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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, XXX

Draft

COMMISSION REGULATION (EC) No .../2009

of [...]

amending Regulation (EC) No 1702/2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances as well as for certification of design and production organisations

(text with EEA relevance)

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COMMISSION REGULATION (EC) No .../...

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amending Regulation (EC) No 1702/2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances as well as for certification of design and production organisations

(text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, in particular Article 80(2) thereof,

Having regard to 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/EC¹, and in particular Article 5(5) thereof,

Whereas:

- (1) In order to maintain a high uniform level of aviation safety in Europe, it is necessary to introduce changes to requirements and procedures for the certification of aircraft and related products, parts and appliances and of design and production organisations, in particular to elaborate the rules related to the issuance of restricted type certificates and restricted certificates of airworthiness.
- (2) Regulation (EC) No 1702/2003 should therefore be amended accordingly.
- (3) The measures provided for in this Regulation are based on the opinion² issued by the European Aviation Safety Agency (hereinafter ‘the Agency’) in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of the Regulation (EC) No 216/2008.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1702/2003 is amended as follows:

1. A new Article 2f is added as follows:

"Article 2f

Approval of aircraft design

¹ OJ L 79, 19.03.2008, p.1

² Opinion 03/2009 on “Restricted type-certificates and restricted certificates of airworthiness”.

Specific Airworthiness Specifications issued by the Agency or determined by Regulation (EC) 1702/2003 before [*the entry into force of this amending Regulation*], shall be deemed to constitute the approval of aircraft design for the related aircraft.”

2. The Annex (Part-21) is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission

ANNEX

1. The Annex (Part-21) to Regulation (EC) No 1702/2003 is amended as follows:

(1) the table of contents is replaced by the following:

“Contents

21.1 General

SECTION A — TECHNICAL REQUIREMENTS

SUBPART A — GENERAL PROVISIONS

21A.1A Scope

21A.1B Terminology

21A.2 Undertaking by another person than the applicant for, or holder of, a certificate

21A.3 Failures, malfunctions and defects

21A.3B Airworthiness directives

21A.4 Coordination between design and production

SUBPART B — TYPE-CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

21A.11 Scope

21A.12 Restricted type-certificate

21A.13 Eligibility

21A.14 Demonstration of capability

21A.15 Application

21A.16A Airworthiness codes

21A.16B Special conditions

21A.17 Type-certification basis

21A.18 Designation of applicable environmental protection requirements and certification specifications

21A.19 Changes requiring a new type-certificate or restricted type-certificate

21A.20 Compliance with the type-certification basis and environmental protection requirements

21A.21 Issue of a type-certificate or restricted type-certificate

21A.31 Type design

21A.33 Investigation and tests

21A.35 Flight Tests

21A.41 Type-certificate and restricted type-certificate

21A.44 Obligations of the holder

- 21A.47 Transferability
- 21A.51 Duration and continued validity
- 21A.55 Record keeping
- 21A.57 Manuals
- 21A.61 Instructions for continued airworthiness

(SUBPART C — NOT APPLICABLE)

SUBPART D — CHANGES TO TYPE-CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

- 21A.90 Scope
- 21A.91 Classification of changes in type design
- 21A.92 Eligibility
- 21A.93 Application
- 21A.95 Minor changes
- 21A.97 Major changes
- 21A.101 Designation of applicable certification specifications and environmental protection requirements
- 21A.103 Issue of approval
- 21A.105 Record keeping
- 21A.107 Instructions for continued airworthiness
- 21A.109 Obligations and EPA marking

SUBPART E — SUPPLEMENTAL TYPE-CERTIFICATES

- 21A.111 Scope
- 21A.112A Eligibility
- 21A.112B Demonstration of capability
- 21A.113 Application for a supplemental type-certificate
- 21A.113B Restricted Supplemental Type-Certificate
- 21A.114 Showing of compliance
- 21A.115 Issue of a supplemental type-certificate
- 21A.116 Transferability
- 21A.117 Changes to that part of a product covered by a supplemental type-certificate
- 21A.118A Obligations and EPA marking
- 21A.118B Duration and continued validity
- 21A.119 Manuals
- 21A.120 Instructions for continued airworthiness

SUBPART F — PRODUCTION WITHOUT PRODUCTION ORGANISATION APPROVAL

- 21A.121 Scope
- 21A.122 Eligibility
- 21A.124 Application
- 21A.125A Issue of a letter of agreement
- 21A.125B Findings
- 21A.125C Duration and continued validity
- 21A.126 Production inspection system
- 21A.127 Tests: aircraft
- 21A.128 Tests: engines and propellers
- 21A.129 Obligations of the manufacturer
- 21A.130 Statement of conformity

SUBPART G — PRODUCTION ORGANISATION APPROVAL

- 21A.131 Scope
- 21A.133 Eligibility
- 21A.134 Application
- 21A.135 Issue of production organisation approval
- 21A.139 Quality System
- 21A.143 Exposition
- 21A.145 Approval requirements
- 21A.147 Changes to the approved production organisation
- 21A.148 Changes of location
- 21A.149 Transferability
- 21A.151 Terms of approval
- 21A.153 Changes to the terms of approval
- 21A.157 Investigations
- 21A.158 Findings
- 21A.159 Duration and continued validity
- 21A.163 Privileges
- 21A.165 Obligations of the holder

