



Update of the rules on air operations and continuing airworthiness

RELATED NPA/CRD 2015-18¹ AND 2015-05² — RMT.0516¹ AND RMT.0352²

EXECUTIVE SUMMARY

The objective of this Opinion is to maintain a high level of safety in air operations by proposing amendments to Regulation (EU) No 965/2012 (hereinafter referred to as the ‘Air OPS Regulation’). The proposed amendments apply to all Parts of the Regulation (Definitions, Part-ARO, Part-ORO, Part-CAT, Part-SPA, Part-NCC, Part-NCO, Part-SPO).

This Opinion includes also the outcome of RMT.0352 on non-commercial operation of aircraft by a holder of an air operator certificate (AOC) proposing to remove the prior approval of the operational procedures used for non-commercial flights when these procedures differ from those employed in a commercial air transport (CAT) operation. It also introduces a regulatory framework to allow the use of aircraft registered on an AOC by other operators for other-than-CAT operations, and as a result, proposes an amendment to Part-M of Regulation (EU) No 1321/2014 (hereinafter referred to as the ‘Continuing Airworthiness Regulation’).

The proposed changes are expected to ensure alignment with ICAO. In addition, through said changes, EASA expects to ensure an efficient and proportionate set of implementing rules (IRs) and acceptable means of compliance (AMC)/guidance material (GM) on air operations and to resolve any inconsistencies identified following the adoption of the Air OPS Regulation, reflecting thus the state of the art and best practices in the fields concerned. The addition to the maintenance programme in Part-M mirrors the changes to the operational requirements brought about by RMT.0352. For information, EASA developed the related draft AMC/GM which are published for information together with this Opinion.

Action area:	Safety: Emerging issues ¹ ; airlines ²		
Affected rules	Regulation (EU) No 965/2012 ^{1&2} , Part-M of Regulation (EU) No 1321/2014 ²		
Affected stakeholders	All operators and NAAs ^{1&2} ; continuing airworthiness management organisations (CAMOs) ²		
Driver	Safety ^{1&2} ; Efficiency/proportionality ²	Rulemaking group:	Yes ² ; No ¹
Impact assessment	Light RIA for NPA 2015-18 (C) and NPA 2015-05. No RIA for NPA 2015-18 (A) and NPA 2015-18 (B)	Rulemaking Procedure:	Standard ^{1&2}

EASA rulemaking process milestones



6.10.2014¹
4.12.2013²

27.11.2015¹
30.3.2015²

29.06.2017

2018/Q2

2019/Q2



Table of contents

1. About this Opinion.....	3
1.1. How this Opinion was developed.....	3
1.1.1. RMT.0516 — consultation on the proposed changes to the implementing rule (IR)	4
1.1.2. RMT.0516 — consultation on the proposed changes to the AMC/GM	5
1.1.3. RMT.0516 — consultation on the proposed changes to passenger seating and briefing provisions 5	5
1.1.4. RMT.0352 — consultation on the proposed changes.....	6
1.2. The next steps.....	9
2. In summary — why and what.....	10
2.1. Why we need to change the rules — issue/rationale	10
2.1.1. RMT.0516 — Update of the rules on air operations.....	10
2.1.2. RMT.0352 — Non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder	10
2.2. What we want to achieve — objectives	13
2.3. How we want to achieve it — overview of the proposals.....	13
2.3.1. RMT.0516 — Update of the rules on air operations.....	13
2.3.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder	13
2.4. How we address safety recommendations (SRs)	15
2.4.1. RMT.0516 — Update of the rules on air operations.....	15
2.4.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder	17
2.5. What are the stakeholders' views — outcome of the consultation on the proposed changes (RMT.0516).....	18
2.5.1. Feedback and responses to open questions	18
2.5.2. Proposed changes to Article 6(3) of the Air OPS Regulation	19
2.5.3. Proposed changes to Annex I (Definitions).....	20
2.5.4. Proposed changes to Part-ARO.....	20
2.5.5. Proposed changes to Part-ORO	21
2.5.6. Proposed changes to Part-CAT	25
2.5.7. Proposed changes to Part-SPA	25
2.5.8. Proposed changes to Part-NCC.....	25
2.5.9. Proposed changes to Part-NCO	26
2.5.10. Proposed changes to Part-SPO	26
2.6. What are the expected benefits and drawbacks of the proposals	26
2.6.1. RMT.0516 — Update of the rules on air operations.....	26
2.6.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder	26
2.7. How do we monitor and evaluate the rules.....	27
2.7.1. RMT.0516 — Update of the rules on air operations.....	27
2.7.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder	27
3. References	28
3.1. Affected regulations	28
3.2. Related decisions.....	28
3.3. Other reference documents	29
4. Appendices.....	31



1. About this Opinion

1.1. How this Opinion was developed

The European Aviation Safety Agency (EASA) developed this Opinion in line with Regulation (EC) No 216/2008¹ and the Rulemaking Procedure².

These rulemaking activities are included in the EASA [5-year Rulemaking Programme](#) under RMT.0516 and RMT.0352. The scope and timescales of the task were defined in the related ToR³ & ⁴.

Regarding RMT.0516, the *draft* text of this Opinion has been developed by EASA. All interested parties were consulted through NPA 2015-18, which was divided into NPAs (A), (B) and (C)⁵, on the 'Update of the rules on air operations', with NPA 2015-18 (C) focusing on passenger seating and briefing.

Regarding RMT.0352 on non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder, the *draft* text of this Opinion has been developed by EASA based on the input of Rulemaking Group (RMG) RMT.0352 (OPS.075 (a) & (b)). All interested parties were consulted through NPA 2015-05⁶.

EASA has addressed and responded to the comments received to the NPAs 2015-18 (A), (B) and (C). The comments received and the EASA responses thereto are presented in Comment-Response Documents (CRDs) 2015-18 (A), (B) and (C)⁷. The comments received to NPA 2015-05 (stemming from RMT.0352 and the individual responses thereto are presented in CRD 2015-05.

As regards RMT.0516, the *final* text of this Opinion and the draft regulation have been developed by EASA. As regards RMT.0352, the *final* text of this Opinion and the draft regulation have been developed based on the input of RMG RMT.0352 (OPS.075(a)&(b)) and the Member States. Since a part of the rules (ORO.GEN.310) was developed after the closing of the public consultation period, particularly to address several comments on NPA 2015-05, a focused consultation with the Review Group for NPA 2015-05 was organised. For the final draft of these rules, a focused consultation with the competent authorities (CAs) took place at a later stage. The comments received to ORO.GEN.310 have not been included in the CRD, as there was no reference to it in the draft text proposed through the NPA; however, responses to said comments have been provided to the commentators.

The draft rule text proposed by EASA is published on the EASA website⁸.

The major milestones of this rulemaking activity are presented on the title page.

¹ Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1467719701894&uri=CELEX:32008R0216>).

² EASA is bound to follow a structured rulemaking process as required by Article 52(1) of Regulation (EC) No 216/2008. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the 'Rulemaking Procedure'. See MB Decision No 18-2015 of 15 December 2015 replacing Decision 01/2012 concerning the procedure to be applied by EASA for the issuing of opinions, certification specifications and guidance material. (<http://www.easa.europa.eu/the-agency/management-board/decisions/easa-mb-decision-18-2015-rulemaking-procedure>)

³ <http://www.easa.europa.eu/system/files/dfu/ToR%20to%20RMT.0516%20AND%20RMT.0517%20-%20Issue%202.pdf>

⁴ <http://www.easa.europa.eu/document-library/terms-of-reference/tor-ops075-and-b-rmt0352-rmt0353-issue-1>

⁵ In accordance with Article 52 of Regulation (EC) No 216/2008 and Articles 5(3) and 6 of the Rulemaking Procedure.

⁶ In accordance with Article 52 of Regulation (EC) No 216/2008 and Articles 5(3) and 6 of the Rulemaking Procedure.

⁷ <http://easa.europa.eu/document-library/comment-response-documents>

⁸ <http://easa.europa.eu/document-library/opinions>



1.1.1. RMT.0516 — consultation on the proposed changes to the implementing rule (IR)

NPA 2015-18 (A), which contained the proposed changes to the IR, attracted 311 comments. Comments were submitted by 43 commentators, including EU national aviation authorities (NAAs), air operators and several associations.

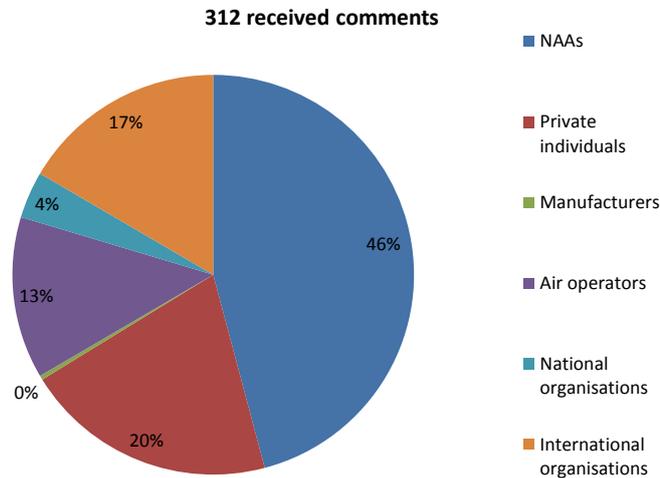


Figure 1: Distribution of the comments received on NPA 2015-18 (A)

In summary, 78 comments were accepted or partially accepted by EASA, and 198 comments were noted, while only 35 comments were not accepted. The high number of noted comments results from the responses to the open questions, where EASA notes the comments made. EASA agrees with the commentators, who requested that many of the questions should be addressed in a horizontal rulemaking task cover all domains. Therefore, the responses to those questions will be taken into account in a future rulemaking task (RMT.0706).

