

NOTICE OF PROPOSED AMENDMENT (NPA) No 09/2006

DRAFT OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY

for a Commission Regulation amending Commission Regulation (EC) No 1702/2003 of 24 September 2003, laying down implementing rules 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, as amended by Commission Regulation (EC) No 381/2005 of 7 March 2005 and by Commission Regulation (EC) 706/2006 of 8 May 2006

AND

DRAFT DECISION OF THE EXECUTIVE DIRECTOR OF THE AGENCY,

amending Decision No. 2003/1/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”)

Permit to Fly

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Explanatory Note

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to envisage amending Commission Regulation (EC) No 1702/2003¹ of 24 September 2003 laying down implementing rules 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 and Decision No. 2003/1/RM of the Executive Director of the Agency of 17 October 2003. The scope of this rulemaking activity is outlined in Terms of Reference (ToR) 21.023 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 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 (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 follow 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 “rulemaking procedure”³.
4. This rulemaking activity is included in the Agency’s rulemaking programme for 2006. It partly implements the rulemaking task 21.023. The ToR for this task also included the task to improve the requirements related to Restricted Certificates of Airworthiness (RCoA). However due to the lack of consensus on some principle concepts of the new requirements and a lack of time to resolve these, this part of task 21.023 is postponed. It was decided that finishing the NPA for Permit to Fly (PtF) has the highest priority because the rule needs to be adopted before the end of the transition period on 28 March 2007.
5. The text of this NPA has been developed by the rulemaking group 21.023 and 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 OJ L 243, 27.9.2003, p. 6. Regulation as last amended by Regulation (EC) No 706/2006 (OJ L 122, 9.5.2006, p. 16).

² 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 09-2006
Postfach 10 12 53
D-50452 Cologne
Germany

Comments should be received by the Agency before **5th October 2006**. 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 opinion and decision

General

8. During the transposition of JAR-21 into EU law it was recognised that common requirements were necessary to address the issuance of PtF. However due to a lack of time no detailed and comprehensive set of requirements and Acceptable Means of Compliance (AMC) and Guidance Material (GM) was developed. Therefore a transition period until March 2007 was established during which the National Aviation Authorities (NAAs) were still responsible for all aspects related to PtF, giving the Agency time to prepare an opinion for amending Regulation 1702/2003. Many comments on the draft Part 21A.185 ("Issue of Permits to Fly") were deferred and were intended to be addressed in this rulemaking activity.
9. The work of this group started on 2nd February 2006, with an initial scheduled delivery date for an NPA to Part 21 of 1st April 2006. It was clear that the timescales imposed by EASA could not be achieved, given the start date, and the late addition of the task to also develop rules for the issuance of RCoA. However, in an effort to fulfil this commitment as far as possible, the group had six meetings between 2nd February and 16th May, totalling eleven full working days, as well as work allocated between meetings. The commitment of the group members should be recognised.
- The meetings addressed both RCoA and PtF, but due to time constraints, only the PtF discussions have matured to a sufficient level to generate an NPA at this time.

10. For the purposes of this working group, the current version of the Basic Regulation which assumed that all PtF would be issued by the relevant state of registry has been used as the basis of the work.
It was recognised that a proposal to change Article 15 of the Basic Regulation, had been made which could significantly affect the output of the group in the longer term, in that it proposed that EASA would issue PtF in a large number of cases.
This revised proposal is currently discussed by the European legislator before it will become a final amendment, and may considerably change before its adoption. It was therefore agreed that it would not be used as the basis for this group's work. However if during the course of the rulemaking process of this task the amendment to the Basic Regulation would become final it would be possible to make this text consistent with the final Basic Regulation before it is adopted by the European Commission.
11. One of the main difficulties the rulemaking group had to address was the split in responsibilities between the Agency and the Competent Authorities of the Member States. The Agency is clearly responsible for all design related airworthiness issues where the Member States are responsible for finding conformity of the individual aircraft with the design as approved by the Agency. The PtF encompasses both elements in one certificate so in most cases a PtF can only be issued by the Competent Authority of the Member State after the Agency has determined that the aircraft can perform safely a flight. Therefore the rules had to be drafted taking into account the two responsibilities and at the same time trying to maintain a process that can work in day to day practice.
12. The other main issue was the fact that a PtF by nature is different in its use and legal implication compared to (restricted) certificates of airworthiness. In particular, it is not exactly an "airworthiness" certificate, as the aircraft does not comply with usual airworthiness specifications and the PtF combines design, operational and licensing aspects, some being currently under Part 21, others not.
13. Consequently, and trying to take into account all these specificities, it is proposed to create a new Subpart P in Part 21, to address clearly the case of PtF for what it is, including the various interfaces.

