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Title	Requirements for ATM/ANS providers and the safety oversight thereof (Explanatory Note)
NPA Number	NPA 2013-08 (A)

UK CAA (European.Affairs@caa.co.uk) has placed **18** unique comments on this NPA:

Cmt	Segment description	Pag	Comment	Attachm
372	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 1 — GENERAL OVERVIEW OF THE CHANGES (Part I)	11 - 12	**Page No:** 12 **Paragraph No:** 40, Question on limited certification Derogation **Comment:** The UK CAA accepts the rationale for a 'limited certificate' instead of the 'derogations' provided for within existing SES legislation in this area. However we consider that further thought should be given to including a requirement to have a safety management system, proportionate to the organisation, as a mandatory part of limited certification. This is of fundamental importance to safe operation of a (limited) certificate holder. Although what is proposed mirrors provisions for derogations under SES, UK CAA does not currently allow the SMS requirement to be derogated and we consider that the IR text should be amended to prevent this occurring. (See our corresponding comment relating to ATM/ANS.OR.A.015 (d) as follows: "This requirement is the same as in the previous legislation Commission Regulation (EU) 1035/2011 in that Limited (derogated) FIS units are not required to comply with Annex III ATS.OR.205(a)(2), which is the requirement to have a safety management function to develop and maintain the SMS. This exception should be removed and Limited FIS should comply with the requirements of Annex III ATS.OR.205(a)(2)" **Justification:** SMS is increasingly being required in the total aviation system approach and developing work in this area on proportionate ways of implementing SMS systems means that it should be included for all relevant organisations. For example, air operators subject to declarations are not excluded from the requirements of Part ORO.GEN.200 "Management system".	
373	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 1 — GENERAL OVERVIEW	12	**Page No:** 12 **Paragraph No:** 41, Question on declaration of FIS **Comment:** All UK FIS providers have already been certified in accordance with existing European legislation. UK CAA notes in the context of safety, that experience of	

	OF THE CHANGES (Part II)		overseeing the provision of ATS for 'special events' (i.e. short-duration provision such as foreseen under Article 6 (c)) is often the subject of unique hazards and generally requires more oversight attention by the NSA rather than less.	
374	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 1 — GENERAL OVERVIEW OF THE CHANGES (Part III)	12 - 15	**Page No:** 15 **Paragraph No:** 46, Question on ICAO SMS framework **Comment:** UK CAA was an active participant in the development of ICAO Annex 19 and therefore supports the Agency's efforts to harmonise the IR with ICAO requirements which will also support us in meeting our State obligations under the Chicago Convention.	
375	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 3 — COVER REGULATION — Main changes and explanation (Part I)	21 - 23	**Page No:** 21 **Paragraph No:** 59 **Comment:** UK CAA do not believe it is appropriate to use the undefined term 'Airspace Design' within the broader definitions used within the IR, specifically as the scope of this term is only offered as Guidance Material. This is not a sound basis upon which to base Certification activity – an NSA is provided with insufficient information upon which to base a decision about whether an organisation's activities are such that it should be certified as a provider of whatever is meant by Airspace Design services. The supporting diagram incorrectly suggests Airspace Design is part of ATM/ANS. Although Airspace Design is mentioned in Annex Vb of the EASA Basic Regulation, this term is not part of the ATM/ANS definition used in this high level regulation or elsewhere.	
376	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 3 — COVER REGULATION — Main changes and explanation (Part I)	21 - 23	**Page No:** 23 **Paragraph No:** 65 **Comment:** The UK CAA would support a move for the ICAO text to be updated and congratulate the Agency on proposing this way forward. Suggest when this is done: 'Psychoactive substances shall mean alcohol, opioids, cannabinoids, sedatives and hypnotics, cocaine, psychostimulants, hallucinogens, and volatile solvents, whereas ~~caffeine and~~ tobacco and caffeinated drinks are excluded.' The ICAO definition should be retained for the time being, but AMC/GM material should be provided to show the differences between coffee and/or other caffeine containing products and the potential adverse effects of excess use of caffeine	
377	A. Explanatory Note - IV.	23 - 28	**Page No:** 28	