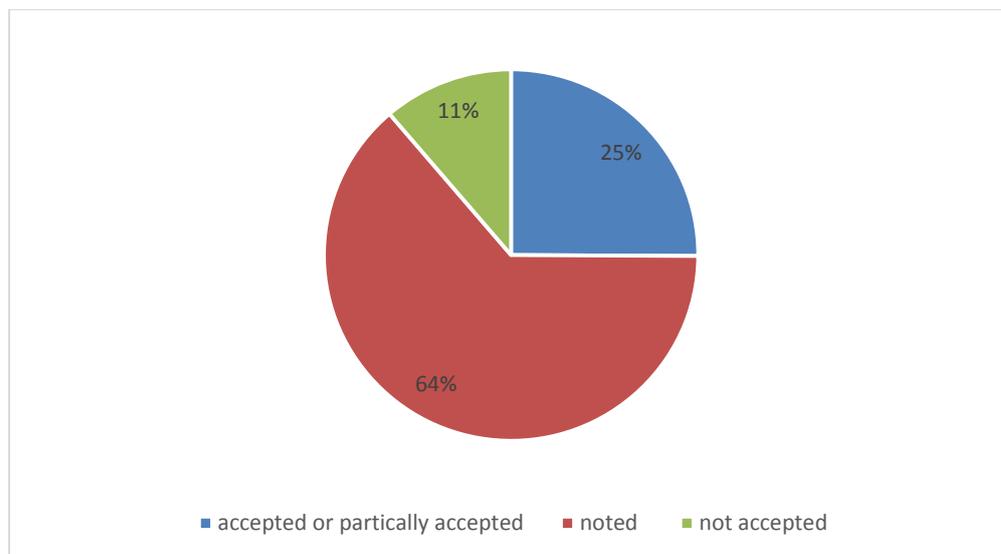


Figure 2: Distribution of the responses to the comments on NPA 2015-18 (A)

1.1.2. RMT.0516 — consultation on the proposed changes to the AMC/GM

NPA 2015-18 (B), which contained the proposed changes to the AMC/GM attracted 275 comments by 36 commentators, including EU NAAs, aircraft manufacturers, air operators and several associations.

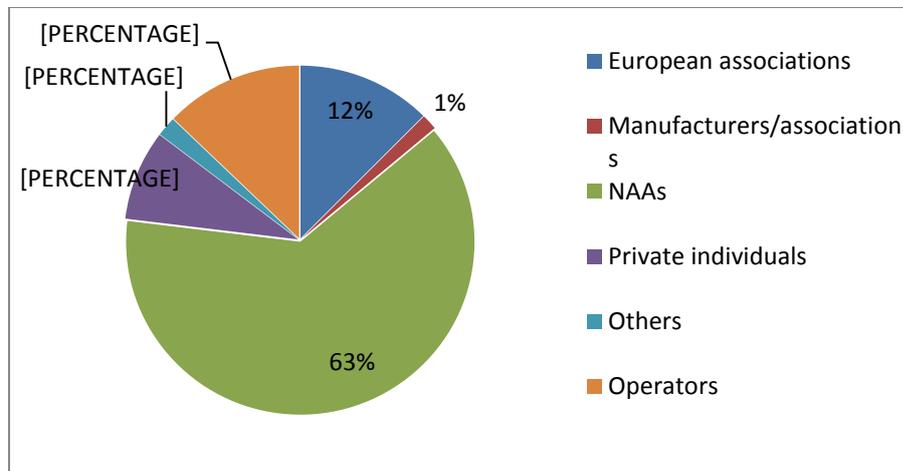


Figure 1: Distribution of the comments received on NPA 2015-18 (B)

In summary, 110 comments were accepted or partially accepted by EASA, and 123 comments were noted. Only 42 of the comments received were not accepted. A small number of comments were duplications.

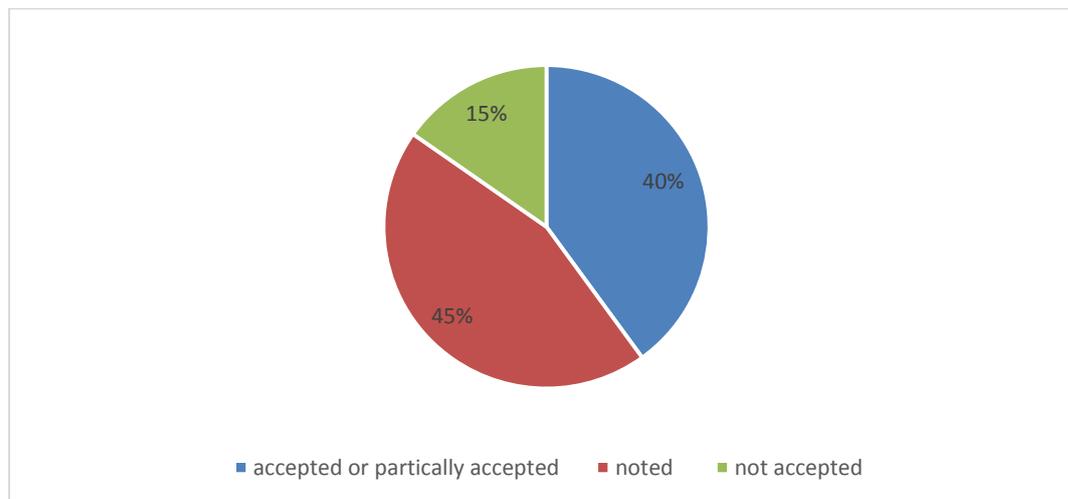


Figure 2: Distribution of the responses to the comments on NPA 2015-18 (B)

1.1.3. RMT.0516 — consultation on the proposed changes to passenger seating and briefing provisions

NPA 2015-18 (C) included the proposed changes to passenger seating and briefing provisions. In total, 75 comments were received from 23 interested parties, including EU NAAs, one non-EU NAA, organisations/associations, individual air operators and one private individual. 17 comments were accepted, 15 were partially accepted, 31 comments were noted, and 12 comments were not accepted.

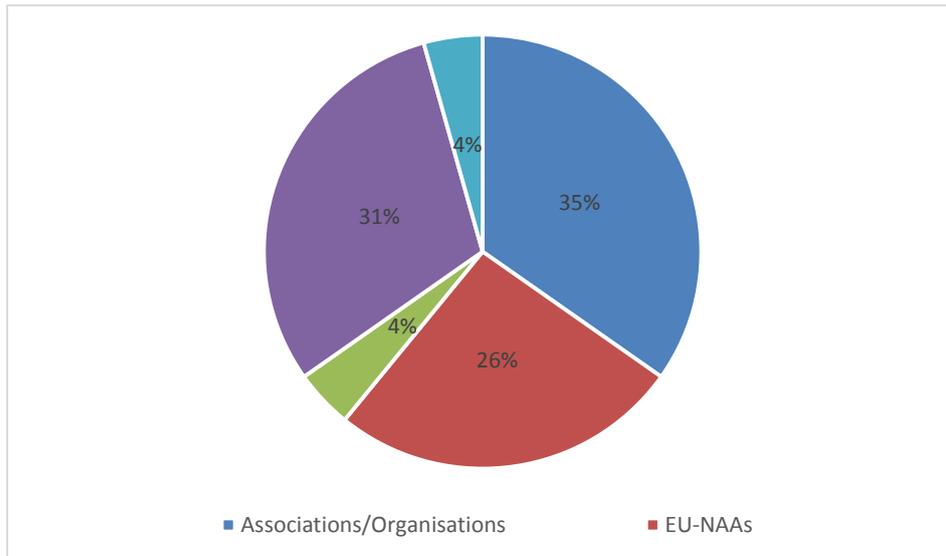


Figure 1: Distribution of the comments received on NPA 2015-18 (C)

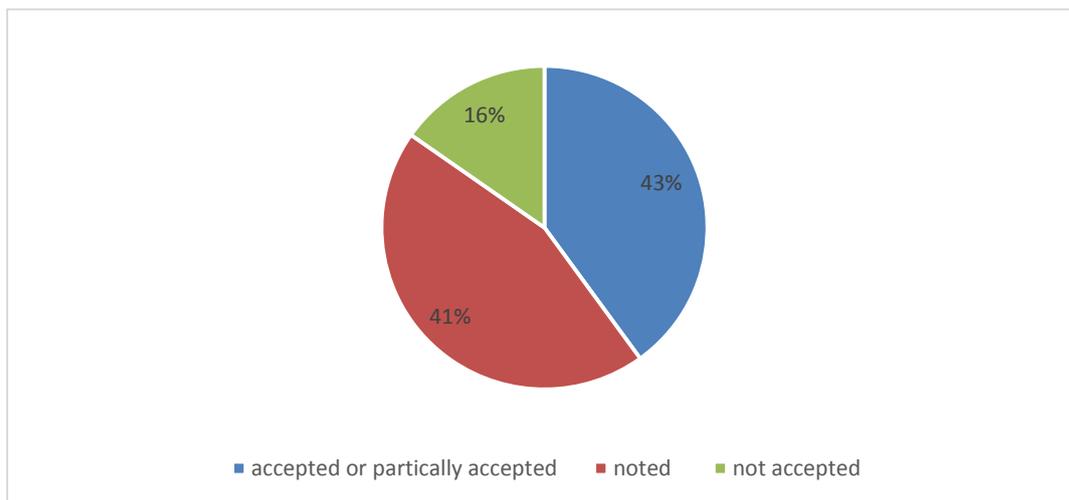


Figure 2: Distribution of the responses to the comments on NPA 2015-18 (C)

1.1.4. RMT.0352 — consultation on the proposed changes

NPA 2015-05 received 92 comments from 21 commentators, of which 10 competent authorities, 4 air operators, 4 air operator associations, 1 aircraft manufacturer, 1 aircraft delivery company, and Eurocontrol.

The bar chart below shows the number of commentators by category (NAAs, air operators, etc.).

