

NOTICE OF PROPOSED AMENDMENT (NPA) No 2007-03

**DRAFT DECISION OF THE EXECUTIVE DIRECTOR OF THE
EUROPEAN AVIATION SAFETY AGENCY**

AMENDING

**DECISION NO. 2003/01/RM OF THE EXECUTIVE DIRECTOR OF THE AGENCY
of 17 October 2003**

**on Acceptable Means of Compliance and Guidance Material 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
("AMC and GM to Part 21")**

*Resolving ambiguity between AMC/GM and Part 21 in respect of eligibility for
Subpart F and G for manufacturers of raw material*

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A. Explanatory Note

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to envisage amending Decision 2003/01/RM of the Executive Director of 17 October 2003¹ on Acceptable Means of Compliance and Guidance Material 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 (“AMC and GM to Part 21”). The scope of this rulemaking activity is outlined in ToR 21.021 and is described in more detail below.
2. The Agency is directly involved in the rule-shaping process. It assists the Commission in its executive tasks by preparing draft regulations, and amendments thereof, for the implementation of the Basic Regulation² which are adopted as “Opinions” (Article 14.1). It also adopts Certification Specifications, including Airworthiness Codes and Acceptable Means of Compliance and Guidance Material to be used in the certification process (Article 14.2).
3. When developing rules, the Agency is bound to following a structured process as required by article 43.1 of the Basic Regulation. Such process has been adopted by the Agency’s Management Board and is referred to as “The Rulemaking Procedure”³.
4. This rulemaking activity is included in the Agency’s rulemaking programme for 2007. It implements the rulemaking task 21.021 “Ambiguity between AMC/GM and Part 21 in respect of eligibility for Subpart F and G for manufacturers of raw material”.
5. The text of this NPA has been developed by the Agency. It is submitted for consultation of all interested parties in accordance with Article 43 of the Basic Regulation and Articles 5(3) and 6 of the EASA Rulemaking Procedure.

¹ Decision No 2003/01/RM of the Executive Director of the Agency of 17.10.2003 on acceptable means of compliance and guidance material 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 (“AMC and GM to Part 21”).

² Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (*OJ L 240, 7.9.2002, p.1.*). Regulation as last amended by Regulation (EC) No 1701/2003 (*OJ L 243, 27.9.2003, p. 5*).

³ Management Board decision concerning the procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material (“Rulemaking Procedure”), EASA MB/7/03, 27.6.2003.

II. Consultation

6. To achieve optimal consultation, the Agency is publishing the draft decision of the Executive Director on its internet site. Comments should be provided within 3 months in accordance with Article 6(4) of the EASA Rulemaking Procedure. Comments on this proposal may be forwarded (*preferably by e-mail*), using the attached comment form, to:

By e-mail: NPA@easa.europa.eu

By correspondence: Process Support
Rulemaking Directorate
EASA
Ref: NPA 2007-03
Postfach 10 12 53
D-50452 Cologne
Germany

Comments should be received by the Agency before **20 June 2007**. If received after this deadline they might not be treated. Comments may not be considered if the form provided for this purpose is not used.

III. Comment response document

7. All comments received in time will be responded to and incorporated in a comment response document (CRD). This may contain a list of all persons and/or organisations that have provided comments. The CRD will be widely available on the Agency's website.

IV. Content of the draft decision

8. *General.*

According to the relevant scope and eligibility paragraphs a Subpart F letter of agreement (LOA) or Subpart G Production Organisation Approval (POA) can only be issued to manufacturers of products, parts and appliances. The definition of products, parts and appliances in the Basic Regulation does not include (raw) materials. This implies that manufacturers of materials are not eligible for an LOA or POA. Nevertheless the completion instructions for the EASA Form 1 and several Acceptable Means of Compliance (AMC) and Guidance Material (GM) to Part 21 and to Part M and Part 145 suggest that an LOA or POA can be issued for production of materials. Because of this inconsistency the Agency conducted an analysis of the Basic Regulation and reached the conclusion that there is no legal basis to approve manufacturers of raw materials. Part 21 and AMC/GM must be amended in line with this conclusion.

