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Title	Unmanned aircraft system beyond visual line operations over populated areas or assemblies of people in the 'specific' cate
NPA Number	NPA 2020-07

UK CAA (European.Affairs@caa.co.uk) has placed **7** unique comments on this NPA:

Cmt#	Segment description	Page	Comment	Attachments
618	(General Comments)	0	<p>General</p> <p>Comment: The UK CAA has concerns over the basis used for the assignment of BVLOS scores to SAIL VI. It is questioned why SAIL VI automatically requires certification via EASA – this main issue does not appear to have been addressed. SAIL V has nearly every single OSO at a high level of robustness, therefore we believe this defeats the purpose when using Annex E – OSOs of the AMC to 2019/947.</p> <p>This now implies that a VLOS operation with a SAIL VI score will theoretically need 'certification'.</p> <p>Following on from this, when the SORA GRC table is used, EVLOS operations must be assessed as BVLOS for the GRC. As a result, this captures even more types of operations which we do not feel were intended (e.g. EVLOS operations in an urban area may now require certification), and which is not proportionate to the actual risk</p> <p>We recommend the concept should be revised to make it more proportionate.</p> <p>Justification: Disproportionate requirements are being set. An AMC must not override the competency of competent authorities, or the rights of applicants.</p>	

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619	2.1. Why we need to change the rules — issue/rationale	4	<p>Page No: 4</p> <p>Paragraph No: 2.1.1</p> <p>Comment: The Matternet accident described in the Opinion was investigated by the Swiss NTSB, as well as FOCA and EASA subsequently met to discuss this incident. None of the NTSB safety recommendations or conclusions questioned the suitability of the SORA methodology or its application. Similarly, there were no safety recommendations regarding SORA within EASA’s review. As a result, it is unclear as to why this accident has been used as the ‘triggering safety issue’ for this NPA and it appears to be an over-reaction. Therefore, it is questioned why it is stated that ‘considerable safety concerns’ are now an issue.</p> <p>Justification: To change the boundaries for the GRC and SAIL for BVLOS OPS over urban areas to SAIL VI requiring EASA ‘certification’, as a result of this accident, appears to be excessive and unnecessary.</p>	
620	AMC1 Article 11 Rules for conducting an operational risk assessment	12 - 16	<p>Page No: 15</p> <p>Paragraph No: 2.3.1(f)</p> <p>Comment: The UK CAA believes that automatically prescribing the risk of certain BVLOS UAS operations directly as high risk “irrespective of the mitigations proposed by the applicant” and, consequently, mandating the need to certify the UAS, is totally in conflict with Article 40(1)(d) of Commission Delegated Regulation (EU) 2019/945, which reads as follows: “<i>the design, production and maintenance of UAS shall be certified if the UAS is intended to be used in the ‘specific’ category of operations [...] and in the operational authorisation to be issued by the competent authority, following a risk assessment [...], considers that the risk of the operation cannot be adequately mitigated without the certification of the UAS</i>”.</p> <p>Therefore, the UK CAA considers it essential that a thorough analysis by EASA’s and/or the Commission’s legal services is performed before taking the next step.</p>	

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			<p>Justification: Regulation (i.e. mandatory requirements such as this) cannot be created via AMC or GM.</p> <p>Proposed Text: Delete text</p>	
621	ANNEX B TO AMC1 TO ARTICLE 11	17 - 18	<p>Page No: 17</p> <p>Paragraph No: Table B.5 - Level of assurance assessment criteria for ground risk tethered M1 mitigations</p> <p>Comment: It is not understood why an M1 tethered operation has been related to the requirement for certification by EASA. This appears to be disproportionate and will impact other types of operations where tethers are used.</p> <p>We recommend the concept should be revised to make it more proportionate</p> <p>Justification: Disproportionate requirements are being set</p>	
622	GM2 to AMC1 Article 11 Rules for conducting an operational risk assessment	23	<p>Page No: 23</p> <p>Paragraph No: GM2 to AMC1 to Article 11 Rules for conducting an operational risk assessment - Sparsely populated areas</p> <p>Comment: The UK CAA is not comfortable with the proposed definition of 'sparsely populated area', as it is based on static data, and so does not take into consideration any dynamic changes that may be highly relevant, such as:</p> <ul style="list-style-type: none"> - daily (e.g. day and night) - weekly (e.g. working days and weekends) - yearly (e.g. summer time, Christmas holidays, Easter, etc.). <p>This automatically triggers underestimations and overestimations of the actual people density. In addition to this, the UK CAA does not accept defining such a relevant concept</p>	

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			<p>via "GM to an AMC", in opposition to already defined terms. There is no justification for this and we recommend this section should be reviewed.</p> <p>Justification: The detail/terminology is not clear</p>	
623	GM2 to AMC1 Article 11 Rules for conducting an operational risk assessment	23	<p>Page No: 23</p> <p>Paragraph No: GM2 to AMC1 Article 11 Rules for conducting an operational risk assessment - Sparsely populated areas</p> <p>Comment: The notion of using the concept of "populated areas" is not considered appropriate against the well-established international aviation norm of 'congested areas' with regards to the potential for third party hazard and risk leading to potential damage/death from aircraft. This risk is associated with <u>property</u> as well as persons on the surface and should not be confused.</p> <p>Regulation (EU) No 2019/947 states in its recitals:</p> <p>"Whereas:</p> <ol style="list-style-type: none"> 1. Unmanned aircraft, irrespective of their mass, can operate within the same Single European Sky airspace, alongside manned aircraft, whether airplanes or helicopters. 2. As for manned aviation, a uniform implementation of and compliance with rules and procedures should apply to operators, including remote pilots, of unmanned aircraft and unmanned aircraft system ('UAS'), as well as for the operations of such unmanned aircraft and unmanned aircraft system. 3. Considering the specific characteristics of UAS operations, they should be as safe as those in manned aviation." <p>Therefore, the same principles and considerations as for manned aircraft should be followed and complied with especially in terms of the Standardised European Rules of the Air and performance requirements. UAS operating principles should not deviate from these principles unless appropriately and proportionately justified.</p> 	

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			<p>The references to “populated areas” and all associated use of such expressions should be changed to the principle of ‘congested areas’ and use the interpretation as defined in Regulation (EU) No 965/2012 Annex I:</p> <p><i>“(24) ‘congested area’ means in relation to a city, town or settlement, any area which is substantially used for residential, commercial or recreational purposes;”</i></p> <p>Justification: Standardisation of safety principles for all forms of aviation and alignment with manned aviation in accordance with item 3 of Regulation (EU) No 2019/947</p>	
624	4.3. Impact assessment - How it could be achieved—optio	25	<p>Page No: 25</p> <p>Paragraph No: 4.3</p> <p>Comment: The consideration of Option 1 (JARUS SORA) appears to be unjustly underrated. In particular, we cannot accept that the safety impact of following JARUS SORA methodology has exactly the same impact as Option 0 (No change). We believe Option 1 should be rated more similarly to Options 2 and 3.</p> <p>Option 1 should not have the same social impact as Option 0, because its proper implementation, supported with an effective European standardisation strategy, can perfectly lead to an improvement of the public perception and societal acceptance. Again, its societal impact is more related to Options 2 and 3. Preventing accidents with injuries or fatalities immediately triggers an increase in social acceptance.</p> <p>Finally, we believe the economic impact of Option 1 is also unjustly underrated.</p> <p>As a result, the UK CAA is in favour of Option 1 – JARUS SORA and recommend the text should be re-written and adjusted to accept Option 1.</p>	