Chart 1: Categories of commentators

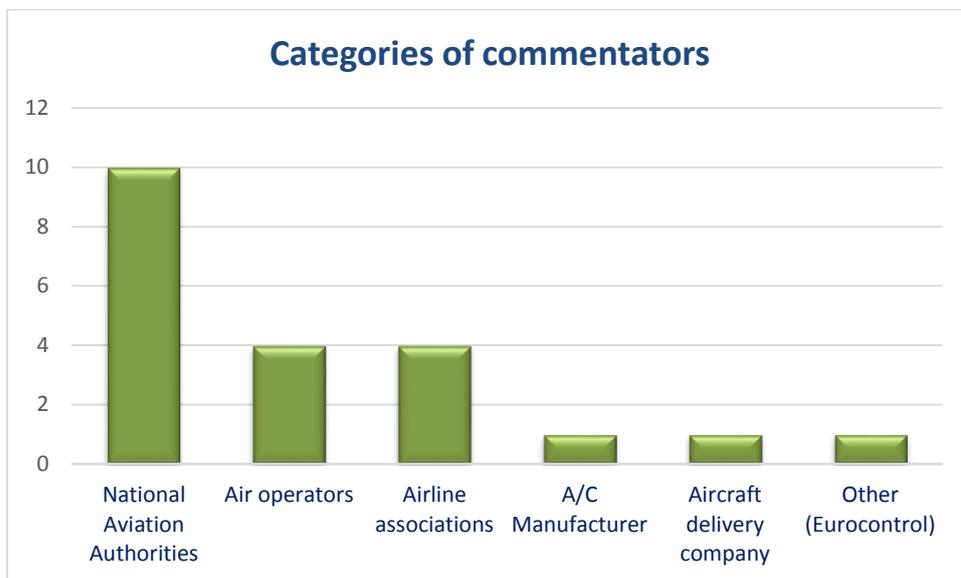
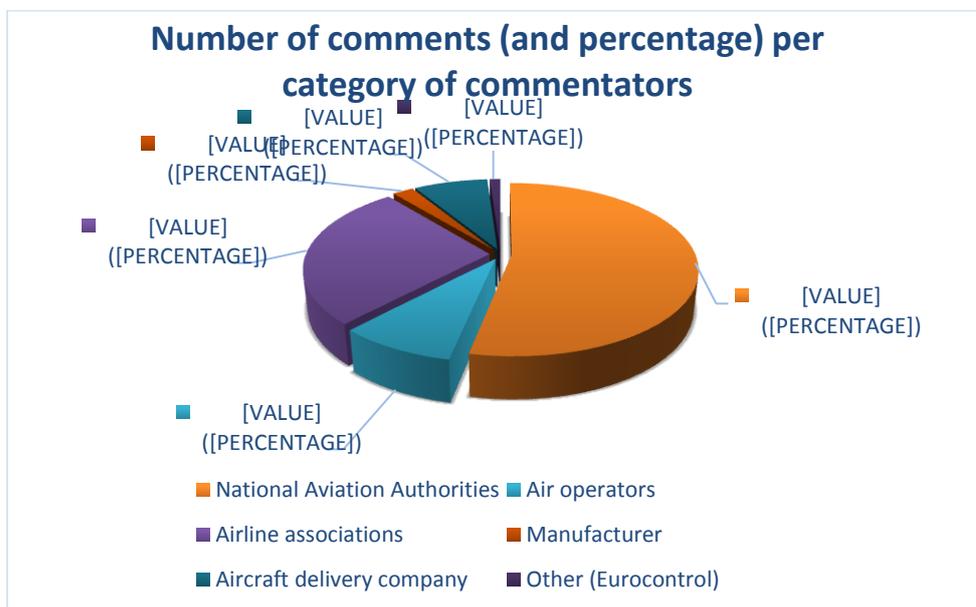


Chart 2 shows the number and proportion of the comments submitted by each category of commentators:

Chart 2: Number and percentage of comments submitted by each category of commentators

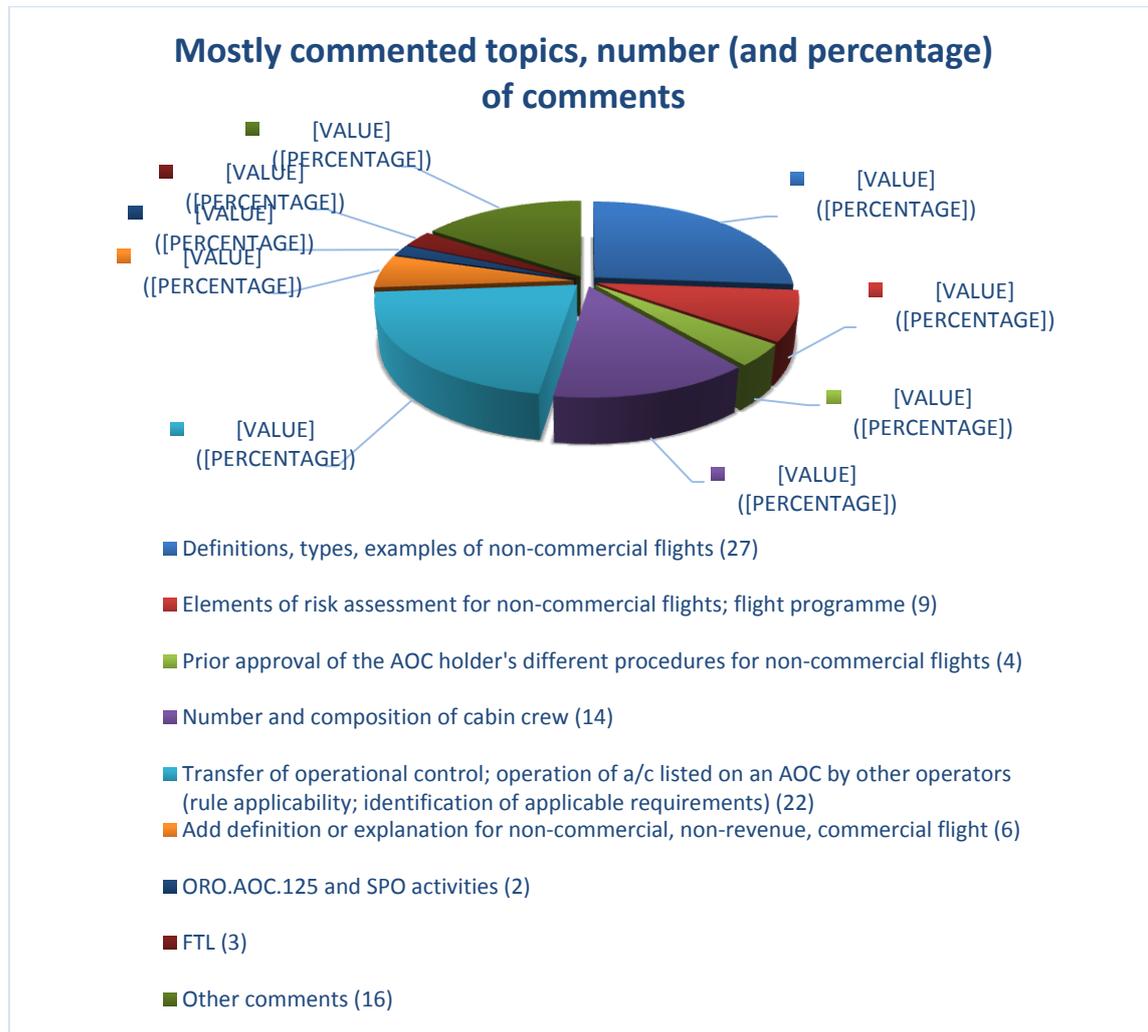


Most comments were submitted by national aviation authorities (49 out of 92, representing 53 % of the total number of comments), followed by industry representatives (airline associations), in a proportion of 27 % (25 out of 92 comments). The other categories of commentators submitted a smaller number of comments, resulting in a smaller percentage per each category (below 10 %).

The areas/topics which were most commented — and which clearly indicated their relevance to stakeholders — are shown in the chart below.



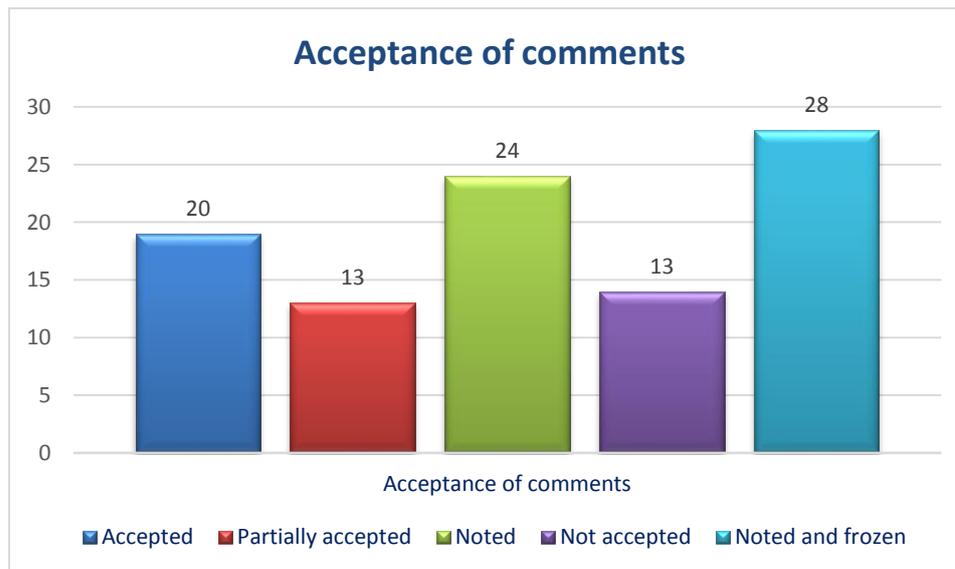
Chart 3: Number (and percentage) of comments received to the main topics commented by stakeholders



Some comments addressed more than one topic — that is why the sum of comments in this chart is higher than the total number of comments inserted in the CRT (98 comments compared to 92 comments numbered in CRT). ‘Other comments’ include those that were outside the scope of this RMT, those taking notice of this RMT but requiring no change to the content, those related to other topics addressed in this RMT, which, too, required no change to the proposed text, and those providing statements (comparison with other regulatory systems).

The chart below shows the statistics of comment acceptance. For the comments that referred to several issues (on the same topic or on different topics), with different degrees of acceptance, the general status has been set as ‘partially accepted’. The comment received from Austro Control was the only one in which each topic was counted separately (thus having 7 answers), due to the significant number of topics addressed in a single comment in CRT. Thus, the total number of comments shown in the chart is 98, to which the answers were distributed as shown below:

Chart 4: Acceptance of comments



More information on the analysis of comments, together with the individual comments on the NPA and the associated responses are provided in CRD 2015-05.

