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Title	Implementing Rules for Air Operations of Community Operators - Part-OR (Subpart OPS)
NPA Number	NPA 2009-02c

IAOPA Europe (info@iaopa-eur.org) has placed **6** unique comments on this NPA:

Cmt #	Segment description	Page	Comment	Attachments
3242	C. III. Draft Opinion Part-OR - Subpart OPS	4	<p>Generally it is found that the current proposal for organisational requirements is not well adapted and proportional for the small one-man organization which in practice may well be a private individual who just enjoys flying his complex aircraft for recreational purposes or for personal transportation.</p> <p>Trying to enforce an artificial organisational structure with reporting schemes, management structures, written descriptions of all processes and tasks will primarily be a huge time consuming academical paper exercise that does very little to improve flight safety for a one-man-operation.</p> <p>It might in fact have the opposite effect since it distracts attention from operational tasks which are much more directly related to flight safety such as careful pre-flight planning, checking weather, keeping up to date with airspace requirements etc.</p> <p>Non commercial operators have been operating complex aircraft for many years without such requirements and according to EASAs own RIA has a safety record which is superior to that of air taxi operators operating equivalent aircraft. There is therefore no safety case for burdening this group of operators with a whole range of additional organisational requirements.</p> <p>IAOPA understands that many of these requirements stems from the Basic Regulation which is not the subject of this NPA and which EASA has no direct control over, and IAOPA has throughout the process warned that these requirements would be unsuitable for the small non-commercial operator. In response to this, EASA</p>	

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			<p>has repeatedly stated that the implementing rules would be made proportional so that it would cater for the even the smallest non-commercial operator affected by the regulation. With the current NPA in hand regrettably this is not seen to be the case. The majority of rules are clearly written to make sense in a large organisation with paid staff, not for a purely private one-man operation with no paid staff.</p> <p>How is a private individual supposed to "record all duty and rest periods" as proposed in this NPA? Must he write down every time he goes to sleep? The rule is clearly inappropriate for a private individual with no duty schedule. Yet a private individual must comply with this kind of rule which makes no sense for him.</p> <p>IAOPA urges both EASA and the Commission to reintroduce the concept of a "Minor Operator" that was originally introduced in JAR OPS 0,2&4. The purpose should be to exempt very small operators from requirements which are entirely inappropriate when there is no genuine organisation.</p> <p>Since this would involve a revision of the Basic Regulation a separate appeal will be sent directly to the Commission. For now IAOPA will encourage EASA to create a separate rulemaking task focusing on the very small organisation and with with the aim of creating a set of basic rules and AMCs which gives genuine safety benefits for this kind of operator.</p>	
2233	C. III. Draft Opinion Part-OR - Subpart OPS - Section II - OR.OPS.020.MLR Minimum Equipment List (MEL)	5 - 6	<p>For non-commercial operations the MEL should not be required to be approved by the Authority.</p> <p>Just like the OPS manual is not subject to approval for non-commercial operators the same should be the case for the MEL. This is the basic principle for non-commercial operations.</p>	

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			<p>The associated AMCs should also contain provisions for non-commercial operations. All current AMCs seems targeted at commercial operations.</p>	
2024	C. III. Draft Opinion Part-OR - Subpart OPS - Section III - OR.OPS.040.DEC Declaration	7	<p>OR.OPS.040.DEC item c should be deleted. The declaration is not an approval and therefore the Authority should not have to explicitly send an acknowledgement of receipt before operations can begin. Any normally accepted kind of receipt should be sufficient. For instance a fax machine receipt or a simple verification by phone.</p> <p>Great care should be made that the declaration system is not gradually turned into an approval system by the way it is handled.</p> <p>The Authority Requirements on what the Authority should do when receiving a declaration is a clear indication that this is happening, since they specify a number of checks which the Authority is required to perform before returning a receipt. The declaration/receipt system therefore starts to resemble a light-weight application/approval system. This was not the intention with the basic regulation and is not acceptable for non-commercial operations.</p> <p>It should be clear that the purpose of a declaration is to inform the Authority about the Operators existence and activities in order that the Authority can include the Operator in its normal supervision programme. The Authority should in no way be required or expected to do an a-priori approval or assessment of the non-commercial operator. Such requirements would create an uncertain legal situation regarding the responsibility of the Authority and drive up the costs associated with the declaration process.</p>	
2060	C. III. Draft Opinion Part-OR - Subpart OPS - Section VIII - Chapter 1 - OR.OPS.015.FTL Operator responsibilities	25 - 26	<p>The wording and scope of these requirements may be suitable for a commercial operator but are completely out of scope for a non-commercial one-man operator of a complex aircraft who might not even operate the aircraft for business but purely for pleasure.</p> <p>In this case words and concepts such as duty rosters, reporting times, duty patterns etc. are completely inappropriate.</p>	

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			<p>Either the applicability should only be for commercial operators or the regulation should be modified so that it fits the whole area of applicability including the one-man non-commercial operator who operates a complex aircraft privately for his own pleasure.</p>	
2069	<p>C. III. Draft Opinion Part-OR - Subpart OPS - Section VIII - Chapter 1 - OR.OPS.020.FTL Records of flight and duty times and rest periods</p>	26	<p>How is it expected that a one-man non-commercial operator of a complex aircraft who only uses his aircraft for recreational purposes should define and record duty time and rest periods? When is he on duty and when is he off duty if he flies only for his own private pleasure? The concept of duty and rest period does not make sense in this context.</p> <p>Either the applicability should be changed or the rules must be written so they fit all kinds of operations for which they apply.</p>	
3209	<p>C. V. Draft Decision (AMC&GM) Part-OR - Subpart OPS - Section IV - GM1 OR.OPS.210.AOC(a) Personnel requirements</p>	75	<p>It is positive that it is explicitly stated that for a small organization all nominated posts may be filled by the accountable manager but it is unacceptable to require audits conducted by an independent person, since this responsibility lies with the Authority.</p> <p>This section relates to AOC holders and a similar statement should be made for non-commercial operators and here even more so there should be no requirement for external audits by an independent person. Through the declaration the operator will be subject to oversight from the Authority and this should be sufficient for a non-commercial operator. A requirement for an independent auditor will just drive up the costs.</p> <p>Non commercial operators have been operating complex aircraft for many years without external supervision and according to EASAs own RIA has a safety record which is superior to that of air taxi operators operating equivalent aircraft. There is therefore no safety case for more costly regulation for this group of operators.</p>	