

**OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY
Nr. 01/2005**

On the acceptance of Navigation Database Suppliers

Resulting from the notice of proposed amendment (NPA) No 3/2004 on guidance material for the certification of production organisations ("GM to Part 21")

Introduction

The implementation of P-RNAV is seen by the Agency as a priority and it attempts to do everything to facilitate such a measure that will improve the efficiency of our air transport system. As this requires an improved control of data held in aircraft navigational databases, the Agency agreed to continue the JAA activity in this field. The NPA 3/2004 as published for consultation on 27 May 2004 was the result of this activity. A thorough legal analysis of the option taken by the JAA in this domain showed however that the current regulation, which establishes Community powers in the field of civil aviation safety, does not provide for the appropriate basis to regulate the production of navigational databases.

Since this conclusion made the envisaged proposal unattainable there was a need to find a reasonable alternative solution to allow nevertheless the implementation of P-RNAV with as little disruption as possible.

Responses to NPA comments

During the consultation period 90 comments were received from 19 comment providers.

The NPA 3/2004 explanatory note already raised the legal difficulties associated with the use of Production Organisation Approvals for controlling the integrity of navigation database, and specifically asked for comments on this issue.

The comments did not show a unanimous view of the comment providers. There is roughly an equal split between those in favour of the Production Organisation Approval approach and those against. All of these comments were responded to in line with the Agency Policy as described above. They do not however provide the Agency with clear legal arguments establishing that current Community law constitutes a satisfactory basis to regulate the production of navigational data bases. At the contrary many comments went in support of the Agency's doubts in this regard.

All the other comments on the substance of the NPA proposal were responded to and, when agreed, incorporated into the final text of the guidance.

In view of the urgency of the subject, as recognised by all interested parties and underlined during the first meetings of the SSCC and the AGNA, the Agency considered impossible to stick to the formal rulemaking procedure that requires it not to adopt its final decision less than two months after the issuing of the comment response document.

As a consequence this document constitutes both the comment response document to the NPA 3/2004 and the opinion of the Agency on the subject. It describes what the Agency considers the best way forward and what it intends to do it.

Agency Policy

Anticipating the possible result of the consultation, the subject was discussed in meetings of the Safety Standards Consultative Committee (SSCC) and the Advisory Group of National Authorities (AGNA) to examine possible options to allow nevertheless the implementation of P-RNAV with as little disruption as possible. In the Agency's view the best solution would certainly be that the industry organises itself to verify the quality of the navigation data provided by the suppliers and used by the aircraft operators. Such an option, similar to that developed by IATA for the operational safety audit of its member airlines (IOSA), requires however some time to be implemented and would not be a realistic solution for the short term. The Agency suggested therefore substituting itself to the industry to put in place a voluntary audit system using the material developed by the JAA and reflected in the Notice of Proposed Amendment 3-2004 published earlier this year. This would lead to the issuing of a Letter of Acceptance to the European database suppliers based on an investigation by an Agency team. Both SSCC and AGNA supported this proposal as being, given the circumstances, the best way forward for the short term. In the longer term the industry should consider ways and means to take over such activity on a co-operative basis.

This approach has many similarities with the option proposed by the FAA, which also took a very cautious position. Moreover the standards used to verify the compliance of the navigation data suppliers will be the same on both sides of the Atlantic.

Implementation of the above Policy

In line with the above policy a stand alone document is produced which will be used for the investigation of navigation database suppliers in Europe and, after satisfactory results, for the issuance of a letter of acceptance.

This document consists of two parts. The first part ("*Conditions*") is a rewrite of Part 21 Section A Subpart G tailored to the specific case of navigation database suppliers. It was decided to stay as close as possible to the original text to enable the use of existing POA approval procedures. The second part ("*Guidance*") is developed from the text of the original NPA proposal, with incorporation of the agreed NPA comments.

Finally, to facilitate the work of the investigation team and to allow for a better preparation by the organisation to be assessed, a compliance checklist in line with the above document is provided.

The letter of acceptance does not constitute a mandatory requirement since it is not a mandatory certification attesting compliance with a binding act. The letter of acceptance will not attest that the data produced by these organisations can be used by operators, but that the organisation has put in place an appropriate quality system for the control of the processing of data. This will ease the obligation on the operator to do the same control and facilitate the issuing by the national competent authorities of the approval for the operators to fly in dedicated airspace where reduced separations are implemented. The final responsibility for the approval of operators for P-RNAV operations remains with the National authorities.

There is no obligation on operators to buy their data only from organisations holding the letter of acceptance. Operators can either make the verifications themselves or use another competent organisation for this purpose and convince directly their responsible authority that they can be allowed to fly in P-RNAV airspace.

The decision whether or not to apply for an EASA letter of acceptance is therefore entirely up to the navigation database supplier concerned. However, by applying, the organisation automatically declares to accept all the obligations that are linked to the letter of acceptance and which are described in the applicable conditions and guidance material. On the other hand the issuance of a letter of acceptance does not give any rights to its holder except the confirmation by the Agency that the organisation concerned is in compliance with the applicable and published conditions and guidance.

Cologne, 14th January 2005

P. Goudou
Executive Director

Attachments:

- Comment Response Document for NPA 3/2004
 - Conditions for the issuance of letters of acceptance for navigation database Suppliers by the Agency, and Guidance to Agency Conditions for issue of a letter of acceptance for Navigation Database Suppliers
- Compliance checklist