Detailed:

14. Change to Regulation 1702/2003

Although most PtF are issued to address a temporary situation, it is recognised that there is a category of PtF which are issued for a permanent replacement of an airworthiness certificate, because the aircraft concerned are not able to comply or for which it is not practical to comply with all relevant airworthiness requirements. As no safety issues have been detected with the existing national systems for issuing these permanent PtF, a grand-fathering clause is proposed for any existing NAA PtF existing and valid on 28 March 2007, to ensure a seamless transition. This will avoid EASA re-approval somewhere in the future. Of course these grandfathered PtF will have to fit within one of the categories as established by the new Part 21 proposal. A one year transition is proposed within which all the national PtF will have to be replaced by a PtF issued in accordance with the new rule.

15. Changes to Part 21 Subpart G

In order to smoothen the process of issuing PtF it is envisaged to create a possible privilege for Production Organisation Approval (POA) holders allowing them to issue directly without authority involvement certain categories of PtF.

This privilege would be limited to PtF for aircraft the POA holder has produced itself and for which the design is already approved or for which the design is not approved but the conditions for flight have been established by a Design Organisation Approval (DOA) holder. The purpose of the flights is limited to production flight testing, ferry flights within production facilities or delivery flights.

So without having to do any design assessment the POA holder, after finding conformity of the aircraft with the applicable design data, can issue the PtF.

The POA holder will use a standard EASA form which slightly differs from the standard form as used by the national authorities.

16. Changes to Part 21 Subpart H

It is envisaged that a separate Subpart P is created dealing with PtF and therefore all references to PtF are deleted from Subpart H, which will deal with certificates of airworthiness and restricted certificates of airworthiness only.

17. Changes to Part 21 Subpart J

Again with the purpose to smoothen the process of issuing PtF it is envisaged to create a possible privilege for Design Organisation Approval holders allowing them to establish the conditions under which a PtF can be issued.

This privilege is limited to aircraft for which the DOA holder has design capability and cannot be used for the first test flights of complete new designs or significantly modified designs. The Agency believes it must always remain in the loop for the latter category of test flights in order to ensure safety.

EASA recognises that the DOA privilege should be limited to cases where delegation of tasks is still justified taking into account the overall responsibility of the Agency and National Authorities for safety and the inherent risk of certain flights under a PtF. These limitations can be put in the respective Terms of Approval using internal guidance but some could also be put in rule itself. In any case the Agency intends to distinguish between DOA holders that also hold or have applied for the type certificate (TC) for the aircraft concerned, and other DOA holders with regard to the extend of the privileges.

Request for comments:

You are specifically invited to indicate your preference as to where the limitations to the privileges should be put and to comment on the nature of such limitations.

18. New Part 21 Subpart P dedicated to PtF

Scope

Paragraph 21A.701 defines the cases for which a PtF can be issued. In all these cases the issuance of a (Restricted) Certificate of Airworthiness is not possible or not appropriate.

It allows also further simplification of the text in the other paragraphs. Explanations are provided in GM 21A.701(b).

(1) Development:

- *testing of new concepts of airframe, engine propeller and equipment;*
 - *testing of new operating techniques;*
 - *experimental studies and analysis of the aircraft;*
- for a limited time and number of flights and solely for this development purpose.*

(2) Showing compliance with regulations or certification specifications:

- *certification flight testing for type certification, supplemental type certificates, changes to type*

*certificates or European Technical Standard Order authorization;
- flights for the purpose of noise measurements.*

(3) Design organisations or production organisations crew training:

Flights for training of crew that will perform design or production flight testing before the design approval and Certificate of Airworthiness (CoA) can be issued.

(4) Production flight testing of new production aircraft:

- For establishing conformity with the approved design, same program for a number of equal aircraft;

- flight testing of production cut in of minor changes (first article flight proofing).

(5) Flying aircraft under production between production facilities:

green aircraft ferry for follow on final production.

(6) Flying the aircraft for customer acceptance:

Before the aircraft is sold and registered.

(7) Delivering or exporting the aircraft:

Before the aircraft is registered in the State where the first CoA will be issued.

(8) Flying the aircraft for Authority acceptance:

In the case of inspection flight test by the authority before the CoA is issued.

(9) Market survey, including customer's crew training:

Flights for the purpose of conducting market survey, sales demonstrations and customer crew training with non type certificated aircraft or aircraft for which conformity has not yet been established.