SUBPART H — CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS

- 21A.171 Scope
- 21A.172 Eligibility
- 21A.173 Classification

- 21A.174 Application
- 21A.175 Language
- 21A.177 Amendment or modification
- 21A.179 Transferability and re-issuance within Member States
- 21A.180 Inspections
- 21A.181 Duration and continued validity
- 21A.182 Aircraft identification
- 21A.183 Restricted certificate of airworthiness based on specific airworthiness specifications – Application for design approval
- 21A.185 Restricted certificate of airworthiness based on specific airworthiness specifications - Designation of specific airworthiness specifications and environmental protection requirements
- 21A.187 Restricted certificate of airworthiness based on specific airworthiness specifications - Compliance with the specific airworthiness specifications and environmental protection requirements
- 21A.189 Restricted certificate of airworthiness based on specific airworthiness specifications - Design approval of the aircraft
- 21A.191 Restricted certificate of airworthiness based on specific airworthiness specifications – Obligations of the holder of the design approval
- 21A.192 Restricted certificate of airworthiness based on specific airworthiness specifications - Issue of design approval and restricted certificate of airworthiness in case of revocation or surrender of the type certificate
- 21A.193 Restricted certificate of airworthiness based on specific airworthiness specifications - Issue of restricted certificate of airworthiness resulting from revocation of the type certificate
- 21A.195 Restricted certificate of airworthiness based on specific airworthiness specifications –Design approval of the aircraft contents and validity
- 21A.196 Restricted certificate of airworthiness based on specific airworthiness specifications - Approval of changes to aircraft design
- 21A.197 Restricted certificate of airworthiness based on specific airworthiness specifications - Approval of repair design

SUBPART I — NOISE CERTIFICATES

- 21A.201 Scope
- 21A.203 Eligibility
- 21A.204 Application

- 21A.207 Amendment or modification
- 21A.209 Transferability and re-issuance within Member States
- 21A.210 Inspections
- 21A.211 Duration and continued validity

SUBPART J — DESIGN ORGANISATION APPROVAL

- 21A.231 Scope
- 21A.233 Eligibility
- 21A.234 Application
- 21A.235 Issue of design organisation approval
- 21A.239 Design assurance system
- 21A.243 Data
- 21A.245 Approval requirements
- 21A.247 Changes in design assurance system
- 21A.249 Transferability
- 21A.251 Terms of approval
- 21A.253 Changes to the terms of approval
- 21A.257 Investigations
- 21A.258 Findings
- 21A.259 Duration and continued validity
- 21A.263 Privileges
- 21A.265 Obligations of the holder

SUBPART K — PARTS AND APPLIANCES

- 21A.301 Scope
- 21A.303 Compliance with applicable requirements
- 21A.305 Approval of parts and appliances
- 21A.307 Release of parts and appliances for installation

(SUBPART L — NOT APPLICABLE)

SUBPART M — REPAIRS

- 21A.431 Scope
- 21A.432A Eligibility
- 21A.432B Demonstration of capability
- 21A.433 Repair design
- 21A.435 Classification of repairs
- 21A.437 Issue of a repair design approval
- 21A.439 Production of repair parts

- 21A.441 Repair embodiment
- 21A.443 Limitations
- 21A.445 Unrepaired damage
- 21A.447 Record keeping
- 21A.449 Instructions for continued airworthiness
- 21A.451 Obligations and EPA marking

(SUBPART N — NOT APPLICABLE)

SUBPART O — EUROPEAN TECHNICAL STANDARD ORDER AUTHORISATIONS

- 21A.601 Scope
- 21A.602A Eligibility
- 21A.602B Demonstration of capability
- 21A.603 Application
- 21A.604 ETSO Authorisation for an Auxiliary Power Unit (APU)
- 21A.605 Data requirements
- 21A.606 Issue of ETSO authorisation
- 21A.607 ETSO authorisation privileges
- 21A.608 Declaration of Design and Performance (DDP)
- 21A.609 Obligations of holders of ETSO authorisations
- 21A.610 Approval for deviation
- 21A.611 Design changes
- 21A.613 Record keeping
- 21A.615 Inspection by the Agency
- 21A.619 Duration and continued validity
- 21A.621 Transferability

SUBPART P — PERMIT TO FLY

- 21A.701 Scope
- 21A.703 Eligibility
- 21A.705 Competent Authority
- 21A.707 Application for permit to fly
- 21A.708 Flight conditions
- 21A.709 Application for approval of flight conditions
- 21A.710 Approval of flight conditions
- 21A.711 Issue of a permit to fly
- 21A.713 Changes

- 21A.715 Language
- 21A.719 Transferability
- 21A.721 Inspections
- 21A.723 Duration and continued validity
- 21A.725 Renewal of permit to fly
- 21A.727 Obligations of the holder of a permit to fly
- 21A.729 Recordkeeping

SUBPART Q — IDENTIFICATION OF PRODUCTS, PARTS AND APPLIANCES

- 21A.801 Identification of products
- 21A.803 Handling of identification data
- 21A.804 Identification of parts and appliances
- 21A.805 Identification of critical parts
- 21A.807 Identification of ETSO articles

SECTION B — PROCEDURES FOR COMPETENT AUTHORITIES

SUBPART A — GENERAL PROVISIONS

- 21B.5 Scope
- 21B.20 Obligations of the competent authority
- 21B.25 Requirements for the organisation of the competent authority
- 21B.30 Documented procedures
- 21B.35 Changes in organisation and procedures
- 21B.40 Resolution of disputes
- 21B.45 Reporting/co-ordination
- 21B.55 Record keeping
- 21B.60 Airworthiness directives

SUBPART B — TYPE-CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

(SUBPART C — NOT APPLICABLE)

