



Airworthiness Directive Policy	Doc #	PO.CAP.00016-001
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Airworthiness Directive Policy

PO.CAP.00016-001

	Name	Validation	Date
Prepared by:	Caroline RUGA	Validated	03/09/2010
Verified by:	Alain LEROY	Validated	09/09/2010
Reviewed by:	Veronique MAGNIER	Validated	09/09/2010
Approved by:	Alain LEROY	Validated	10/09/2010
Authorised by:	Norbert LOHL	Validated	10/09/2010



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1. Reference Documents¹

1.1. Internal

PR.CAP.00001 – Continuing Airworthiness of Type Design (CAP)

The above reference document can be found on the internet at:

http://www.easa.europa.eu/ws_prod/c/c_intwrkproc.php

1.2. External

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, 19.03.2008)

Commission Regulation (EC) No. 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 243, 27.09.2003)

Commission Regulation (EC) No. 2042/2003 of 20 November 2003 laying down implementing rules for the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks (OJ L 315, 28.11.2003)

The above reference documents can be found on the internet at:

http://www.easa.europa.eu/ws_prod/g/org_regulations.php

Annex 8 to the Convention on International Civil Aviation – Airworthiness of Aircraft

1.3. Related Forms

EASA Form NR 119 Emergency Conformity Information

2. Background and Content

The distribution of responsibilities between the European Aviation Safety Agency and Member States as specified by Regulation (EC) No. 216/2008 has triggered many discussions on the issuing of airworthiness directives. It is feared in particular that a too narrow interpretation of Agency's responsibilities towards continuing airworthiness creates loopholes and therefore safety gaps.

This policy recalls the applicable legal framework under Regulation (EC) No. 216/2008 and Annex 8 to the Convention on International Civil Aviation and provides the newly established Agency policy within those legal boundaries.

3. The Legal Framework – Convention on International Civil Aviation

3.1. The Convention on International Civil Aviation assigns responsibility for the airworthiness of aircraft to the State of Registry. According to its Annex 8, Part II, Chapter 4.2.3(d)

"The State of Registry shall

[...]

(d) upon receipt of mandatory continuing airworthiness information from the State of Design, adopt the mandatory information directly or assess the information received and take appropriate action

[...]".

3.2. Annex 8, Part II, Chapter 4.2.1.1(a) to the Convention on International Civil Aviation requires the State of Design to transmit to the State of Registry

"[...] any generally applicable information which it has found necessary for the continuing airworthiness of the aircraft and for the safe operation of the aircraft, hereinafter called mandatory continuing airworthiness information [...]"

¹ Note : References to any statute, statutory instrument, Agency rule, procedure and policy shall include any amendments or consolidations thereof in as much as the referenced document remains relevant for this policy and provided that such amendments or consolidations do not affect the content of this policy



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According to Note 1 to Chapter 4.2.1.1(a), in that context

“the term “mandatory continuing airworthiness information” (MCAI) is intended to include mandatory requirements for modification, replacement of parts or inspection of aircraft and amendment of operating limitations and procedures. Among such information is that issued by Contracting States in the form of airworthiness directives.”

4. The Legal Framework - European Community Law

4.1. Regulation (EC) No. 216/2008

4.1.1. In the domain of civil aviation safety, Regulation (EC) No. 216/2008 gives the Agency the exclusive power to issue type certificates/design approvals or changes thereof.

Article 20(1) states in this regard the following.

*“1. With regard to products, parts and appliances referred to in Article 4(1) the Agency shall, where applicable and as specified in the Chicago Convention or its Annexes, carry out on behalf of Member States the functions and tasks of the State of design, manufacture or registry **when related to design approval**. To that end, it shall in particular:*

[...]

(f) issue the appropriate type certificate or associated changes.

[...]”

Such certificates take the form of individual decisions.

4.1.2. Furthermore, pursuant to Article 20(1)(j) of Regulation (EC) No. 216/2008, as part of its design responsibility, the Agency shall:

“ ensure the continuing airworthiness functions associated with the products, parts and appliances which are under its oversight, including reacting without undue delay to a safety problem and issuing and disseminating the applicable mandatory information.”

Such mandatory information takes also the form of individual decisions (airworthiness directives).

4.1.3. Article 15(1) of Regulation (EC) No. 216/2008 – Information network – stipulates:

“1. The Commission, the Agency and the national aviation authorities shall exchange any information available to them in the context of the application of this Regulation and its implementing rules. [...]”