1.2. The next steps

This Opinion contains the proposed amendments to the Air OPS Regulation⁹ as well as to the Continuing Airworthiness Regulation¹⁰ and their potential impacts. It is submitted to the European Commission to be used as a technical basis in order to prepare an EU regulation. For information, EASA published the draft text of the associated EASA decision containing AMC/GM. The final decision amending the AMC/GM related to the proposed changes contained in this Opinion will be published by EASA once the European Commission has adopted the related regulation.

⁹ Commission Regulation (EU) No 965/2012 of 5 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 (OJ L 296, 25.10.2012, p. 1) (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:296:0001:0148:EN:PDF>).

¹⁰ Commission Regulation (EU) No 1321/2014 of 26 November 2014 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 362, 17.12.2014, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1487930643348&uri=CELEX:32014R1321>).



2. In summary — why and what

2.1. Why we need to change the rules — issue/rationale

2.1.1. RMT.0516 — Update of the rules on air operations

The Air OPS Regulation was adopted in 2012 and, following a transition period, has been applied in the Member States since 28 October 2014. Through feedback received from safety recommendations, stakeholders, including the Member States and standardisation inspections, it became evident that the rules should be updated to ensure that the Air OPS rules reflect the state of the art and the best practices in the subject field.

Regarding passenger seating and briefing, the Regulation does not include a definition of an emergency exit. The introduction of a new definition in Annex I (Definitions) to the Air OPS Regulation is proposed. It concerns the egress points from the aircraft which the Air OPS Regulation and the related ED Decisions refer to with inconsistency. The inclusion of a new definition will ensure a common understanding of the meaning of an emergency exit. Furthermore, the current text of point (b) of CAT.OP.MPA.170, which was transposed from Regulation (EEC) No 3922/91¹¹ (as amended by Regulation (EC) No 859/2008¹²), commonly referred to as ‘EU-OPS’, only refers to ‘emergency equipment’. However, ED Decision 2014/017/R¹³ differentiates between ‘safety equipment’ and ‘emergency equipment’. Practice shows that operators’ safety briefing cards have always displayed both safety and emergency equipment. This Opinion proposes an editorial correction to include ‘safety equipment’ in CAT.OP.MPA.170. EASA has not received any comments on this item during the NPA public consultation.

2.1.2. RMT.0352 — Non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder

RMT.0352 is the response to two safety recommendations (SRs) addressed to EASA by the French Bureau d’Enquêtes et d’Analyses (BEA) with regard to an Airbus A320-232 accident on 27 November 2008. The accident occurred off the coast of Canet-Plage (France) during a flight to check the systems at the end of a lease agreement and is referred to as the ‘Perpignan accident’¹⁴.

Changes to ORO.AOC.125

The requirement in ORO.AOC.125 ‘Non-commercial operations of aircraft listed in the operations specifications (OpSpecs) by the holder of an AOC’ applies to ‘non-commercial operations with an aircraft otherwise used for CAT operations that is listed in the OpSpecs of its AOC’. The rule states that the AOC holder’s operations manual (OM) must include ‘the identification and a description of the applicable requirements; a clear identification of any difference between operating procedures used

¹¹ Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1476353762985&uri=CELEX:31991R3922>).

¹² Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (OJ L 254, 20.9.2008, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008R0859&qid=1476107391424>).

¹³ <http://www.easa.europa.eu/document-library/agency-decisions/ed-decision-2014017r>

¹⁴ BEA Report on the accident on 27 November 2008 off the coast of Canet-Plage (66) to the Airbus A320-232 registered D-AXLA operated by XL Airways Germany. ISBN: 978-2-11-098614-6. SRs: FRAN-2009-003 and FRAN-2009-004. Report available at <https://www.bea.aero/docspa/2008/d-la081127.en/pdf/d-la081127.en.pdf>



when conducting commercial and non-commercial operations', as well as 'a means of ensuring that all personnel involved in the operation are fully familiar with the associated procedures'. The different operating procedures must be submitted to the CA for prior approval.

These high-level provisions were introduced in the Air Ops Regulation to cover the period until the launch of this rulemaking task, which would examine the issue in more detail.

The current rules have only a short list of non-revenue flights performed by an AOC holder (Chapter 8.7 of an OM-A, in the current AMC3 ORO.MLR.100). Far from requiring an exhaustive list of the kind, there is a clear need for proper identification of the types of non-commercial flights to which ORO.AOC.125 applies.

Concerning the operational framework and the applicable requirements for such flights, different practices are currently used in the EASA Member States: several Member States require full compliance with Part-CAT for all flights; others declare that such flights are to be carried out in accordance with the applicable non-commercial rules; and some apply a mixed system, depending on the flight.

The level of risk involved in various non-commercial operations should be easy to determine, and a clear denomination of these flights should be provided. Non-commercial operations involving different levels of risk may require different preparation. For example, a functional check flight, a positioning flight, and a training flight have different risk profiles. Likewise, certain non-commercial operations have a lower level of operational risk (private flights, leisure flights). Thus, it is not necessary to impose the same demanding requirements on certain non-commercial flights as on the CAT operations when the NCC/NCO set of rules already ensures the appropriate level of safety. Therefore, an operator should perform a risk assessment of its non-commercial flights and develop appropriate mitigation measures for each type of flight. The rule needs to be specific enough to provide this flexibility to operators so that they can address both higher and lower levels of risk proportionately.

Another element of change in ORO.AOC.125 is the removal of the requirement for prior approval of the operational procedures used for non-commercial operations of an AOC holder when they differ from the procedures used for CAT operation. This change is based on the following arguments:

- This action ensures the same approach to non-commercial operations of an AOC holder as to the non-commercial operations of an NCC operator, which require no prior approval of the operational procedures.
- These operations have to be included in the operator's safety management system according to ORO.GEN.200 'Management system', so they are verified by the CA in this context. The CA monitors the AOC holder's CAT operation through its regular oversight activities, so the AOC holder is already a known and trusted entity to the CA.

EASA is going to issue another Opinion stemming from RMT.0393, on maintenance check flights, which will also propose the amendment of ORO.AOC.125. EASA and the European Commission will ensure coherence between this Opinion and the RMT.0393 Opinion when the regulation encompassing all the proposed changes is adopted.



Postponing the publication of a part of the RMT.0352 outcome related to the definitions and classification of non-commercial flights

Considering the changes that the new EASA Basic Regulation (current Regulation (EC) No 216/2008¹⁵) will bring about, whereby it is foreseen that the definition of commercial operation is removed, the entire structure of the rules based on the dichotomy commercial–non-commercial operation will have to be revised and changed. This change will allow a future regulatory action based on risks and performance, while the commercial aspect will only represent a secondary criterion. The specific criteria allowing CAs to establish whether a particular activity is commercial (or non-commercial) will be laid down in the IRs. EASA intends to avoid proposing rules that may no longer be valid in the proposed formula soon after their entry into force.

Given all these considerations, the publication of the definitions and further classification of the non-commercial flights proposed in NPA 2015-05 (with further improvement suggested by the comments received) will be stored until the new Basic Regulation has been adopted.

Introducing a new rule for the use of aircraft included in the AOC by other operators for other-than-CAT operations (ORO.GEN.310, NCC.GEN.101 and NCO.GEN.104)

To respond to the current needs of the industry, an extension towards allowing other-than-CAT operation of aircraft included in an AOC by other operators has been added to the proposal presented in NPA 2015-05. This way, EASA addresses the comments submitted to NPA 2015-05 and also the significant number of requests received from stakeholders.

One question often received by EASA was related to the rules that should apply when the aircraft included in an AOC is used by another operator for operations which are other than CAT; since this is a usual way of operating an aircraft in communities of smaller operators, the lack of a regulatory framework was felt more acutely than in the world of legacy carriers. There is currently no legal framework at EU level for such operation or for the assurance of continuing airworthiness of the aircraft when used by other operators. Furthermore, there is no clear indication in the Air OPS Regulation that a shift of operational control from the AOC holder to another operator, for other-than-CAT operations of aircraft included in the AOC, may even be allowed.

In a mixed operation, more than one operator uses the same aircraft to perform various types of flights to which different operational rules apply. For example, an aircraft may be used in the morning by the AOC holder for a CAT flight, in the afternoon by an ATO for a training flight performed in accordance with Part-NCC, and in the next morning, by an SPO operator for commercial aerial work performed as per Part-SPO or by the owner of the aircraft, which may be a different NCC operator. Sometimes, such combined use of the same aircraft takes place within a short period (a day, a week, etc.). Such an operation cannot be conducted on an ad hoc basis, since removing the aircraft from the AOC for every flight performed by a different operator requires advanced planning and an additional administrative layer – often costly for operators – involving the CA and a change in the AOC.

¹⁵ Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1467719701894&uri=CELEX:32008R0216>).



Note 6 of the OpSpecs form (EASA Annex II Form 139) — which allows an AOC holder to write the registration marks of the aircraft in its OM, thus enabling the occasional use of the aircraft by another operator without removing it from the AOC — is used less frequently.

Alleviation from cabin crew requirements ORO.CC.100 for non-commercial operations with large aircraft (MOPSC above 19) and maximum 19 passengers

Another issue that has called for a change is related to the non-commercial operation of large aircraft (with an MOPSC of more than 19) with no operating cabin crew when there are maximum 19 passengers on board.

Currently, the provisions of ORO.CC.100 — applicable to all operations — state that ‘at least one cabin crew member shall be assigned for the operation of aircraft with an **MOPSC of more than 19** when carrying one or more passenger(s)’. This implies that no cabin crew (CC) is required for the operation of aircraft with an MOPSC of maximum 19, carrying maximum 19 passengers, even when it is a commercial operation. In other words, the CC requirements for NCC operation with maximum 19 passengers seem to be more restrictive than the requirements for CAT operation, also with maximum 19 passengers, if the aircraft MOPSC is above 19. The change in the new point ORO.CC.100(d) provides the possibility for an operator to perform flights in the conditions described above with no operating CC on board, provided that it properly mitigates the absence of a cabin crew.

2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2.