SUBPART D — CHANGES TO TYPE-CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

SUBPART E — SUPPLEMENTAL TYPE-CERTIFICATES

SUBPART F — PRODUCTION WITHOUT PRODUCTION ORGANISATION APPROVAL

- 21B.120 Investigation
- 21B.125 Findings
- 21B.130 Issue of letter of agreement

21B.135 Maintenance of the letter of agreement

21B.140 Amendment of a letter of agreement

21B.145 Limitation, suspension and revocation of a letter of agreement

21B.150 Record keeping

SUBPART G — PRODUCTION ORGANISATION APPROVAL

21B.220 Investigation

21B.225 Findings

21B.230 Issue of certificate

21B.235 Continued surveillance

21B.240 Amendment of a production organisation approval

21B.245 Suspension and revocation of a production organisation approval

21B.260 Record keeping

SUBPART H — CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS

21B.320 Investigation

21B.325 Issue of airworthiness certificates

21B.326 Certificate of airworthiness

21B.327 Restricted certificate of airworthiness

21B.328 Restricted certificate of airworthiness based on specific airworthiness specifications - Issue of design approval and restricted certificate of airworthiness in case of revocation or surrender of the type certificate

21B.330 Suspension and revocation of certificates of airworthiness and restricted certificates of airworthiness

21B.345 Record keeping

SUBPART I — NOISE CERTIFICATES

21B.420 Investigation

21B.425 Issue of noise certificates

21B.430 Suspension and revocation of a noise certificate

21B.445 Record keeping

SUBPART J — DESIGN ORGANISATION APPROVAL

SUBPART K — PARTS AND APPLIANCES

(SUBPART L — NOT APPLICABLE)

SUBPART M — REPAIRS

(SUBPART N — NOT APPLICABLE)

SUBPART O — EUROPEAN TECHNICAL STANDARD ORDER
AUTHORISATIONS

SUBPART P — PERMIT TO FLY

21B.520 Investigation

21B.525 Issue of permits to fly

21B.530 Revocation of permits to fly

21B.545 Record keeping

SUBPART Q — IDENTIFICATION OF PRODUCTS, PARTS AND
APPLIANCES

APPENDICES — EASA FORMS”;

- (2) the numbering of point 21A.1 is changed to 21A.1A
- (3) a new point 21A.1B is inserted as follows:

“21A.1B Terminology

For the purpose of Part 21A.3 and Part 21A.3B, type-certificates, restricted type-certificates, supplemental type-certificates, restricted supplemental type-certificates, European Technical Standard Order (ETSO) authorisations and major repair design approvals are considered ‘major design approvals’.”

- (4) point 21A.3 is replaced by the following:

“21A.3A Failures, malfunctions and defects

(a) System for Collection, Investigation and Analysis of Data. The holder of a major design approval shall have a system for collecting, investigating and analysing reports of and information related to failures, malfunctions, defects or other occurrences which cause or might cause adverse effects on the continuing airworthiness of the product, part or appliance covered by the major design approval. Information about this system shall be made available to all known operators of the product, part or appliance and, on request, to any person authorised under other associated implementing Regulations.

(b) Reporting to the Agency.

1. The holder of a major design approval or approval of aircraft design in accordance with 21A.191 shall report to the Agency any failure, malfunction, defect or other occurrence of which it is aware related to a product, part, or appliance covered by the major design approval or approval of aircraft design in accordance with 21A.191, and which has resulted in or may result in an unsafe condition.
2. These reports shall be made in a form and manner established by the Agency, as soon as practicable and in any case dispatched not later than 72 hours after the identification of the possible unsafe condition, unless exceptional circumstances prevent this.

(c) Investigation of Reported Occurrences.

1. When an occurrence reported under paragraph (b), or under 21A.129(f)(2) or 21A.165(f)(2) results from a deficiency in the

design, or a manufacturing deficiency, the holder of the major design approval, or approval of aircraft design in accordance with 21A.191, or the manufacturer as appropriate, shall investigate the reason for the deficiency and report to the Agency the results of its investigation and any action it is taking or proposes to take to correct that deficiency.

2. If the Agency finds that an action is required to correct the deficiency, the holder of the major design approval, or approval of aircraft design in accordance with 21A.191, or the manufacturer as appropriate, shall submit the relevant data to the Agency.”

- (5) In point 21A.3B, point (c) is replaced by the following

“(c) 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 major design approval, shall:

1. Propose the appropriate corrective action or required inspections, or both, and submit details of these proposals to the Agency for approval.
2. 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 person required to comply with the airworthiness directive, appropriate descriptive data and accomplishment instructions.”

- (6) point 21A.4 is replaced by the following:

21A.4 Co-ordination between design and production

Each holder of a major design approval, approval of aircraft design in accordance with 21A.191 or approval of a minor repair design, shall collaborate with the production organisation as necessary to ensure:

- (a) The satisfactory co-ordination of design and production required by 21A.122 or 21A.133 or 21A.165(c)(2) as appropriate, and
- (b) The proper support of the continued airworthiness of the product, part or appliance.

- (7) a new point 21A.12 is inserted as follows:

“21A.12 Restricted type-certificate

A restricted type certificate for an aircraft may be applied for when a type certificate is inappropriate and the aircraft is designed for a purpose for which the Agency agrees it justifies deviations from the essential requirements of Annex I to the Basic Regulation, or the engine or propeller installed in the aircraft does not hold a type certificate.”