4.2. Commission Regulation (EC) No. 1702/2003

4.2.1. Annex Part 21, Section A, Subpart A, 21A.3B to Commission Regulation (EC) No. 1702/2003 describes the scope of the EASA airworthiness directives (ADs) and stipulates when and how the Agency issues ADs.

"21A.3B Airworthiness directives

(e) An airworthiness directive means a document issued or adopted by the Agency which mandates actions to be performed on an aircraft to restore an acceptable level of safety, when evidence shows that the safety level of this aircraft may otherwise be compromised.

(f) The Agency shall issue an airworthiness directive when:

i. an unsafe condition has been determined by the Agency to exist in an aircraft, as a result of a deficiency in the aircraft, or an engine, propeller, part or appliance installed on this aircraft; and

ii. that condition is likely to exist or develop in other aircraft.

(g) When an airworthiness directive has to be issued by the Agency to correct the unsafe condition referred to in paragraph (b), or to require the performance of an inspection, the holder of the type-certificate, restricted type-certificate, supplemental type certificate, major repair design approval, ETSO authorisation or any other relevant approval deemed to have been issued under this Regulation, shall:

i. Propose the appropriate corrective action or required inspections, or both, and submit details of these proposals to the Agency for approval.

ii. Following the approval by the Agency of the proposals referred to under subparagraph (1), make available to all known operators or owners of the product, part or appliance and, on request, to any



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person required to comply with the airworthiness directive, appropriate descriptive data and accomplishment instructions.

(h) An airworthiness directive shall contain at least the following information:

- i. An identification of the unsafe condition;*
- ii. An identification of the affected aircraft;*
- iii. The action(s) required;*
- iv. The compliance time for the required action(s);*
- v. The date of entry into force."*

4.3. Commission Regulation (EC) No. 2042/2003

4.3.1. Commission Regulation (EC) No. 2042/2003 stipulates how continued airworthiness of the aircraft is ensured and clarifies the conformity verifications to be done by the competent National Aviation Authorities (NAAs) of the Member States. The NAAs are required to take action at their level to ensure proper oversight of aeronautical products they are responsible for as competent Authorities of the State of Registry and notify their owners/operators what they shall do to comply. This may include ad-hoc measures addressing immediate reaction to safety problems.

"M.A.301 Continuing airworthiness tasks

The aircraft continuing airworthiness and the serviceability of both operational and emergency equipment shall be ensured by:

- 1. the accomplishment of pre-flight inspections;*
- 2. the rectification to an officially recognised standard of any defect and damage affecting safe operation taking into account, for all large aircraft or aircraft used for commercial air transport, the minimum equipment list and configuration deviation list if applicable to the aircraft type;*
- 3. the accomplishment of all maintenance, in accordance with the M.A.302 approved aircraft maintenance programme;*
- 4. for all large aircraft or aircraft used for commercial air transport the analysis of the effectiveness of the M.A.302 approved maintenance programme;*
- 5. the accomplishment of any applicable:*
 - (i) airworthiness directive,*
 - (ii) operational directive with a continuing airworthiness impact,*
 - (iii) continued airworthiness requirement established by the Agency,*
 - (iv) measures mandated by the competent authority in immediate reaction to a safety problem;*
- 6. the accomplishment of modifications and repairs in accordance with M.A.304;*
- 7. for non-mandatory modifications and/or inspections, for all large aircraft or aircraft used for commercial air transport the establishment of an embodiment policy;*
- 8. maintenance check flights when necessary."*

"M.A.303 Airworthiness directives

Any applicable airworthiness directive must be carried out within the requirements of that airworthiness directive, unless otherwise specified by the Agency."

"M.B.303 Aircraft continuing airworthiness monitoring

(a) Every competent authority shall develop a survey programme to monitor the airworthiness status of the fleet of aircraft on its register.

...

(g) If during aircraft surveys evidence is found showing non-compliance to a Part-M requirement, the competent authority shall take actions in accordance with M.B.903...."



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"M.B.304 Revocation, suspension and limitation

The competent authority shall:

(a) suspend an airworthiness review certificate on reasonable grounds in the case of potential safety threat, or;

(b) suspend, revoke or limit an airworthiness review certificate pursuant to M.B.303(g)."