The specific objective of this proposal is to ensure state of the art rules that reflect feedback from standardisation inspections and from stakeholders.

2.3. How we want to achieve it — overview of the proposals

2.3.1. RMT.0516 — Update of the rules on air operations

This Opinion proposes an update of the Air OPS rules.

2.3.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder

Annex II (Part-ARO)

Appendix II ‘Operations Specifications’, footnote #21 is modified to remove the last reference to aircraft used for non-commercial operations, as the requirement for prior approval for these operations is proposed to be removed from ORO.AOC.125. The change is made for consistency reasons with the amendment to ORO.AOC.125.

Annex III (Part-ORO)

New ORO.GEN.310

A new requirement is proposed to cover the use of aircraft included in the AOC by other operators and by flight training organisations, for operations performed in accordance with Part-NCC, Part-NCO or Part-SPO. The new ORO.GEN.310 proposes a set of regulatory requirements with which operators



using an aircraft registered on an AOC must comply in order to maintain the required level of safety of operation.

As this new rule contains detailed provisions on the operation of aircraft rather than addressing generalities, it could not be properly fit in either Section 1 or Section 2 of Subpart ORO.GEN. Therefore, the new Section 3 starting the ORO.GEN.300 series has been created. Section 3 will include additional requirements applicable to air operators. This structure will also ensure that consistency of ORO.GEN with the other aviation regulations having a similar structure for the organisation requirements will be preserved.

The requirement is added in this new section also because it is applicable not only to AOC holders, but to NCC operators and SPO operators as well. An equivalent requirement (NCC.GEN.101) is added in Subpart A of Part-NCC particularly to be applicable to flight training organisations operating with complex motor-powered aircraft, and in Subpart A of Part-NCO (NCO.GEN.104) for the operators and organisations that have to comply with Part-NCO.

Changes to ORO.AOC.125

It is considered that ORO.AOC.125 containing the requirements for non-commercial operations of the AOC holder contains enough elements to ensure safety and flexibility and requires no significant changes, but rather new AMC/GM to clarify the intent of ORO.AOC.125 and how it should be implemented.

Consequently, only a few changes are made to this rule, to improve clarification and reduce the regulatory burden, as follows:

- ORO.AOC.125 now includes the reference to the OM, as an alternative place where an AOC holder may list the registration marks of the aircraft in its fleet, as per Note 6 in the operations specifications.
- The requirement for prior approval of the different procedures used by the AOC holder for its non-commercial flights is removed.
- The requirement to specify the type of non-commercial flight in the flight documentation (operational flight plan, loadsheet, etc.) is added.

Changes to ORO.CC.100: new point (d)

The new point (d) in ORO.CC.100 introduces an alleviation from the operational requirements: an operator (AOC holder or NCC operator) may conduct a non-commercial flight with no assigned cabin crew on board a large aircraft (with an MOPSC above 19) on certain conditions: to carry maximum 19 passengers on board and to implement additional mitigation measures in order to ensure appropriate protection of the passengers on board (new AMC & GM to ORO.CC.100(d) detail these conditions). The rule proposal also states that this alleviation may only be applied when the STC does not specify otherwise.

The number of maximum passengers on board a large aircraft is proposed to be 19, equal to the maximum number of passengers on an aircraft with an MOPSC of 19 or less — for which there is no requirement to assign cabin crew, even on a commercial flight.



Annex VI (Part-NCC)New NCC.GEN.101

The new NCC.GEN.101 is added in order to cover the applicability of ORO.GEN.310 to flight training organisations that must comply with Part-NCC.

Annex VII (Part-NCO)New NCO.GEN.104

An equivalent requirement as the one in the new proposed rule ORO.GEN.310, applicable to operators and training organisations required to comply with Part-NCO, is introduced. NCO.GEN.104 specifies the procedure that such operators should have in order to benefit from the use of an aircraft included in an AOC for operations performed in accordance with Part-NCO, without the AOC holder having to remove the aircraft from its AOC.

Commission Regulation (EU) No 1321/2014

The new point (k) is added in M.A.201 of Annex I (Part-M) to Commission Regulation (EU) No 1321/2014¹⁶. With this amendment to Part-M, the operator using an aircraft included in an AOC for other-than-CAT operations under the terms of the proposed new requirement of ORO.GEN.310 and NCO.GEN.104 must ensure that the tasks associated with continuing airworthiness are performed by the CAMO of the AOC holder.

2.4. How we address safety recommendations (SRs)**2.4.1. RMT.0516 — Update of the rules on air operations**

Several SRs, arising from accident investigations, have been evaluated by EASA within the context of RMT.0516 and the outcome is described in CRD 2015-18 (B). The solutions proposed in SRs do not have an impact on the IRs, but are addressed through proposed AMC/GM, published with this Opinion for information purposes.

An overview of how EASA has addressed those SRs that are linked to draft AMC/GM associated with rules proposed through this Opinion, is shown below.

The following table summarises the outcome of the Agency's assessment of SRs that were addressed within the context of RMT.0516.

DENM-2012-004, HUNG-2012-004, ITAL-2012-009	Safety Recommendation: EASA to consider the need to harmonize 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 owned by operators the amendments approved by EASA.
	References: DENM-2012-004: Final Report on the serious incident to accident to Avions de Transport Régional ATR72-212A, Registration OY-CIM, at Copenhagen Airport, Kastrup

¹⁶ Commission Regulation (EU) No 1321/2014 of 26 November 2014 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 362, 17.12.2014, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1490852745310&uri=CELEX:32014R1321>).



	<p>(EKCH), Denmark, on 13 September 2011, issued by the Danish Accident Investigation Board Aviation Unit (Ref. HCLJ510-2011-11).</p> <p>HUNG-2012-004: Final Report on the serious incident to ATR42-500, Registration YR-ATG, at Budapest, on 17 June 2011, issued by the Hungarian Transportation Safety Bureau on 11 January 2016 (Ref. 2011-120-4P).</p> <p>ITAL-2012-009: Investigation on the serious incidents to PW127 engines installed on ATR 42/72 aircraft, such as the ATR72-212A, registered I-ADCC, at Firenze Airport, Peretola (LIRQ), on 03 October 2011, issued by the ANSV on 26 July 2012.</p>
	<p>Outcome: The existing EU provisions already require all commercial operators and operators of complex motor-powered aircraft to conduct operations in accordance with their operations manual which must be compliant with the approved flight manual (i.e. the AFM) and shall be amended as necessary (see points 4.a and 8.b of Annex IV to Regulation (EC) No 216/2008). This requires operators to apply changes stemming from AFM amendments as soon as is reasonably practicable; in other words, in a timely manner. Additional defences are also already provided through provisions on operators' and competent authority's management systems (see ORO.GEN.200 and ARO.GEN.200 of the Air OPS Regulation) and on the oversight obligations of the competent authority (see ARO.GEN.300 of the Air OPS Regulation) as well as through EASA standardisation inspections (see Regulation (EU) No 628/2013¹⁷). The Agency has, therefore, concluded that additional, more prescriptive provisions would not bring additional safety benefits in respect of the timely implementation of AFM changes by the operator.</p>
<p>GERF-2006-009, UNKG-2005-148</p>	<p>Safety Recommendation GERF-2006-009: Aircraft de-icing to maintain the airworthiness of aircraft during winter operation should be accomplished by certified and approved companies under the supervision of civil aviation authorities. If aircraft de-icing is not accomplished by an operator or an approved maintenance organisation the ground service "aircraft de-icing" should be subject to appropriate aeronautical regulation. EASA should agree with the European National Authorities on establishing such regulations.</p> <p>Safety Recommendation UNKG-2005-148: It is recommended that prior to the European Aviation Safety Agency assuming responsibility for operational matters within Europe, they consider the future need for the training and licencing of companies who provide a de/anti-icing service, so that anti-icing fluids are applied in an appropriate manner on all aircraft types, but specifically to ensure that the entry of such fluids into flight control mechanisms and control surfaces is minimised.</p> <p>Reference GERF-2006-009: Investigation Report on the serious incident to Bae 146-300 at Stuttgart on 12 March 2005, issued by the German Federal Bureau of Aircraft Accidents Investigation in November 2006 (Ref. 5X007-0/05).</p> <p>Reference UNKG-2005-148: AAIB Bulletin No: 4/2006 on Avro 146-RJ100, G-CFAC and others, issued by the UK AAIB in 2006 (Ref. EW/GC2005/03/09).</p>

¹⁷ Commission Implementing Regulation (EU) No 628/2013 of 28 June 2013 on working methods of the European Aviation Safety Agency for conducting standardisation inspections and for monitoring the application of the rules of Regulation (EC) No 216/2008 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 736/2006 (OJ L 179, 29.6.2013, p. 46) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1490853048138&uri=CELEX:32013R0628>).



	<p>Outcome: Today, de-icing service providers are outside the scope of the Basic Regulation. Nevertheless, as operators are responsible for the monitoring of third party providers including de-icing service providers, the Agency intends to promote the use of pooled audits by operators. Therefore, new AMC2 ORO.GEN.205, on pooled audits between operators has been proposed by the Agency through this Opinion.</p>
SPAN-2009-025	<p>Safety Recommendation: It is recommended that the EASA, as regards aerial work operators involved in single-pilot activities and so as to emphasize the need to be aware of the intrinsic risks resulting from the interruption of pre-flight processes or normal checks, ensure that the operational procedures include those mechanisms intended to guarantee that the processes and checks to be conducted by crews prior to takeoff, and which are suspended at any point, are restarted from a safe point prior to the interruption.</p>
	<p>Reference: Accident Report on the accident involving a PZL M-18A Dromader aircraft, registration EC-FBI, in the vicinity of Castellon aerodrome, on 07 October 2006, issued by the CIAIAC (Ref. A-059/2006).</p>
	<p>Outcome: Depending on the specific nature of the undertaking, aerial work operations in EASA Member States are governed by Part-SPO (specialised operations) or Part-NCO (non-commercial operations with other-than complex motor-powered aircraft) of the Air OPS Regulation. However, it should be noted that, although the Air OPS Regulation has been applicable since 28 October 2012, by way of derogation, Member States may have elected not to apply Part-SPO or Part-NCO for specialised operations until 21 April 2017, with national legislation applying in the meantime. According to Part-SPO/Part-NCO, the operator/pilot-in-command is required to carry out a risk assessment and establish standard operating procedures (SOPs)/checklists to mitigate the risks related to their specific activity (see SPO.OP.230 and NCO.SPEC.105). This should address interruption of pre-flight processes or normal checks. The Agency has, therefore, concluded that additional, more prescriptive provisions would not bring additional safety benefits in respect of interrupted pre-flight processes or normal checks. Therefore, this Opinion does not include a proposed change, because the existing set of rules are deemed to be sufficient.</p>

2.4.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder

Part of the response to the two SRs in the context of RMT.0352 is postponed due to the new approach towards commercial versus non-commercial operation in the future Basic Regulation; the definitions and classifications of non-commercial (non-revenue) flights of an AOC holder will not be published until the new Basic Regulation will have been adopted. Another part of the response to the SRs will be included in the AMC/GM to the ED Decision. The solutions proposed to respond to the SRs do not have an impact on the IRs proposed in this Opinion.