- (8) point 21A.17 is replaced by the following:

“21A.17 Type-certification basis

- (a) The type-certification basis to be notified for the issuance of a type-certificate or a restricted type-certificate shall consist of:

1. The applicable airworthiness code established by the Agency that is effective on the date of application for that certificate:
 - (i) Unless otherwise specified by the Agency; or
 - (ii) Unless compliance with later effective amendments is elected by the applicant or required under paragraphs (c) and (d); or
 - (iii) For restricted type-certificates, excluding the paragraphs of the applicable airworthiness code that the Agency finds inappropriate for the purpose for which the aircraft is to be used and including possible alternative specifications.
 2. Any special condition prescribed in accordance with 21A.16B(a).
- (b) An application for a type-certificate or a restricted type-certificate for large aeroplanes and large rotorcraft shall be effective for five years and an application for any other type-certificate or restricted type-certificate shall be effective for three years, unless an applicant shows at the time of application that its product requires a longer period of time for design, development, and testing, and the Agency approves a longer period.
- (c) In the case where a type-certificate or restricted type-certificate has not been issued, or it is clear that a type-certificate or restricted type-certificate will not be issued, within the time limit established under paragraph (b); the applicant may:
1. File a new application for a type-certificate or restricted type-certificate and comply with all the provisions of paragraph (a) applicable to an original application; or
 2. File for an extension of the original application and comply with the applicable airworthiness codes that were effective on a date, to be selected by the applicant, not earlier than the date which precedes the date of issue of the type-certificate or restricted type-certificate by the time limit established under paragraph (b) for the original application.
- (d) If an applicant elects to comply with an amendment to the airworthiness codes that is effective after the filing of the application for a type-certificate or restricted type-certificate, the applicant shall also comply with any other amendment that the Agency finds is directly related.”
- (9) point 21A.18 is replaced by the following:

“21A.18 Designation of applicable environmental protection requirements and certification specifications

- (a) The applicable noise requirements for the issue of a type-certificate or restricted type-certificate for an aircraft are prescribed according to the provisions of Chapter 1 of Annex 16, Volume I, Part II to the Chicago Convention and:
1. for subsonic jet aeroplanes, in Volume I, Part II, Chapters 2, 3 and 4, as applicable;

2. for propeller-driven aeroplanes, in Volume I, Part II, Chapters 3, 4, 5, 6 and 10, as applicable;
 3. for helicopters, in Volume I, Part II, Chapters 8 and 11, as applicable; and
 4. for supersonic aeroplanes, in Volume I, Part II, Chapter 12, as applicable.
- (b) The applicable emission requirements for the issue of a type-certificate or restricted type-certificate for an aircraft and engine are prescribed in Annex 16 to the Chicago Convention:
1. for prevention of intentional fuel venting, in Volume II, Part II, Chapter 2;
 2. for emissions of turbo-jet and turbofan engines intended for propulsion only at subsonic speeds, in Volume II, Part III, Chapter 2; and
 3. for emissions of turbo-jet and turbofan engines intended for propulsion only at supersonic speeds, in Volume II, Part III, Chapter 3.
- (c) The Agency shall issue, in accordance with Article 14 of the Basic Regulation, certification specifications providing for acceptable means to demonstrate compliance with the noise and the emission requirements laid down in paragraphs (a) and (b) respectively.”

(10) point 21A.19 is replaced by the following:

“21A.19 Changes requiring a new type-certificate or restricted type-certificate

Any natural or legal person proposing to change a product shall apply for a new type-certificate or restricted type-certificate if the Agency finds that the change in design, power, thrust, or mass is so extensive that a substantially complete investigation of compliance with the applicable type-certification basis is required.”

(11) point 21A.21 is replaced by the following:

“21A.21 Issue of a type-certificate or restricted type-certificate

The applicant shall be entitled to have a product type-certificate or an aircraft restricted type-certificate issued by the Agency after:

- (a) demonstrating its capability in accordance with 21A.14;
- (b) submitting the declaration referred to in 21A.20(b); and
- (c) it is shown that:
 1. The product to be certificated meets the applicable type-certification basis and environmental protection requirements designated in accordance with 21A.17 and 21A.18;
 2. Any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety;

3. No feature or characteristic makes it unsafe for the uses for which certification is requested; and
 4. The type-certificate or restricted type-certificate applicant has expressly stated that it is prepared to comply with 21A.44.
- (d) In the case of an aircraft type-certificate, the engine or propeller, or both, if installed in the aircraft must have a type-certificate issued or determined in accordance with this Regulation.
 - (e) In the case of a restricted type-certificate, the engine or propeller, or both, if installed in the aircraft must:
 1. have a type-certificate issued or determined in accordance with this Regulation; or
 2. have been shown to be in compliance with the certification specifications necessary to ensure safe flight of the aircraft.”
- (12) point 21A.23 is deleted
- (13) in point 21A.35, point (a) is replaced by the following:
 “(a) Flight testing for the purpose of obtaining a type-certificate or restricted type-certificate shall be conducted in accordance with conditions for such flight testing specified by the Agency.”

- (14) point 21A.41 is replaced by the following:

“21A.41 Type-certificate and restricted type-certificate

The type-certificate and restricted type-certificate are both considered to include the type design, the operating limitations, the type-certificate data sheet for airworthiness and emissions, the applicable type-certification basis and environmental protection requirements with which the Agency records compliance, and any other conditions or limitations prescribed for the product in the applicable certification specifications and environmental protection requirements, and in the case of a restricted type-certificate, any additional limitations for the use related to the purpose and any non-compliance with Annex 8 to the Chicago Convention. The aircraft type-certificate and restricted type-certificate, in addition, both include the type-certificate data sheet for noise. The engine type-certificate data sheet includes the record of emission compliance.”

