CRD TO NPA 2008-22C AND 2009-02C
ORGANISATION REQUIREMENTS

COVER REGULATION PART-OR

(CRD b.1)

Commentor:	UK CAA

Page 4 - Paragraph No: Article 2 (Definitions), Paragraph 3 (Dry lease agreement)

Comment:
The text should reflect the same definition for dry lease agreement as specified in Article 2 (24) of Regulation (EC) No 1008/2008, which states the agreement is between "undertakings". The current text would exclude agreements between non-AOC / private owned aircraft being dry leased to an AOC holder for commercial air transport purposes.

Justification:
The established Article 2 (24) of Regulation (EC) No. 1008/2008 should be used for consistency purposes. A definition of 'undertakings' is defined in Article 2(3) of Regulation (EC) No 1008/2008. There currently isn't a definition of what a 'commercial operator' is.

Proposed Text:
"'dry lease agreement' means an agreement between undertakings pursuant to which the aircraft is operated under the AOC of the lessee."

Note: *See also Commission Information Note concerning Regulation (EC) No 1008/2008, paragraph 2.4.*

Commentor:	UK CAA

Page 5 - Paragraph No: Article 2 (Definitions), Paragraph 16 (Wet lease agreement)

Comment:
The text should reflect the same definition for wet lease agreement as specified in Article 2 (25) of Regulation (EC) No 1008/2008, which states the agreement is between "air carriers" – a definition of 'air carrier' is also defined in Regulation (EC) No 1008/2008, Article 2, para 10.

Justification:
The established Article 2 (25) of Regulation (EC) No. 1008/2008 should be used for consistency purposes. A definition of 'air carrier' is defined in Article 2 (10) of Regulation (EC) No. 1008/2008. There currently isn't a definition of what a 'commercial operator' is.

Proposed Text:
"'wet lease agreement' means an agreement between air carriers pursuant to which the aircraft is operated under the AOC of the lessor."

Note: *See also Commission Information Note concerning Regulation (EC) No 1008/2008, paragraph 2.4*

Commentor:	UK CAA

Page 5 - Paragraph No: Article 3

Comment:
This Article deems that existing Training Organisation approvals become approvals issued in accordance with the regulation and obliges competent authorities to ensure compliance within 2 years and to re-issue the approval within 3 years. It is not clear whether or how the Article addresses the case where the Training Organisation is in a different Member State (and so must be transferred to the Competent Authority of that Member State), or in a 3rd Country (in which case the approval must transfer to EASA).

Justification:
Approvals of organisations that are located in countries other than the country that granted the approval cannot remain with the existing Competent Authority because the legislation moves the responsibility elsewhere. Clarification is desirable.

Proposed Text:
Additional paragraphs may be required in Article 3 to address the transfer of approvals between competent authorities and from competent authorities to EASA.

Commentor:	UK CAA

Page 5 and 6 - Paragraph No: Articles 3.4, 4.3 and 5.3

Comment:
The transitional periods should be calculated from the date of application of the Regulation not date of entry into force.

Justification:
Consistency with Article 8 and with transitional periods in Part FCL.

Proposed Text:
Replace in each case *"after entry into force"* with *"application of this Regulation*"

Commentor:	UK CAA

Page 6 and 7 - Paragraph No: Articles 6.1 and 8.1

Comment:
Two terms are used which differ from each other, do not appear in the Basic Regulation and also do not appear in OR.GEN.100, which sets out the scope for air operations. These are "commercial air operations" and "commercial air transport operators". They should either be defined or amended for consistency.

Justification:
Lack of legal certainty.

Commentor:	UK CAA

Page 6 - Paragraph No: Article 6(2)(b)

Comment:
The text limits the ‘deeming’ provisions for JAR-OPS 3 operators to States that have been mutually recognised re JAR-OPS 3. This means that the provision and therefore transition period is not available to industry in States which are not mutually recognised. This should be addressed.

Justification:
Transition arrangements should be available to all JAR-OPS 3 operators.

Commentor:	UK CAA

Page 7 - Paragraph No: Article 7

Comment:
This Article imposes an additional requirement in relation to the transition arrangements for AOC applicants and holders in so far as compliance with the new Management System rules at OR.GEN.200 is concerned. As well as raising Level 2 findings with a closure period of 2 years (see Article 6(3)(b)) to identify any differences between the current rules and the new rules, organisations will also need to submit and have agreed by the CA implementation plans for achieving compliance with OR.GEN.200. This additional requirement should be deleted, and all aspects of the transition treated in the same way under Article 6(3)(b).

Justification:
The additional requirement achieves no safety benefit but imposes an extra burden upon organisations and CAs at a time when both will be under considerable pressure to achieve the transition while maintaining safety levels in day-by-day operations.

Proposed Text:
Delete Article 7.

Commentor:	UK CAA

Page 7 - Paragraph No: Article 8

Comment:
This Article provides a derogation so that organisations that instruct for non-commercial licences only (currently Registered Facilities) need not obtain an ATO approval for 3 years but may continue under national rules.

What will be the transitional arrangements for Registered Facilities that are located outside the EU that become the responsibility of the Agency? What will be the transitional arrangements for Registered Facilities that are registered with one Competent Authority but are located in the territory of another?

Justification:
Registered Facilities located in countries other than the country where they are registered cannot remain with the existing Competent Authority because the legislation moves the responsibility elsewhere.

Proposed Text:
Additional paragraphs are required in Article 8 to address the transfer of approvals between competent authorities and from competent authorities to EASA. EASA also needs to make provision for inspectors to monitor the approvals.

Commentor:	UK CAA

Page 7 - Paragraph No: Article 8.2 (a) and (b)

Comment:
The scopes of (a) and (b) are not mutually exclusive. The scope of (a) seems to encompass **all** operators other than "commercial air transport operators" and therefore must also include operators "involved in non-commercial operators with complex motor-powered aircraft."

Justification:
Must be amended for legal certainty.

Proposed Text:
In 8.2(a) insert after *"helicopters"* the following text *", except for operators covered by sub-paragraph (b) below"*.