2.5. What are the stakeholders' views — outcome of the consultation on the proposed changes (RMT.0516)

This chapter summarises the comments and concerns that were raised during the consultation of NPA 2015-18 (A) on changes to the IR and NPA 2015-18 (B) on changes to the AMC/GM.

2.5.1. Feedback and responses to open questions

Open question No 1 on the order of the Operations Manual (OM) contained in AMC3 ORO.MLR.100

Many stakeholders stated that the order of the OM should remain unchanged and did not agree with the EASA proposal to remove the requirement of a standard order of the OM. They stated that introduction of a flexible/individual table of contents on hand increases the review workload for authorities tremendously, and therefore, a harmonised application of rules throughout Europe is supported. EASA agrees and has refrained from making any changes to the AMC relating to the order of the OM.

Open question No 2 on the option of one ACCOUNTABLE MANAGER for several AOC holders

Stakeholders' responses were mixed. Some mentioned that NAAs increasingly witness a distance between AOC holders and their top management, as well as the increased complexity of these organisations/business models. NAAs stated that with regard to some AOC holders they witness an increased complexity of managing several organisations, and are concerned about the interface between the holding company's top managers and the AOC holders; especially if they are located in different countries. Eventually, such a distance between AOC holders and their top management could lead to weaker operational control of these organisations. From an authority perspective, the distance, the increased complexity, and possible cultural differences between the different AOC holders render it more difficult for the authority to perform a continuing oversight over these organisations.

Following the comments received, EASA maintained its proposed AMC/GM on clarifying the role of the accountable manager. Regarding the comments suggesting additional proposals, EASA responds that the existing set of rules and AMC/GM are deemed to be sufficient, and EASA has not included additional proposals whenever an accountable manager is responsible for two AOC holders.

Open question No 3 on the extension of the oversight cycle and the option of new AMC or GM to specify what is an effective continuous reporting system from the AOC holder to the authority, in order to extend the oversight cycle from 36 to 48 months as per ARO.GEN.305(c).

Most stakeholders agreed that additional guidance is necessary. However, the feedback from stakeholders also showed that within NAAs there are already different approaches to measuring whether the operator manages its own risks effectively, allowing a longer oversight cycle. At this point in time, there is no one-size-fits-all solution, and best practices should be gathered and shared between authorities.

Open question No 4 on cooperative oversight

EASA agrees that more guidance is needed. A trial project of NAAs has developed additional recommendations and has shared this experience with all NAAs and EASA standardisation. All



comments from stakeholders have been taken into account during the trial project and have been used to draft the final report. The final report has been published on the EASA website¹⁸.

Open questions Nos 5, 6, and 7 on ORO.GEN.200 Management System

Stakeholders commented that safety management systems (SMS) in different domains should be aligned. At this moment in time, EASA will not propose any changes per domain on the topic. All the feedback gathered will be assessed in the light of a cross-domain assessment of SMS requirements. Stakeholders also agreed that the safety manager has a critical function in the operator. EASA agrees that any changes to qualification requirements for the compliance monitoring manager (CMM) or the safety management (SM) must be aligned with changes in other domains. For this reason, EASA will reassess the need to develop a common approach for all domains regarding the CMM or the SM.

Regarding the need for GM on setting up an effective safety risk management system for operators, stakeholder opinions were divided, and EASA has decided to delete the proposed GM and to issue such information in the form of safety promotion material, applicable to all domains, rather than GM to one domain (OPS).

2.5.2. Proposed changes to Article 6(3) of the Air OPS Regulation

In Regulation (EU) 2017/363¹⁹, the term ‘one-off’ in relation to the ‘flights carrying no passengers or cargo, where the aircraft is ferried for refurbishment, repair, maintenance checks, inspections, delivery, export or similar purposes’ has been included in the Preamble (2nd recital), but is missing in Article 6(3).

This omission creates unintended consequences, namely that an AOC holder has to comply with the national legislation when performing ferry flights or any such similar flights. The intention of this provision is actually meant to cover such flights only when they are performed by operators other than an AOC holder.

For this reason, it is important that the term ‘one-off’ be added to Article 6(3) in relation to these flights.

2.5.3. Proposed changes to paragraph (c) of Article 6(4a) of the Air OPS Regulation

AMC1 to ARO.OPS.300 states that with respect to the meaning of marginal activity, the competent authority should publish criteria specifying to which extent it considers an activity marginal and how this is being overseen. NAAs in feedback provided to EASA stated that the publication of criteria specifying what is considered as a marginal activity, should not only apply to introductory flights, but also to the other activities mentioned in paragraph (c) of Article 6(4a), such as parachute dropping, sailplane towing or aerobatic flights performed either by a training organisation having its principal place of business in a Member State and approved in accordance with Regulation (EU) No 1178/2011, or by an organisation created with the aim of promoting aerial sport or leisure aviation. Therefore, in order to ensure that the criteria for marginal activity are also published for parachute dropping,

¹⁸ Cooperative Oversight Trial report, February 2017, see:

<https://www.easa.europa.eu/document-library/general-publications/cooperative-oversight-trial>

¹⁹ Commission Regulation (EU) 2017/363 of 1 March 2017 amending Regulation (EU) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft (OJ L 55, 2.3.2017, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1490853565531&uri=CELEX:32017R0363>).



sailplane towing or aerobatic flights, this Opinion proposes a change to paragraph (c) of Article 6(4a) and to include a new sentence stating that, 'the competent authority shall publish criteria specifying to which extent it considers an activity marginal and how this is being overseen.' In addition, in order to be consistent, it is proposed to delete the existing AMC1 to ARO.OPS.300.

2.5.4. Proposed changes to Annex I (Definitions)

Definition of 'emergency exit'

This Opinion proposes a definition of 'emergency exit' to be inserted in Annex I to the Air OPS Regulation. It concerns the egress points from the aircraft which the Air OPS Regulation and the related ED Decisions refer to with inconsistency. The proposed definition was supported during the consultation process. Based on one comment, the definition is amended to reflect the evacuation possibilities from the flight crew compartment for flight crew members.

New definition of personnel carrying device systems (PCDSs) — simple PCDS

PCDSs are used as restraint devices at non-seating stations within a helicopter in SPO, NCO.SPEC and SPA.HHO operations, and for the hoisting of personnel and carrying of persons as external loads, as in SPA.HHO, SPO.SPEC.HEC and NCO.SPEC.HEC operations. Certification memorandum CM-CS-005 Issue 01 defines which PCDSs are simple and which are not.

In December 2015, EASA decided that simple PCDSs would no longer be required to be airworthiness approved.

In July 2016, EASA decided that nets used as PCDSs could qualify as simple PCDSs. Both EASA decisions are reducing the need for certification approvals. The definitions of PCDSs and simple PCDSs from the certification memorandum, and the above decisions, are transposed into the Air OPS Regulation.

2.5.5. Proposed changes to Part-ARO

RAMP inspections: removal of Appendix III from Implementing Rules

Appendix III contains the proof of ramp inspection form. By removing it from the IR and moving it into an AMC as a checklist for ramp inspections, it will facilitate future changes to the information that should be contained in a proof of ramp inspection.

RAMP inspections: removal of Appendix IV from Implementing Rules

Discontinue and removal of Appendix IV; this appendix co-existed with Appendix III for the following reasons which are not valid anymore:

- Initially, the Appendix III did not require the category of the finding to be mentioned on the form; today's version and the future version proposed in the AMC does.
- Appendix IV was mainly issued to set the format for the reporting tool in the SAFA database; actually, this approach is deemed to be too prescriptive and not adapted to the SAFA database technology.

Leasing in Part-ARO & Part-ORO

In Part-ARO and in Part-ORO, the proposed changes mainly relate to the removal of the requirement for the approval of leasing agreements between EU operators. EASA agrees with stakeholders who



stated that if all prior lease approval requirements are limited to lease agreements concerning aircraft registered in a third country, the respective rule in Part-ARO needs to be amended.

While industry stakeholders agreed with the removal of the requirement for prior approval for intra-EU leasing agreements, some authorities and one industry stakeholder disagreed with the removal of the requirement for prior approval for intra-EU leasing agreements. However, EASA maintains its proposal to remove said requirement for intra-EU leasing agreements, since the European common safety requirements apply not only to all authorities, but to all organisations and maintenance organisations within the European Union and EASA Member States. On the basis that aircraft are maintained, operated and overseen within a similar legal framework, a prior approval of leasing arrangements between operators and aircraft from the same legal environment is overly burdensome and not necessary.

2.5.6. Proposed changes to Part-ORO

Safety management in Part-ORO

Following the publication of the first edition of ICAO Annex 19 ‘Safety Management’ in 2013, the first amendment to Annex 19 has been published. The amendment was adopted by the Council on 2 March 2016, became effective on 11 July 2016 and is applicable on 7 November 2019.

Regulation (EU) No 376/2014²⁰ on the reporting, analysis and follow-up of occurrences in civil aviation, with strong links to ICAO Annex 19 ‘Safety Management’, applies as of 15 November 2015.