- (15) point 21A.44 is replaced by the following:

“21A.44 Obligations of the holder

Each holder of a type-certificate or restricted type-certificate shall:

- (a) undertake the obligations laid down in 21A.3, 21A.3B, 21A.4, 21A.55, 21A.57 and 21A.61; and, for this purpose, shall continue to meet the qualification requirements for eligibility under 21A.14 or, as an alternative procedure, seek the Agency agreement for the use of procedures setting out its activities to undertake these obligations; and
- (b) specify the marking in accordance with Subpart Q; and
- (c) report to the Agency any failure to fulfil the obligations imposed on it by this Subpart B.”

- (16) point 21A.47 is replaced by the following:

“21A.47 Transferability

Transfer of a type-certificate or restricted type-certificate may only be made to a natural or legal person that is able to undertake the obligations under 21A.44, and, for this purpose, has demonstrated the capability required in 21A.44(a).”

- (17) point 21A.51 is replaced by the following:

“21A.51 Duration and continued validity

(a) A type-certificate and restricted type-certificate shall be issued for an unlimited duration. They shall remain valid subject to the certificate not being surrendered or revoked under the applicable administrative procedures established by the Agency.

(b) Upon surrender or revocation, the type-certificate and restricted type-certificate shall be returned to the Agency.”

- (18) the title of Subpart E is replaced by the following:

“SUBPART E – SUPPLEMENTAL TYPE-CERTIFICATES AND RESTRICTED SUPPLEMENTAL TYPE-CERTIFICATES”

- (19) point 21A.111 is replaced by the following:

“21A.111 Scope

This Subpart establishes the procedure for the approval of major changes to the type design under supplemental type certificates and for the approval of major changes to an aircraft under restricted supplemental type-certificates, and establishes the rights and obligations of the applicants for, and holders of, those certificates.”

- (20) a new point 21A.113B is inserted as follows:

“21A.113B Restricted Supplemental Type-Certificate

(a) A restricted supplemental type-certificate for a major change to an aircraft type design may be applied for when

1. a supplemental type-certificate or major change approval is inappropriate; and
2. the aircraft is modified for a purpose for which the Agency agrees it justifies deviations from the essential requirements of Annex I to the Basic Regulation.

(b) Paragraphs 21A.112, 21A.112B, 21A.113, 21A.116, 21A.117, 21A.118A, 21A.118B, 21A.119 and 21A.120 shall apply to applications for a restricted supplemental type-certificate.

(c) The applicable certification specifications shall be those established in accordance with 21A.101 excluding the paragraphs of the applicable airworthiness code that the Agency finds inappropriate for the purpose for which the aircraft is to be used and including possible alternative specifications.

- (d) The applicant shall be entitled to have a restricted supplemental type-certificate issued by the Agency after:
1. it is shown that the changed aircraft complies with the certification specifications as notified under subparagraph (c) above and the applicable environmental protection requirements, by:
 - (i) submitting to the Agency substantiating data together with any necessary descriptive data for supplementing the type design;
 - (ii) declaring that it has shown compliance with the applicable certification specifications and environmental protection requirements and providing to the Agency the basis on which such a declaration is made;
 - (iii) where the applicant holds an appropriate design organisation approval, making the declaration of subparagraph (d)(1)(ii) according to the provisions of Subpart J;
 - (iv) complying with 21A.33 and, where applicable, 21A.35.
 2. demonstrating its capability in accordance with 21A.112B;
 3. where, under 21A.113(b), the applicant has entered into an arrangement with the type-certificate holder,
 - (i) The type-certificate holder has advised that its has no technical objection to the information submitted under 21A.93; and
 - (ii) The type-certificate holder has agreed to collaborate with the supplemental type-certificate holder to ensure discharge of all obligations for continued airworthiness of the changed product through compliance with 21A.44 and 21A.118A.
 4. In the case of an aircraft restricted supplemental type-certificate, related to engine or propeller installation, the engine or propeller, or both, must:
 - (i) have a type-certificate issued or determined in accordance with this Regulation; or
 - (ii) have been shown to be in compliance with the certification specifications necessary to ensure safe flight of the aircraft.
- (e) The restricted supplemental type-certificate shall specify any additional limitations for the use related to the purpose.”

(21) point 21A.118A is replaced by the following:

“21A.118A Obligations and EPA marking

Each holder of a supplemental type-certificate or restricted supplemental type-certificate shall:

- (a) undertake the obligations:
1. Laid down in 21A.3, 21A.3B, 21A.4, 21A.105, 21A.119 and 21A.120;
 2. Implicit in the collaboration with the type-certificate holder under 21A.115(c)(2);