It should be noted that POA holders and Subpart F LOA holders are responsible for controlling the quality of incoming materials. Therefore the absence of aviation authority organisation approvals for manufacturers of materials by no means implies the absence of quality control of those materials used in the production of aviation products, parts and appliances.

This NPA intends to resolve the current ambiguity by bringing the Part 21 AMC/GM back in line with the legal basis in the basic Regulation.

The required change to the completion instructions for the EASA Form 1 and associated AMC/GM, both in Part 21, Part M and Part 145 will be addressed by rulemaking task MDM.007 which deals with implementation problems and harmonisation issues of EASA Form 1. The NPA resulting from this rulemaking task is scheduled for second quarter of 2007.

9. *Detailed.*

This NPA contains the following:

The words “and/or material” will be removed from the following AMC and GM:

GM 21A.124(b)(1)(i)	Applicability - Inappropriate approval under Subpart G
GM 21A.124(b)(1)(ii)	Certification or approval needed in advance of the issue of a POA
GM No. 1 to 21A.125	Letter of agreement - Meaning of individual
GM 21A.133(a)	Eligibility – Approval appropriate for showing conformity
AMC 21A.145(d)(1)	Approval Requirements – Certifying staff
GM 21A.151	Terms of approval – Scope and categories
AMC 21B.120(c)(1)	Evaluation of applications

GM 21A.133(a) is amended to make clear that manufacturers of “raw material” will not be considered for production organisation approval.

In addition to the amendments as described above, GM 21A.151 is also amended to remove “A10 Micro Light Aeroplanes” from the table since this category of aeroplanes is listed in Annex II to the Basic Regulation and therefore excluded from the scope of EASA rules.

V. Regulatory Impact Assessment

10. This NPA addresses the removal of an ambiguity between eligibility for Part 21 Subpart F and G and related AMC and GM. It is therefore anticipated that this NPA will have no negative impacts. Production organisation approvals for a limited number of raw material manufacturers that had been issued in the past have already been corrected.

In any case raw material manufacturers will be able to continue their business without a production organisation approval because raw materials do not need to be accompanied by a Form 1 when used for production or maintenance of aviation products, parts and appliances.

B. DRAFT DECISION

The text of the amendment is arranged to show deleted text, new text or new paragraph as shown below:

1. ~~Text to be deleted is shown with a line through it.~~
2. New text to be inserted is highlighted with grey shading.
3.
Indicates that remaining text is unchanged in front of or following the reflected amendment.
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I Draft Decision to AMC and GM to Part 21

SECTION A/Subpart F

GM 21A.124(b)(1)(i)

Applicability - Inappropriate approval under Subpart G

The issue of a letter of agreement of production under Part 21 Subpart F may be agreed by the Competent Authority when:

- 1 The applicant produces or intends to produce aeronautical products, parts, and/or appliances ~~and/or materials~~ intended for airborne use as part of a type-certificated product (this excludes simulators, ground equipment and tools), and

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GM 21A.124(b)(1)(ii)

Certification or approval needed in advance of the issue of a POA

In cases where Part 21 Section A Subpart G is applicable, but when some time is needed for the organisation to achieve compliance with Subpart G, i.e., to establish the necessary documented quality system, the Competent Authority may agree to use Part 21 Section A Subpart F for a limited period (transient phase).

In cases where Part 21 Section A Subpart G is applicable, such as to produce ETSO articles ~~or material~~, a letter of agreement to produce under Part 21 Subpart F should not be given unless an application has been made for organisation approval under Subpart G, and reasonable progress is being made towards compliance with Subpart G. Long-term production under Part 21 Subpart F will not be permitted.

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GM No. 1 to 21A.125

Letter of agreement - Meaning of individual

"Individual" means that each part number or type of item (i.e., product, part, ~~or appliance, or material~~) to be produced should be specifically referenced, either directly or through a referenced capability list, in the letter of agreement from the Competent Authority. The letter may also specify any limitation in the production rate.