	Overview of the proposed changes - CHAPTER 3 — COVER REGULATION — Main changes and explanation (Part II)		**Paragraph No:** 73, Question on Transitional Provisions. **Comment:** No details have been provided for ATSEPs transitional arrangements, in particular for taking into account the training and competence of existing ATSEPs Personnel. **Justification:** Existing ATSEPs and Providers need to know as soon as possible whether requirements will acknowledge the training/competence of existing ATSEPs. **Proposed Text:** Provide ATSEP transitional details.	
378	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 4 — Annex I — Requirements for competent authorities (Part I)	28 - 29	**Page No:** 29 **Paragraph No:** 79, Question on safety significant information **Comment:** Text in both AR.A.010 and AR.A.015 are ambiguous and do not provide sufficiently clear guidance to NSAs on reporting obligations for safety significant information. For example: Sub-paragraph (b) of AR.A.010 seems to be related more to the content of AR.A.015 rather than to problems with implementing the BR. Paragraph AR.A.015, the title is inconsistent with the text which, deals with the processing of (undefined) safety **information** rather than immediate response to safety problems. Moreover, sub- paragraph (b) could be taken to imply that recommendations for corrective actions now become an EASA rather than a Competent Authority responsibility. Whilst recognising that this text is already used in other domains, UK CAA welcomes the opportunity to comment and considers that clarity needs to be improved in this area. **Justification:** Clarity.	
379	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 4 — Annex I — Requirements for competent authorities (Part II)	29 - 35	**Page No:** 34-35 **Paragraph No:** 93, Question on oversight. **Comment:** The UK CAA supports option 2. **Justification:** The UK CAA fully supports Option 2 as it is a flexible risk-based approach with extended flexibility of performance-based oversight, a strategy that will bring safety, cost and resource benefits to both ANSPs and the relevant Competent Authorities.	
380	A. Explanatory Note - IV.	35 - 36	**Page No:** 36 **Paragraph No:** 96, Question on changes.	

	Overview of the proposed changes - CHAPTER 4 — Annex I — Requirements for competent authorities (Part III)		**Comment:** The UK CAA welcomes the opportunity to comment on the text dealing with organisational changes and the convention surrounding such changes which must be notified in advance to the NSA. The safety assessment of change is an area where the ATM/ANS domain is generally relatively advanced and the text used here, drawn from that used in other domains, lacks clarity (see our comments related specifically to the wording of AR.A.020). It is particularly important that the text in the IR itself should reflect the stated intention in the explanatory notes that this article is not related to a safety-related change to a functional system. We have suggested, for example, that the title should be amended to read 'Organisational Changes'. We believe that if the clarity of the Article itself was improved it would not be necessary to introduce GM explaining what was meant.	
381	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 — Annex II — COMMON REQUIREMENT FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) (Part I)	37 - 40	**Page No:** 40 **Paragraph No:** 115, Question on changes. **Comment:** This is related to the UK CAA comment above on AR.A.020. The clarity of the IR text (ATM/ANS OR.A.035) dealing with changes and prior approval needs to be improved. In the case of ATM/ANS it will be particularly important that the IR text used does not conflict with text being developed on safety assessment of changes being developed (by the SATF) for later inclusion under another rulemaking task. For this reason, the insertion of common text which has been used in other domains is unsuitable without further clarification of intent.	
382	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 — Annex II — COMMON REQUIREMENT FOR THE PROVISION OF ATM/ANS (Part-ATM/ANS.OR) (Part II)	40 - 42	**Page No:** 42 **Paragraph No:** 124, Question on management system **Comment:** The UK CAA supports the text of the explanatory note as an improvement to the SMS/ QMS requirements from Commission Regulation (EU) 1035/2011.	
383	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 5 — Annex II — COMMON REQUIREMENT FOR THE PROVISION	43	**Page No:** 43 **Paragraph No:** 126, Question on Human Resources . **Comment:** Given that ATM/ANS.OR.B.025 is derived from a concise and simple existing regulation, UK CAA considers that it is therefore unnecessary to introduce the new, and less concise, article ATM/ANS.OR.B.015. Reference to the ATSEP Annex should simply be added to the existing wording at OR.B.025. ATS.OR.220 does not seem to be a relevant article as it deals with ATCO Licensing and Medical	