and for this purpose continue to meet the criteria of 21A.112B

- (b) specify the marking, including EPA letters, in accordance with 21A.804(a).
 - (c) report to the Agency any failure to fulfil the obligations imposed on it by this Subpart E.”
- (22) point 21A.118B is replaced by the following:
- “21A.118B Duration and continued validity**
- (a) A supplemental type-certificate or restricted supplemental type-certificate shall be issued for an unlimited duration. It shall remain valid subject to the certificate not being surrendered or revoked under the applicable administrative procedures established by the Agency.
 - (b) Upon surrender or revocation, the supplemental type-certificate or restricted supplemental type-certificate shall be returned to the Agency.”
- (23) point 21A.173 is replaced by the following:
- “21A.173 Classification**
- (a) Certificates of airworthiness shall be issued to aircraft which conform to a type-certificate that has been issued in accordance with this Part.
 - (b) Restricted certificates of airworthiness shall be issued to aircraft:
 1. which conform to a restricted type-certificate that has been issued in accordance with this Part; or
 2. which conform to a type-certificate as supplemented by a restricted supplemental type-certificate that have been issued in accordance with this Part; or
 3. which have been shown to the Agency to comply with specific airworthiness specifications ensuring adequate safety.”
- (24) point 21A.174 is replaced by the following:
- “21A.174 Application**
- (a) Pursuant to 21A.172, an application for a certificate of airworthiness or a restricted certificate of airworthiness shall be made to the competent authority of the Member State of registry in a form and manner established by that authority.
 - (b) Each application for a certificate of airworthiness or restricted certificate of airworthiness shall include:
 1. the class of airworthiness certificate applied for;
 2. with regard to new aircraft:
 - (i) A statement of conformity:
 - issued under 21A.163(b), or
 - issued under 21A.130 and validated by the Competent Authority,

- or, for an imported aircraft, a statement signed by the exporting authority that the aircraft conforms to a design approved by the Agency
 - (ii) A weight and balance report with a loading schedule.
 - (iii) The flight manual, when required by the applicable airworthiness code for the particular aircraft.
3. with regard to used aircraft:
- (i) originating from a Member State, an airworthiness review certificate issued in accordance with Part M.
 - (ii) originating from a non-member state:
 - a statement by the competent authority of the State where the aircraft is, or was, registered, reflecting the airworthiness status of the aircraft on its register at time of transfer.
 - a weight and balance report with a loading schedule.
 - the flight manual when such material is required by the applicable airworthiness code for the particular aircraft.
 - historical records to establish the production, modification, and maintenance standard of the aircraft, including all limitations applicable to the aircraft under the rules of the State where the aircraft is or was registered.
 - a recommendation for the issuance of an airworthiness review certificate following an airworthiness review in accordance with Part M.
 - (c) Each application for a restricted certificate of airworthiness for an aircraft, for which the certificate of airworthiness has become invalid due to the embodiment of a restricted supplemental type certificate, shall include a recommendation for the issuance of an airworthiness review certificate following an airworthiness review in accordance with Part-M.
 - (d) Unless otherwise agreed, the statements referred to in subparagraphs (b)(2)(i) and (b)(3)(ii) shall be issued no more than 60 days before presentation of the aircraft to the competent authority of the Member State of registry.”

(25) point 21A.177 is replaced by the following:

“21A.177 Amendment or modification

A certificate of airworthiness or a restricted certificate of airworthiness may be amended or modified only by the competent authority of the Member State of registry.”

(26) point 21A.179 is replaced by the following:

“21A.179 Transferability and re-issuance within Member States

(a) Where ownership of an aircraft has changed:

1. if it remains on the same register, the certificate of airworthiness, or the restricted certificate of airworthiness shall be transferred together with the aircraft;
 2. if the aircraft is registered in another Member State, the certificate of airworthiness, or the restricted certificate of airworthiness shall be issued:
 - (i) upon presentation of the former certificate of airworthiness or restricted certificate of airworthiness and of a valid airworthiness review certificate issued under Part M, and
 - (ii) when satisfying 21A.175.
- (b) Where ownership of an aircraft has changed, and the aircraft has a restricted certificate of airworthiness based on a design approval issued or established in accordance with 21A.191, 21A.194A or 21A.194B the design approval shall also be transferred to the new owner.”
- (27) point 21A.180 is replaced by the following:

“21A.180 Inspections

The applicant or holder of the certificate of airworthiness or a restricted certificate of airworthiness shall provide access to the aircraft for which that certificate will be or has been issued upon request by the competent authority of the Member State of registry.”

- (28) point 21A.181 is replaced by the following:

“21A.181 Duration and continued validity

- (a) A certificate of airworthiness shall be issued for an unlimited duration. It shall remain valid subject to:
1. compliance with the approved design and continuing airworthiness requirements; and
 2. the aircraft remaining on the same register; and
 3. the type-certificate under which it is issued not being previously invalidated under 21A.51.
 4. the certificate not being surrendered, suspended or revoked.
 5. the aircraft not being modified in accordance with a restricted supplemental type-certificate.
- (b) A restricted certificate of airworthiness shall be issued for an unlimited duration. It shall remain valid subject to:
1. compliance with the applicable approved design and continuing airworthiness requirements; and
 2. the aircraft remaining on the same register; and
 3. the design approvals under which it is issued not being previously surrendered or revoked under 21A.51, 21A.118B or 21A.191(d) as applicable; and
 4. the certificate not being surrendered, suspended or revoked.