In addition, many of the ideas now being put forward for the amendment of the Basic Regulation (A-NPA 2014-12 & [Opinion No 01/2015](#)) may require changes that affect the total system, such as obligations for States to participate in the European Aviation Safety Plan (EASp) — now called European Plan for Aviation Safety (EPAS) — or further SSP-related high-level requirements. Other changes may be required for the introduction of safety performance schemes across domains and to support the evolution towards a more performance-based approach to regulations.

Comments received to the proposed changes to Part-ORO dealing with SMS (ORO.GEN.200) highlighted that stakeholders prefer a holistic SMS approach encompassing all domains (aircrew, air operations, airworthiness, etc.). All those domains will have to be updated in line with the ICAO Annex 19 philosophy. Therefore, EASA agrees with those comments that call for a holistic cross-domain assessment to Section 2 ‘Management’ of Part-ORO and has removed those proposed changes from this Opinion and consequently from the associated Decision. The comments received will be used to assess future changes.

Alignment with changes to the Continuing Airworthiness Regulation

Point (a)(4) of ORO.AOC.135 regarding personnel requirements is amended to provide the correct reference to the current Continuing Airworthiness Regulation and to include reference to persons responsible for the continuing airworthiness management contract in line with the current Continuous Airworthiness Regulation.

²⁰ 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) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1476345533507&uri=CELEX:32014R0376>).



FTL and number of cabin crew during commercial flights with passengers

Annex III (Part-ORO) to the Air OPS Regulation requires aeroplanes conducting commercial flights with passengers be operated with a number of cabin crew determined in accordance with ORO.CC.100. The starting point to determine the minimum number of cabin crew required for air operations is the number of cabin crew members identified during the certification process of each aeroplane as the minimum necessary to carry out an expedient evacuation. The purpose of the operational rule (ORO.CC) is to ensure that the number of cabin crew members on board is sufficient to ensure flight and passenger safety during the entire operation. In parallel with communication and coordination with the flight crew, this includes:

- in normal operations, supervising the cabin, managing passengers and implementing the applicable normal procedures as established in the OM; and
- handling abnormal situations and emergencies, such as unruly passenger behaviour, medical emergencies, as well as fire and smoke events, sudden or slow cabin depressurisation, bomb threat, unlawful interference, and emergency landing and evacuation. These situations require the cabin crew to implement the applicable emergency procedures established in the OM.

Regulation (EU) No 83/2014²¹ on flight time limitations and rest requirements for flight crew and cabin crew that has become applicable as of 18 February 2016 requires the operator to ensure appropriate crew fatigue management.

To extend the applicable basic maximum daily flight duty period (FDP), it is under certain circumstances required to provide in-flight rest in rest facilities to crew members during cruise. This measure is aimed at postponing the appearance of fatigue and associated risks of degradation of performance.

Under Subpart Q of EU-OPS, the conditions for extending the applicable basic maximum daily FDP were regulated by the Member States. In the light of the entry into force and application of a set of harmonised provisions to allow the extension of the daily FDP due to in-flight rest, Member States have raised the following question:

Shall all cabin crew members of the minimum cabin crew as determined by ORO.CC.100 be awake and ready to act in the passenger compartment during the cruise phase of a flight? In other words, could one or more of the cabin crew members be allowed to take in-flight rest during the cruise phase of a flight?

This raised the following question from a regulatory perspective:

What could be the conditions to allow a lower number of cabin crew members during the cruise phase of a flight for the purpose of in-flight rest while achieving an equivalent level of safety?

Experience gained from the EU-OPS implementation has shown significant differences in the conditions specified by the NAAs for in-flight rest for cabin crew. This has resulted in diverse practices being applied across the EU.

²¹ Commission Regulation (EU) No 83/2014 of 29 January 2014 amending Regulation (EU) No 965/2012 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 (OJ L 28, 31.1.2014, p. 17) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1476348226626&uri=CELEX:32014R0083>).



Following the amendment of the Air OPS Regulation by Regulation (EU) No 83/2014, in-flight rest provisions are specified in CS FTL.1.205 Flight duty period (FDP). While this CS requires *flight* crew augmentation, corresponding provisions to ensure that cabin crew can take the applicable in-flight rest are not specified. Provisions to manage in-flight rest for cabin crew have to be determined by the operators in their flight time specification schemes.

The above-described situation was of concern for the NAAs that raised the issue to EASA.

The issue was discussed during the Special FRM TAG meeting held on 27 May 2015. After a careful assessment, taking also into account the different practices, it was concluded that a way forward could be to identify common criteria based on which all operators, taking into account any risks identified by their SMS, would:

- determine in their flight time specification scheme if, and under which conditions, one or more of the operating cabin crew members could be allowed to take in-flight rest during the cruise; and
- establish the necessary conditions and mitigating measures, which would at least include putting in place specific procedures. These would depend on the particular operation, aeroplane type, cabin configuration, and the number and qualification of cabin crew members assigned to operate the flight as specified under the item ‘Crew composition’ in the OM.

Common criteria to be used by all Member States’ NAAs and their operators should contribute to a uniform level of safety and a level playing field.

With that aim in view, an EASA/NAA Task Force was set up to prepare draft proposals that have been submitted for consultation to the OPS and FCL TAG members and the FS Sub-SSCC members.

EASA reviewed the existing Air OPS Regulation. The IRs relevant to the number and composition of the cabin crew are the following:

- ORO.CC.100 specifies how to determine the minimum number of cabin crew required to operate an aeroplane;
- ORO.CC.205(a) stipulates that whenever any passengers are on board, all required cabin crew members shall be present in the passenger compartment. Considering the rules relevant to cabin crew and to FTL and their intent, ‘present in the passenger compartment’ is understood as being alert and ready to act at all times to perform the assigned safety duties and responsibilities and to manage any abnormal or emergency situations that may occur;
- ORO.CC.205(b) specifies in which cases the minimum cabin crew required (according to ORO.CC.100) may be reduced, namely in only two cases that are ‘normal ground operations’ and ‘unforeseen circumstances’; and
- ORO.CC.205(c) specifies the conditions under which such reductions may be allowed.

If the operating cabin crew is the minimum number required, allowing one or more cabin crew member(s) to take in-flight rest during cruise would result in a deviation from ORO.CC.100. Therefore, as AMC cannot change the rule, such allowance can only be possible by amending either ORO.CC.100 or ORO.CC.205.



An amendment of ORO.CC.205 shall cover, under the same rule, the three different cases in which the number of cabin crew to be present, alert and ready to act in the passenger compartment may be lower than the crew composition specified in the OM which may be the minimum number required in accordance with ORO.CC.100.

The amended rule text has been prepared by the EASA/NAA Task Force, based on the above considerations and taking into account the current practices in some Member States.

The amended rule text and new AMC & GM were presented to the OPS & FCL TAG meeting of 9 September 2015 and to the Special TAG FRM meeting of 5 November 2015.

During this process, the draft proposal has been updated taking into account the comments received from the TAG members. One of these comments was a recommendation to submit the EASA/NAA Task Force proposed approach to the Commission and for an analysis to EASA. No comments were received from FS Sub-SSCC members.

EASA concluded that amending ORO.CC.205 to allow a third case of reduction of the cabin crew assigned to operate a flight under certain conditions and developing new AMC, is appropriate to address the issue at stake. Should the operating cabin crew be the minimum number required, the analysis highlighted in particular the following

- the minimum cabin crew requirement should be read together with the definition of cabin crew in Annex I to the Air OPS Regulation;
- the minimum cabin crew is set to the least number of persons required to ensure the performance of all the assigned duties to guarantee the core requirement, the safety of passengers and flight during operations, by being awake, alert and readily available to immediately act during all phases of flight;
- since it is the Regulation that lists the cases when the minimum cabin crew may be reduced, only a change to the AMC is not sufficient, an amendment of the rule should be considered to address the issue at stake; and
- since it appears that the current text of ORO.CC.205(a) 'shall be present' may leave certain room for misinterpretation, this should also be addressed with an appropriate amendment.

Based on the above, EASA presented to the EASA/Sub-SSCC meeting held on 9 December 2015 the approach and the course of action envisaged to address the issue of in-flight rest for cabin crew initially raised by Member States and operators before the summer of 2015.

A more advanced draft has been presented during the Special TAG FRM meeting on 3 May 2016.

The final text takes account of the input received during that meeting.

Declaration contained in Appendix I to Part-ORO

One commentator questioned why the declaration is not an official form attached to Part-ARO of the Air OPS Regulation and why it is included as Appendix I to Part-ORO. EASA clarifies that Appendix I to Part-ORO is applicable to the operator or organisation, who will fill in the form and submit the information to the NAA. EASA has amended the declaration form following feedback received from stakeholders during the consultation process. Appendix I to Part-ORO has been amended to enable the declaring operator to inform the CA about the type of operations conducted with each aircraft. This is



important since many different forms of specialised operations can be conducted by one single operator and different CAMOs could be responsible for different aircraft.

2.5.7. Proposed changes to Part-CAT

Commander responsibilities

Some amendments are made to CAT.GEN.MPA.105 on the responsibilities of the commander. Notably, a new point (a)(14) is inserted into CAT.GEN.MPA.105 to ensure that the obligation of the commander to report defects into the technical log book of the aircraft is also reflected in Part-CAT as it is already reflected in Part-NCC, Part-NCO, and Part-SPO. In addition, a new point (e) is added to CAT.GEN.MPA.105 to mirror the requirements in NCC.GEN.106, NCO.GEN.105, and SPO.GEN.107 for the commander to report to the appropriate air traffic services (ATS) unit any hazardous weather or flight conditions encountered that are likely to affect the safety of other aircraft. EASA has not received any comments on this item during the NPA public consultation.

Editorial amendment of CAT.OP.MPA.170

This Opinion proposes an editorial amendment to point (b) of CAT.OP.MPA.170 as follows: '(b) provided with a safety briefing card on which picture-type instructions indicate the operation of *safety and* emergency equipment and exits likely to be used by passengers.'

Amendment of CAT.IDE.A.345 due to changed ICAO designation of the NAT airspace as a high-level airspace.

CAT.IDE.A.345 is amended to amend the description of NAT airspace as a high-level airspace in line with an ICAO amendment.

