part-145 organisation prevent any possible conflict of interest.

¹ Commission Regulation (EC) 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 315, 28.11.2003, p. 1).

Some stakeholders feel that there is no difference in responsibility, accountability and ability with regard to supervising and maintaining continuing airworthiness between an operator/Part-M Subpart G organisation or independent Part-M Subpart G organisation with its own Part-145 organisation integrated in the operator or independent Part-M Subpart G organisation to a system where the accountability for airworthiness and maintenance is held by two different organisations, as long as the same person is nominated post holder / accountable manager in both organisations.

3. Objective:

Decision to amend AMC M.A.706(e), in order to address the following case:

- The same person acts as nominated post holder in the operator/Part-M Subpart G organisation and as accountable manager in the independent Part-145 organisation contracted by the operator.

In this case, it is assumed that the nominated post holder/accountable manager is expected to take the appropriate actions to ensure that the procedures followed by the operator with its own Part-M Subpart G organisation and the Part-145 organisation prevent any possible conflict of interest. This is deemed equivalent to the case already covered by the existing AMC where the Part-145 organisation and the operator/Part-M Subpart G organisation are part of the same company.

The main objective of amending AMC M.A.706(e) to cover this specific case is to avoid undue burden for independent organisations where the accountable manager is also the nominated post holder of the operator/Part-M Subpart G organisation.

4. Specific tasks and interface issues (Deliverables):

Coordination must be ensured with task 145.011 (responsibilities of owners/operators and the Part-145 organisation's responsibilities, related to 145.A.65(b)), which will be processed in parallel (2011 Rulemaking Programme).

In addition, the scope of this rulemaking task may be extended to cover the case of contracted continuing airworthiness management services based on the outcome of rulemaking task M.014 "Contracting of technical services by an AOC holder".

5. Working Methods (in addition to the applicable Agency procedures):

Agency

6. Time scale, milestones:

Start:	2009/Q2
NPA:	2010/Q1
CRD:	2010/Q4
Decision:	2011/Q2