5. EASA's Role

5.1. In accordance with Article 20(1) of Regulation (EC) No. 216/2008, EASA is fully responsible for fulfilling the States of Design responsibilities of Member States and can only exercise its power in relation to the design approvals it has granted.

Pursuant to Article 20(1)(j) of Regulation (EC) No. 216/2008, EASA shall react without undue delay to a safety problem affecting its design approvals and issue and disseminate the applicable mandatory information. Such actions are defined in Annex Part 21, Section A, Subpart A, 21A.3B to Commission Regulation (EC) No. 1702/2003 as Airworthiness Directives (ADs); they are directly applicable in all Member States; they are also disseminated to all competent authorities of the Member States and ICAO contracting states.

5.2. In this context, EASA may only issue or adopt ADs when addressing design issues, and, when addressing conformity issues, if the AD contains a design approval, such as:

- Approval of non-conformities due to manufacturing or maintenance deficiencies subject to conditions, such as limitations or additional inspections
- Inspection, replacement or modification, within a specified time frame, in order to check and/or restore conformity with an approved design.

In this latter case, it is indeed considered that the delayed implementation is a design approval that can only be decided by the Agency.

5.3. However, in order to fulfil its responsibilities under ICAO Annex 8 requirements, the State of Design must transmit any mandatory continuing airworthiness information (MCAI) which it has found necessary for the continuing airworthiness of aircraft and for the safe operation of aircraft, *regardless of whether the issue is related to the approved design or to conformity to the approved design.*

In order to cover the potential gap between design approval related ADs that may only be issued by the Agency within the EU legal framework, and non-design related MCAI required to be transmitted by ICAO requirements, the Agency will issue, in accordance with its obligations under the first sentence of Article 15(1) of Regulation (EC) No. 216/2008, "Emergency Conformity Information" (ECI) for cases where it cannot issue an AD.

This would normally be limited to unsafe conditions resulting from manufacturing or maintenance deficiencies where there is a need to inspect and to restore conformity of individual aircraft with the approved design before the next flight.

The Agency's MCAI will therefore be composed of both ADs and ECIs.

6. Role of EU Member States

6.1. Member States are responsible for verifying that aircraft on their registers conform to an EASA approved design.

6.2. They shall therefore ensure that ADs issued or adopted by the Agency are complied with.

6.3. They are also expected to assess any Emergency Conformity Information issued by the Agency and take appropriate actions, to ensure aircraft conformity.

6.4. They have to fulfil all the non-design approval related obligations of State of Registry as per ICAO Annex 8.

7. Policy

7.1. The Agency can issue or adopt ADs under Annex Part 21, Subpart 21, Section A, 21A.3B to Commission Regulation (EC) No. 1702/2003 to address unsafe conditions resulting from:

- A deficiency in the EASA approved design, or



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- Non-conformities of aircraft with the EASA approved design, due to manufacturing or maintenance deficiencies, when the AD results in a design approval, such as:
 - o Approval of non-conformities, subject to conditions, such as limitations or additional inspections.
 - o Inspection, replacement or modification, within a specified time frame, of nonconformities, to bring them back into conformity with the EASA approved design.

In this latter case, it is considered that the delayed implementation can only be decided by the Agency.

7.2. In cases where no design approval is required (e.g. need to re-establish immediately the affected aircraft's conformity with the approved design) the Agency is not entitled to issue ADs under Annex Part 21, Section A, Subpart A, 21A.3B to Commission Regulation (EC) No. 1702/2003.

7.3. In cases where the Agency has received relevant information and there is a need to put back immediately the affected aircraft into conformity with the approved design, and where an AD cannot be issued under Annex Part 21, Section A, Subpart A, 21A.3B to Commission Regulation (EC) No. 1702/2003, the Agency will issue "Emergency Conformity Information" in order to meet the expectations of Annex 8 to the Convention on International Civil Aviation and of Regulation (EC) No. 216/2008 Article 15 (1), and to allow Member States to fulfil their respective responsibilities as State of Registry.

This will be done using the same publication, distribution and notification tools as for ADs.

7.4. The Agency's MCAI will therefore be composed of both ADs and ECIs. Safety Information Bulletins (SIB) will remain for information only; they are not to be considered as part of the Agency's MCAI.

7.5. Rulemaking task 21.010 is planned to clarify the above policy and the role of NAAs in Part 21, and to include further improvements