- (c) Upon surrender or revocation, the certificate shall be returned to the competent authority of the Member State of registry.”
- (29) point 21A.182 is replaced by the following:
“21A.182 Aircraft identification
Each applicant for a certificate of airworthiness or restricted certificate of airworthiness under this Subpart shall demonstrate that its aircraft is identified in accordance with Subpart Q.”
- (30) a new point 21A.183 is inserted as follows :
“21A.183 Restricted certificate of airworthiness based on specific airworthiness specifications – Application for design approval
- (a) When a type-certificate and restricted type-certificate are not appropriate, the applicant for a restricted certificate of airworthiness based on specific airworthiness specifications shall be eligible for an application for design approval under this paragraph.
- (b) The applicant shall demonstrate its capability by holding a design organisation approval, issued by the Agency in accordance with Subpart J. As an alternative procedure to demonstrate its capability the applicant may seek Agency agreement for the use of procedures setting out the specific design practices, resources and sequence of activities necessary to comply with paragraphs 21A.187, 21A.189, 21A.191, 21A.195, 21A.196 and 21A.197.
- (c) An application for the design approval of an aircraft eligible for a restricted certificate of airworthiness based on specific airworthiness specifications shall be made in a form and manner established by the Agency.
- (d) The application shall include a three-view drawing of that aircraft and preliminary basic data, including the proposed operating characteristics and limitations.”
- (31) a new point 21A.185 is inserted as follows :
“21A.185 Restricted certificate of airworthiness based on specific airworthiness specifications - Designation of specific airworthiness specifications and environmental protection requirements
- (a) For the design approval of an aircraft eligible for a restricted certificate of airworthiness based on specific airworthiness specifications the Agency shall notify specific airworthiness specifications ensuring adequate safety;
- (b) The applicable environmental protection requirements and certification specifications are those specified in 21A.18.”
- (32) a new point 21A.187 is inserted as follows :
“21A.187 Restricted certificate of airworthiness based on specific airworthiness specifications - Compliance with the specific

airworthiness specifications and environmental protection requirements

- (a) The applicant for the design approval of an aircraft eligible for a restricted certificate of airworthiness based on specific airworthiness specifications shall show compliance with the specific airworthiness specifications and environmental protection requirements designated in accordance with 21A.185 and shall provide to the Agency the means by which such compliance has been shown.
- (b) The applicant shall declare that it has shown compliance with the specific airworthiness specifications and environmental protection requirements designated in accordance with 21A.185.
- (c) The declaration of subparagraph (b) shall be made according to the provisions of Subpart J or of the alternative procedures to design organisation approval.”

(33) a new point 21A.189 is inserted as follows :

“21A.189 Restricted certificate of airworthiness based on specific airworthiness specifications - Design approval of the aircraft

The applicant shall be entitled to have a design approval of the aircraft issued by the Agency after:

- (a) submitting the declaration referred to in 21A.187(b); and
- (b) it is shown that:
 - 1. the aircraft to be approved meets the specific airworthiness specifications and environmental protection requirements designated in accordance with 21A.185;
 - 2. no feature or characteristic makes it unsafe for the uses for which approval is requested; and
 - 3. the engine or propeller, or both, if installed in the aircraft:
 - (i) have a type-certificate issued or determined in accordance with this Regulation; or
 - (ii) have been shown to comply with specific airworthiness specifications ensuring adequate safety.”

(34) a new point 21A.191 is inserted as follows :

“21A.191 Restricted certificate of airworthiness based on specific airworthiness specifications – Obligations of the holder of the design approval

- (a) The holder of a design approval of an aircraft shall report to the Agency any failure, malfunction, defect or other occurrence of which it is aware related to the aircraft covered by the design approval, and which has resulted in or may result in an unsafe condition. These reports shall be made in a form and manner established by the Agency, as soon as practicable and in any case dispatched not later than 72 hours after the identification of the possible unsafe condition, unless exceptional circumstances prevent this.

- (b) When an occurrence reported under paragraph (a) results from a deficiency in the design, the holder of the design approval shall investigate the reason for the deficiency and report to the Agency the results of its investigation and any action it is taking or proposes to take to correct that deficiency. If the Agency finds that an action is required to correct the deficiency, the holder of the design approval, shall submit the relevant data for approval to the Agency.
 - (c) The holder of a design approval of an aircraft shall:
 1. Retain as appropriate all relevant design information, drawings and test reports, in order to provide the information necessary to ensure the continued airworthiness and compliance with applicable environmental protection requirements of the aircraft.
 2. Produce, maintain or update as appropriate all necessary manuals, and provide copies, on request, to the Agency.
 3. Produce, maintain or update as appropriate instructions for continued airworthiness.”
- (35) a new point 21A.192 is inserted as follows :
- “21A.192 Restricted certificate of airworthiness based on specific airworthiness specifications - Issue of design approval and restricted certificate of airworthiness in case of revocation or surrender of the type certificate**
- By derogation from 21A.174, 21A.183, 21A.185, 21A.187 and 21A.189:
- (a) For aircraft for which the (restricted) type certificate is surrendered or revoked for a reason not related to the safety of the design, the person under whose name the aircraft is registered may apply for a design approval of that aircraft.
 - (b) The applicant for a design approval shall demonstrate its capability by holding a design organisation approval, issued by the Agency in accordance with Subpart J. As an alternative procedure to demonstrate its capability the applicant may seek Agency agreement for the use of procedures setting out the specific activities necessary to comply with paragraphs 21A.191, 21A.196 and 21A.197.
 - (c) When the Agency is satisfied that the applicant complies with subparagraph (b) it shall issue the design approval for the aircraft which shall be the (restricted) type certificate before it was revoked or surrendered plus the then applicable airworthiness directives, unless the Agency determines that such design approval does not ensure adequate safety. The provisions of the original type certification basis are considered to be the specific airworthiness specifications under which the design is approved.
 - (d) Pursuant to 21A.172, an application for a restricted certificate of airworthiness shall be made to the competent authority of the Member State of registry in a form and manner established by that authority.”
- (36) a new point 21A.193 is inserted as follows :

“21A.193 Restricted certificate of airworthiness based on specific airworthiness specifications - Issue of restricted certificate of airworthiness resulting from revocation of the type certificate

By derogation from 21A.174, 21A.183, 21A.185, 21A.187, 21A.189 and 21A.192:

- (a) For aircraft identified in 21A.14(b) for which the (restricted) type certificate is revoked due to the absence of a type certificate holder, a design approval of the aircraft shall be deemed to have been issued to the owner of the aircraft. The design approval shall consist of the (restricted) type certificate before it was revoked plus the then applicable airworthiness directives, unless the Agency determines that such design approval does not ensure adequate safety. The provisions of the original type certification basis are considered to be the specific airworthiness specifications under which the design is deemed to be approved.
- (b) Pursuant to 21A.172, an application for a restricted certificate of airworthiness shall be made to the competent authority of the Member State of registry in a form and manner established by that authority.”