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SECTION A/Subpart G

GM 21A.133(a)

Eligibility – Approval appropriate for showing conformity

'Appropriate' should be understood as follows:

- The applicant produces or intends to produce aeronautical products, parts, ~~and/or~~ appliances ~~and/or~~ materials intended for airborne use as part of a type-certificated product (this excludes simulators, ground equipment and tools).
- The applicant will be required to show a need for an approval, normally based on one or more of the following criteria:
 - 1 Production of aircraft, engines or propellers (except if the Competent Authority considers a POA inappropriate).
 - 2 Production of ETSO articles and parts marked EPA.
 - 3 Direct delivery to users such as owners or operators maintenance organisations with the need for exercising the privileges of issuing Authorised Release Certificates – EASA Form 1.
 - 4 Participation in an international co-operation program where working under an approval is considered necessary by the Competent Authority.
 - 5 Criticality and technology involved in the part, ~~or~~ appliance, ~~or material~~ being manufactured. Approval in this case may be found by the Competent Authority as the best tool to exercise its duty in relation to airworthiness control.
 - 6 Where an approval is otherwise determined by the Competent Authority as being required to satisfy the essential requirements of Annex I to the Basic Regulation.
- It is not the intent of the Competent Authority to issue approvals to manufacturing firms that perform only sub-contract work for main manufacturers of products and are consequently placed under their direct surveillance.
- Where standard parts, materials, processes or services are included in the applicable design data (see guidance on applicable design data in GM 21A.131) their standards should be controlled by the POA holder in a manner which is satisfactory for the final use of the item on the product, part or appliance. Accordingly, the manufacturer or provider of the following will not ~~at present~~ be considered for production organisation approval:
 - consumable materials
 - raw materials
 - standard parts
 - parts identified in the product support documentation as 'industry supply' or 'no hazard'
 - non-destructive testing or inspection
 - processes (heat treatment, surface finishing, shot peening, etc.)

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AMC 21A.145(d)(1)

Approval Requirements – Certifying staff

1 Certifying Staff are nominated by the production organisation to ensure that products, parts, ~~and/or~~ appliances ~~and/or~~ materials qualify for Statements of Conformity or Release Certificates. Certifying Staff positions and numbers are to be appropriate to the complexity of the product and the production rate.

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GM 21A.151
Terms of approval – Scope and categories

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SCOPE OF WORK		PRODUCTS/CATEGORIES
A1	Large Aeroplanes	State types
A2	Small Aeroplanes	“
A3	Large Helicopters	“
A4	Small Helicopters	“
A5	Gyroplanes	“
A6	Sailplanes	“
A7	Motor Gliders	“
A8	Manned Balloons	“
A9	Airships	“
A10	Micro Light Aircraft	“
A11	Very Light Aeroplanes	“
A12	Other	“
B1	Turbine Engines	“
B2	Piston Engines	“
B3	APU's	“
B4	Propellers	“
C1	Appliances:	State appliance generic types (e.g., Tyres, Altimeter, etc.) Examples include: Avionic, Com/Nav/Pulse Computer System, Aircraft/Engine/Avionic Instruments, Mechanical/Electrical/ Gyroscopic/Electronic Mechanical/Hydraulic/Pneumatic
C2	Parts:	State part generic types (e.g., Wing, Landing Gear, etc.) Examples include: Structural, Metallic/non-metallic Mechanical/Hydraulic/Pneumatic Electrical Electronic
C3	Materials	
D1	Maintenance	State aircraft types

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SECTION B/Subpart F**AMC 21B.120(c)(1)
Evaluation of applications**

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EASA Form 60

Block 1: The name of the applicant must be entered. For legal entities the name must be as stated in the register of the National Companies Registration Office. In this case a copy of the entry in the register of the National Companies Registration Office must be provided to the Competent Authority.

Block 2: State the trade name by which the applicant is known to the public if different from the information given in Block 1. The use of a logo may be indicated in this Block.

Block 3: State all locations of manufacturing activities that are covered by the application. Only those locations must be stated that are directly under the control of the applicant stated in Block 1.

Block 4: This Block must include further details of the manufacturing activities under the approval for the addresses indicated in Block 3. The Block "Identification" must indicate the products, parts, or appliances or material intended to be produced, while the Block "Termination" must address any information on the limitation of the activity, e.g., by stating the intended number of units to be manufactured or the expected date of completion of the manufacturing activities.

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