

# REGULATORY HOT TOPICS

## Part NCC Compliance Requirement Now in Effect

Are you a non-commercial operator of a business aircraft based in Europe? Have you self-declared to a national aviation authority that you are compliant with the new Part NCC regulation that took effect on Aug. 25?

If you are not compliant, your aircraft could be grounded. Or worse, your insurance coverage could be at risk, and in case of an accident or incident, you might be exposed to potential criminal or civil liabilities, according to Swiss attorney Philippe Renz.

Part NCC is shorthand for EASA's EU Regulation 800/2013, which was published three years before the August effective date. But industry insiders estimate as many as half of affected aircraft operators are not yet compliant. "It's time to wake up," said Joel Hencks, managing director of Swiss-based aviation consultancy Aeroex GmbH.

The regulation applies to operations of "non-commercial complex" motor-powered aircraft with a maximum certified takeoff mass (MTOM) exceeding 5,700 kg, or certified for maximum passenger seating of more than 19, or certified for operation with a crew of at least two pilots, or equipped with turbojet engines or more than one turboprop (except twin turboprops with less than a 5,700 kg MTOM).

Helicopters are included if they have a MTOM exceeding 3,175 kg, or seating for more than nine, or at least two pilots.

The largest impact is on small aircraft management firms that do not hold an air operator's certificate and in-house corporate aircraft management departments that manage a fleet of jets for that organization alone. It is estimated that up to 75 percent of the approximately 6,000 aircraft based in Europe may fall under Part NCC. Of those, about 300 are U.S. N-registered aircraft.

Hencks noted there are more than 2,000 requirements to be complied with, including having an SMS, MEL, operations manual

and various training requirements. "Some thought they'd buy a manual and it's done; that's definitely not the case," he said.

"A critical factor in determining whether Part NCC applies to your aircraft is defining the principal place of business of the operator – the location from which the operational control of the operator is exercised," Renz said. The operator, who is not necessarily the aircraft owner, is the accountable party that needs to be compliant.

The new regulation can be problematic for aircraft registered outside the EASA member states because it does not align with FAR Part 91. "EASA places the onus on the *responsibility* for the flight, the FAA focuses on the *exercise of authority* over the flight," said Lana Yaghi, an associate with law firm K&L Gates LLP. "The industry is struggling to understand how to comply with both sets of regulations on a practical level."

Also, N-registered aircraft are not submitted to continuing airworthiness management, which is mandatory under Part NCC.

Hencks said another factor is that EASA-registered aircraft operators must apply for the re-issue of specific approvals such as DG, LVO, RVSM, MNPS and PBN. Approvals will be replaced within six months of the date of application. Third-country operators who fall under Part NCC need only re-apply for DG and LVO; state of registry approvals are sufficient for RVSM, MNPS and PBN.

Renz also warned that EASA's new Part FCL licensing system, rescheduled to take effect in April 2017, may affect pilots of European-based, multi-engine, multi-crew aircraft. Pilots holding an FAA-issued license would have to pass EASA ATPL theory exams, regardless of their flight experience. Such a requirement is already in place in the UK, France and some other EU states. ❖



### INDUSTRY CHALLENGE

The European Aviation Safety Agency (EASA) implemented new Part NCC regulations on Aug. 25, 2016, for European-based non-commercial aircraft. However, many operators are not compliant, and there are potential conflicts with FAA Part 91 regulations.

### NBAA RESPONSE

NBAA is monitoring this issue and has published frequently asked questions on its Part NCC resource page.

Review Part NCC resources at [www.nbaa.org/part-ncc](http://www.nbaa.org/part-ncc).