(37) a new point 21A.195 is inserted as follows :

“21A.195 Restricted certificate of airworthiness based on specific airworthiness specifications –Design approval of the aircraft contents and validity

- (a) The design approval of the aircraft is considered to include:
 - 1. the design data;
 - 2. the operating limitations;
 - 3. an approval data sheet for airworthiness, noise and emissions. When the engine has no type-certificate, the data sheet also includes the record of emission compliance. The data sheet shall list any non-compliance with Annex 8 to the Chicago Convention;
 - 4. as applicable, the specific airworthiness specifications and environmental protection requirements with which the Agency records compliance;
 - 5. any other conditions or limitations prescribed for the aircraft and, as applicable, the engine and propeller, in the specific airworthiness specifications and environmental protection requirements; and
 - 6. any additional limitations for use associated with the restricted certificate of airworthiness.
- (b) A design approval of the aircraft shall be issued for an unlimited duration. It shall remain valid subject to it not being surrendered or revoked under the applicable administrative procedures established by the Agency.
- (c) Upon surrender or revocation, the attestation of the design approval of the aircraft shall be returned to the Agency.”

(38) a new point 21A.196 is inserted as follows :

“21A.196 Restricted certificate of airworthiness based on specific airworthiness specifications - Approval of changes to aircraft design

- (a) Changes to the design of an aircraft which has been issued a restricted certificate of airworthiness based on specific airworthiness specifications shall be classified as minor and major in accordance with 21A.91.
- (b) Major changes shall be approved by the Agency in accordance with 21A.189.
- (c) Minor changes shall be approved by the Agency or an appropriately approved design organisation in accordance with 21A.189.”

(39) a new point 21A.197 is inserted as follows :

“21A.197 Restricted certificate of airworthiness based on specific airworthiness specifications - Approval of repair design

- (a) Repair designs for an aircraft which has been issued a restricted certificate of airworthiness based on specific airworthiness specifications shall be classified as minor and major in accordance with 21A.435(a).
- (b) Major repair designs shall be approved by the Agency in accordance with 21A.189.
- (c) Minor repair designs shall be approved by the Agency or an appropriately approved design organisation in accordance with 21A.189.”

(40) point (a)1. of point 21A.211 is replaced by the following:

- 1. compliance with the applicable approved design, environmental protection and continuing airworthiness requirements; and

(41) point 21B.327 is replaced by the following:

“21B.327 Restricted certificate of airworthiness

- (a) The competent authority of the Member State of registry shall issue a restricted certificate of airworthiness for:
 - 1. new aircraft, upon presentation of the documentation required by 21A.174(b)(2) demonstrating that the aircraft conforms to a design approved by the Agency under a restricted type-certificate, under a type certificate supplemented by a restricted supplemental type-certificate or in accordance with specific airworthiness specifications, and is in a condition for safe operation.
 - 2. used aircraft:
 - (i) upon presentation of the documentation required by 21A.174(b)(3) demonstrating that:
 - (A) the aircraft conforms to a design approved by the Agency under a restricted type-certificate, under a type certificate supplemented by a restricted supplemental type-

certificate or in accordance with specific airworthiness specifications; and

(B) the applicable airworthiness directives have been complied with; and

(C) the aircraft has been inspected in accordance with the appropriate provisions of Part M; and

(ii) when the competent authority of the Member State of registry is satisfied that the aircraft conforms to the approved design and is in condition for safe operation. This may include inspections by the competent authority of the Member State of registry.

(b) The competent authority of the Member State of registry shall issue a restricted certificate of airworthiness for a used aircraft for which the certificate of airworthiness has become invalid due to the embodiment of a restricted supplemental type certificate,

1. upon presentation of the documentation required by 21A.174(c) demonstrating that:

(i) the aircraft conforms to a design approved by the Agency under a type certificate supplemented by a restricted supplemental type-certificate; and

(ii) the applicable airworthiness directives have been complied with; and

(iii) the aircraft has been inspected in accordance with the appropriate provisions of Part-M; and

2. when the competent authority of the Member State of registry is satisfied that the aircraft conforms to the approved design and is in condition for safe operation. This may include inspections by the competent authority of the Member State of registry.

(c) The restricted certificate of airworthiness shall specify the limitations for use defined in accordance with 21A.41, 21A.113B(e) or 21A.195(a)(6).

(42) a new point 21B.328 is inserted as follows :

21B.328 Restricted certificate of airworthiness based on specific airworthiness specifications - Issue of design approval and restricted certificate of airworthiness in case of revocation or surrender of the type certificate

Pursuant to 21A.192 or 21A.193 and by derogation from 21B.327, the competent authority of the Member State of registry shall issue a restricted certificate of airworthiness upon presentation of the previously valid certificate of airworthiness, unless it has determined that the aircraft does not conform to the design approval as established under 21A.192(c) or 21A.193(a), or is not in a condition for safe operation.