	OF ATM/ANS (Part-ATM/ANS.OR) - Invitation to comment (c)		Certification.	
384	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 6 — SPECIFIC REQUIREMENT FOR THE PROVISION OF AIR TRAFFIC SERVICES (Part-ATS) - Invitation to comment (a)	45	**Page No:** 45 **Paragraph No:** 139, Question on SMS Framework. **Comment:** UK CAA was an active participant in the development of ICAO Annex 19 and therefore supports the Agency's efforts to harmonise the IR with ICAO requirements which will also support Member States in meeting their obligations under the Chicago Convention.	
385	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 7 — SPECIFIC REQUIREMENT FOR THE PROVISION OF METEOROLOGI SERVICES (Part-MET)	52 - 54	**Page No:** 52 **Paragraph No:** 194 referencing MET.OR.100 **Comment:** The UK CAA fully supports the removal of the words 'level of attainable' in terms of the accuracy requirement. **Justification:** The words 'level of attainable' were unclear as to the intent. It has been interpreted by some as requiring providers to be able to attest to the accuracy of meteorological information in advance of the information being provided, which is extremely difficult, as opposed to being able to demonstrate subsequently (through verification processes), a historical record of the accuracy of the information, which allows providers to demonstrate the quality of services. **Proposed Text:** "Meteorological services providers shall confirm the accuracy of the information distributed for operations, including the source of such information, whilst also ensuring that such information is distributed in a timely manner, and updated as required."	
386	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 10 — Annex XII — SPECIFIC REQUIREMENT FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND	55 - 63	**Page No:** 57 **Paragraph No:** 224 **Comment:** The term 'operate' is considered to include staff other than ATSEPs, such as ATCOs. **Justification:** Limitation of scope to better define staff covered by ATSEP requirements. **Proposed Text:** Delete the word 'operate'.	

	COMPETENCE ASSESSMENT REQUIREMENT			
387	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 10 — Annex XII — SPECIFIC REQUIREMENT FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENT	55 - 63	**Page No:** 57 **Paragraph No:** 227 and later paragraphs. **Comment:** The introductory statement in the RIA, recognises that '*the level of competence of ATSEP in Europe is currently acceptable*'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, , these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need. These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency. **Justification:** The ATSEP requirements are over prescriptive and define training requirements to a far too intricate level of detail. **Proposed Text:** Comments and suggestions are provided later in respect of the IR, AMC and GM material to allow more flexibility.	
388	A. Explanatory Note - IV. Overview of the proposed changes - CHAPTER 10 — Annex XII — SPECIFIC REQUIREMENT FOR ATM/ANS PROVIDERS REGARDING PERSONNEL TRAINING AND COMPETENCE ASSESSMENT REQUIREMENT	55 - 63	**Page No:** 63 **Paragraph No:** 256 and 257 **Comment:** The references to Training Instructors and Technical Skills Assessors are examples of over-prescriptive and dis-proportionate requirements. **Justification:** The introductory statement in the RIA, recognises that '*the level of competence of ATSEP in Europe is currently acceptable*'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument, , these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need. These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on	

			social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency. The use of training and assessing staff, especially in smaller Providers may not be feasible, practical or economically justified. **Proposed Text:** Comments and suggestions are made later in respect of the IR, AMC and GM material, to delete such references.	
389	A. Explanatory Note - V. Summary of the RIA	63 - 70	**Page No:** 67 **Paragraph No:** ATSEP (Air Traffic Safety Electronics Personnel) **Comment:** The introductory statement in the RIA, recognises that '*the level of competence of ATSEP in Europe is currently acceptable*'. There is no associated argument as to why this level of competence will not be maintained under current regimes, nor evidence to suggest that any incidents have had ATSEP competency as a causal influence. Without detailed analysis and argument , these regulations appear over-prescriptive and disproportionate and are not designed to address any safety need. These proposals add unnecessary requirements to the current regulatory framework for engineering and technical personnel and the arguments put forward are based on social and political initiatives rather than safety. These new requirements are not necessary for ANSPs and will be particularly disproportionate and damaging to smaller entities, especially as the market becomes more contestable. These requirements will not improve safety, but overall will have a negative effect on performance KPIs, particularly cost efficiency. **Justification:** The RIA is not detailed as regards analysis of future situations, cost and practicality of the proposals.	

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