2.5.8. Proposed changes to Part-SPA

Principal place of business

SPA.GEN.100, which identifies the CA responsible for issuing a specific approval, is amended to clarify that the rule also applies in those cases where the non-commercial operator is established in the Member State. This way, the inconsistency between SPA.GEN.100 and NCC.GEN.100 is rectified.

Personnel carrying device system (PCDS)

Amendment of SPA.HHO.110 to specify which PCDSs require an airworthiness approval and which ones do not.

2.5.9. Proposed changes to Part-NCC

Principal place of business

The concept of the place of residence should be aligned with other EU regulations (e.g. legislation on taxation and social security) applicable to natural persons rather than creating new artificial limitations. The identification of the competent authority may be difficult in the context of new business models, where the versatility of the existing concepts is very high. NCC.GEN.100, which identifies the CA responsible for the oversight of an NCC operator, is amended to take account of the place in which the non-commercial operator declares its activity. This place may be the operator's principal place of business, the place where the operator is established or residing.



2.5.10. Proposed changes to Part-NCO

Principal place of business

Point (b) of NCO.GEN.100, identifies the CA for operators of aircraft registered in a third country. This IR is amended to clarify that for aircraft registered in a third-country, the competent authority is the authority of the Member State where the operator has its principal place of business, is established or residing.

Dangerous goods provisions for Part-NCO operators

The alleviation related to the approval of the dangerous goods training programmes, which was included in ORO.GEN.110, also needs to apply to non-commercial operators performing specialised operations with non-complex aircraft (NCO-SPEC). The change to the rule on NCO.SPEC.PAR.120 clarifies that smoke trail devices cannot only be released but also carried on board by parachutist.

2.5.11. Proposed changes to Part-SPO

Helicopter external sling load operations (HESLO) & Helicopter Human External Cargo operations

Amendment of point (c) and (e) of *SPO.SPEC.HESLO.100* and of *SPO.SPEC.HEC.100* to clarify that practical training is needed and a small editorial correction in point (e) to clarify that standard operating procedures for HESLO/HEC shall specify helicopter performance criteria.

Parachute operations with a smoke trail device

SPO.SPEC.PAR.125 needed to be amended to correct an editorial mistake and to include the correct reference to smoke trail devices that are used in parachute operations.

2.6. What are the expected benefits and drawbacks of the proposals

2.6.1. RMT.0516 — Update of the rules on air operations

The proposed changes include an update of the Air OPS Regulation and having taken into account and incorporated feedback received from stakeholders and during standardisation inspections. This update ensures that the Air OPS Regulation's safety provisions are state of the art and that unnecessary requirements are removed, while clear definitions, implementing rules and AMC/GM is provided to operators and CAs.

2.6.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder

The outcome of this RMT completes the missing guidance on how the provisions of the rule related to non-commercial operations performed by an AOC holder should be implemented (ORO.AOC.125). AOC holders have already enough flexibility in choosing the minimum requirements they should apply to their non-commercial operations. ORO.AOC.125 allows operators to adjust their own procedures proportionately to the risk level implied by a certain type of non-commercial flight. The removal of prior approval of the different procedures used by an AOC holder for its non-commercial operations will reduce the administrative workload, having at the same time no impact on safety.

Moreover, the new implementing rule addressing the comments on NPA 2015-05, to cover the use of aircraft included in the AOC by operators other than an AOC holder for other-than-CAT operations, acknowledges a usual type of business encountered mostly in the General Aviation environment. The



new ORO.GEN.310 and its counterpart in Part-NCO (NCO.GEN.104), together with the new point (k) in M.A.201 of Part-M of the Continuing Airworthiness Regulation are expected to have a positive safety, regulatory and economic impact as they provide a practical framework with minimum requirements for the use of an aircraft by multiple operators. At the same time, the safety of operation is ensured by establishing conditions to clarify which operator has the operational control and by ensuring the continuous airworthiness of the aircraft. The proposed requirements also facilitate oversight and, last but not least, lower the administrative burden caused by the removal of the aircraft from the AOC.

2.7. How do we monitor and evaluate the rules

2.7.1. RMT.0516 — Update of the rules on air operations

EASA consistently monitors and evaluates the application of the Air OPS Regulation by operators and authorities overseeing operators. Continuous feedback from standardisation inspections, during discussions with EASA Advisory Bodies and via questions and requests for clarifications, will ensure that EASA can effectively monitor and evaluate the rules.

2.7.2. RMT.0352 — non-commercial operations of aircraft listed in the Operations Specifications (OpSpecs) by an AOC holder

As monitoring and evaluation measures, cases of non-compliance with the future rules may be collected through the usual standardisation inspections and oversight activities. The source of non-conformities could also be identified during these inspections. The causes of non-compliance should be conveyed to EASA to feed back the cycle of continuous improvement of the regulatory environment.

Other relevant information which CAs can collect through the audits and inspections is the way in which operators perform the risk assessment of such flights, including the way in which they ensure continuous maintenance of aircraft which is being used by operators other than AOC holders for other-than-CAT operations outside the AOC. The assessment of the data collected during an interval of 2–4 years will determine if there is a need to change the rules, i.e. to further simplify them, where possible, or to add more guidance for some requirements.

Cologne,

[signed by]

Patrick KY
Executive Director



3. References

3.1. Affected regulations

- Commission Regulation (EU) No 965/2012 of 5 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 (OJ L 296, 25.10.2012, p. 1)
- Commission Regulation (EU) No 1321/2014 of 26 November 2014 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 362, 17.12.2014, p. 1)

3.2. Related decisions

- Decision 2014/019/R of the Executive Director of the Agency of 24 April 2014 adopting Guidance Material to Regulation (EU) No 965/2012 ‘GM to Regulation (EU) No 965/2012’
- Decision N° 2012/015/Directorate R of the Executive Director of the Agency of 24th October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 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 ‘Guidance Material to Annex I – Definitions’
- Decision 2014/025/R of the Executive Director of the Agency of 28 July 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-ARO of Regulation (EU) No 965/2012 and repealing Decision 2014/014/R of the Executive Director of the Agency of 24 April 2014 ‘AMC and GM to Part-ARO — Issue 3’
- Decision 2014/017/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-ORO of Regulation (EU) No 965/2012 and repealing Decision 2012/017/R of the Executive Director of the Agency of 24 October 2012 ‘AMC and GM to Part-ORO — Issue 2’
- Decision 2014/002/R of the Executive Director of the Agency of 31 January 2014 adopting Certification Specifications and Guidance Material to Annex III (Part ORO) of Commission Regulation (EU) No 965/2012 ‘CS-FTL.1 — Initial Issue’
- Decision 2014/015/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-CAT of Regulation (EU) No 965/2012 and repealing Decision 2012/018/R of the Executive Director of the Agency of 24 October 2012— ‘AMC and GM to Part-CAT — Issue 2’
- Decision N° 2012/019/Directorate R of the Executive Director of the Agency of 24th October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 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 ‘Acceptable Means of Compliance and Guidance Material to Part-SPA’



- Decision N° 2013/021/Directorate R of the Executive Director of the Agency of 23 August 2013 on adopting Acceptable Means of Compliance and Guidance Material for Non-commercial operations with complex motor-powered aircraft (Part-NCC)
- Decision 2014/016/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-NCO of Regulation (EU) No 965/2012 and repealing Decision 2013/022/R of the Executive Director of the Agency of 23 August 2013 'AMC and GM to Part-NCO — Issue 2'
- Decision 2014/018/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-SPO of Regulation (EU) No 965/2012 'AMC and GM to Part-SPO'
- Decision 2015/029/R of the Executive Director of the Agency of 17 December 2015 issuing acceptable means of compliance and guidance material to Part-M, Part-145, Part-66, and Part-147 of Regulation (EU) No 1321/2014 and repealing Decision 2003/19/RM of the Executive Director of the Agency of 28 November 2003 — 'AMC and GM to the Annexes to Regulation (EU) No 1321/2014 — Issue 2'

3.3. Other reference documents

- DENM-2012-004: Final Report on the serious incident to accident to 'Avions de Transport Régional' ATR72-212A, Registration OY-CIM, at Copenhagen Airport, Kastrup (EKCH), Denmark, on 13 September 2011, issued by the Danish Accident Investigation Board Aviation Unit (Ref. HCLJ510-2011-11).
- HUNG-2012-004: Final Report on the serious incident to ATR42-500, Registration YR-ATG, at Budapest, on 17 June 2011, issued by the Hungarian Transportation Bureau on 11 January 2016 (Ref. 2011-120-4P).
- ITAL-2012-009: Investigation on the serious incidents to PW127 engines installed on ATR 42/72 aircraft, such as the ATR72-212A, registered I-ADCC, at Firenze Airport, Peretola (LIRQ), on 03 October 2011, issued by the ANSV on 26 July 2012.
- GERF-2006-009: Investigation Report on the serious incident to Bae 146-300 at Stuttgart on 12 March 2005, issued by the German Federal Bureau of Aircraft Accidents Investigation in November 2006 (Ref. 5X007-0/05).
- UNKG-2005-148: AAIB Bulletin No: 4/2006 on Avro 146-RJ100, G-CFAC and others, issued by the UK AAIB in 2006 (Ref. EW/GC2005/03/09).
- Accident Report on the accident involving a PZL M-18A Dromader aircraft, registration EC-FBI, in the vicinity of Castellon aerodrome, on 07 October 2006, issued by the CIAIAC (Ref. A-059/2006).
- ICAO Annex 19 'Safety Management'
- ICAO Doc 9966 'Manual for the Oversight of Fatigue Management Approaches'
- Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4).



-
- Commission Regulation (EC) No 859/2008 of 20 August 2008 amending Council Regulation (EEC) No 3922/91 as regards common technical requirements and administrative procedures applicable to commercial transportation by aeroplane (OJ L 254, 20.9.2008, p. 1)
 - 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) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18)
 - Commission Regulation (EU) No 83/2014 of 29 January 2014 amending Regulation (EU) No 965/2012 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 (OJ L 28, 31.1.2014, p. 17)
 - Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1)



4. Appendices

- Appendix 1: CRD 2015-18 (A)
- Appendix 2 : CRD 2015-05