(10) Exhibition and airshow:

Flying the aircraft to an exhibition or show and participating to the exhibition or show before the design approval is issued or before conformity with the approved design has been shown.

(11) Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage:

Ferry flights in cases where maintenance is not performed in accordance with approved programmes, where certain equipment outside the Minimum Equipment List (MEL) is unserviceable or when the aircraft has sustained damage beyond the applicable limits.

(12) Flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available;

Ad hoc flights for purposes where normally a RCoA would be issued such as fire fighting.

(13) Air racing or record breaking:

Self explanatory.

(14) Flying aircraft meeting the applicable airworthiness requirements before conformity to the environmental requirements is shown:

Self explanatory.

(15) For recreational flying activity on individual aircraft or types for which the Agency agrees that a certificate of airworthiness or restricted certificate of airworthiness is not appropriate.

For aircraft which cannot practically meet all applicable airworthiness requirements, such as certain aircraft without TC-holder ("orphan aircraft") or aircraft which have been under national systems of PtF and have not been shown to meet all applicable requirements. The Agency will determine for which aircraft types this provision is appropriate.

(16) Any other purpose agreed by the Agency.

For all cases similar to one of the above but not foreseen at the time of drafting the requirement.

In 21A.701(b) it is confirmed that the rules related to PtF do not apply to aircraft registered outside the Member States. This was already the case in the initial issue of Regulation 1702/2003; see article 2.2.

Some EU design organisations are using foreign registered aircraft for certification purposes, in particular for the approval of changes or supplemental type certificates (STC). As these aircraft are under the responsibility of the state of registry, they are not covered by Part 21. The EU companies should contact directly the state of registry to obtain the appropriate authorisations for use outside the context of a normal certificate of airworthiness.

Application

The application is made as simple as possible and is therefore made to the Competent Authority only even though in a number of cases the Agency must be involved. In those cases the application to the Competent Authority is also considered an application to the Agency for approval of the flight conditions. The Competent authority receiving the application will determine in accordance with 21B.515 whether the Agency must be involved and will inform the applicant accordingly. In cases where the Agency shall approve the flight conditions the applicant shall submit the information necessary for the Agency to approve those conditions directly to the Agency.

Approval of flight conditions

The conditions under which flights under a PtF have to be conducted can be approved by the Competent Authority if they are related to deviations from the maintenance programme not being part of the airworthiness limitations. In other cases the conditions shall be approved by the Agency or by a DOA under a privilege granted by the Agency. It is also envisaged that a number of cases can be pre-approved by the Agency. In such case the competent authority will be able to issue the PtF without a specific approval of the flight conditions by the Agency. The list of pre-approved cases is expected to grow based on all previously approved cases.

The applicant will have to establish the flight conditions and will have to justify that the aircraft is capable of safe flight under those conditions.

In accordance with article 5.4(e)(ii) of the Basic Regulation the Commission has the competence to issue implementing rules for the restrictions applicable to PtF, including the qualification of flight crew. Therefore a separate NPA will stipulate the flight crew qualifications for the various categories of flight tests and will find its legal basis in paragraph 21A.709.

Issue of a PtF

The PtF can be issued by the competent authority when the flight conditions are approved. It can also be issued by an appropriately approved production organisation for aircraft it has produced for production flight tests or ferry flights.

Changes

Changes to the aircraft or the flight conditions require approval. To keep it simple the process for approval of these changes follows the route for initial approval, except that only the documents related to the change need to be furnished. If necessary the PtF can be amended by the same entity that issued it.

19. Changes to Part 21 Section B Subpart A

In the general Subpart of Section B the new Subpart P is introduced in the requirements for competent authorities to allocate responsibility for the implementation of this Subpart and to ensure that competent authorities allocate resources to this activity.

20. New Subpart P in Part 21 Section B

The new Subpart P in Section B basically mirrors the provisions of Subpart H, with the addition of two specific paragraphs. 21B.510 ensures that the single application concept can work by making sure that the competent authority asks for the information that is necessary for the Agency in case it must approve the flight conditions. 21B.515 allows the competent authority to determine who will approve the flight conditions.

21. EASA Forms

The EASA Form 20, Permit to Fly , is changed to reflect that the PtF is valid in all Member States, provided the operational rules are complied with, which for the time being are still national. A new box is created to indicate the holder of the PtF, since it may not always be the owner of the aircraft. When the PtF is for an aircraft in the category “recreational flying activity on individual aircraft or types for which the Agency agrees that a certificate of airworthiness or restricted certificate of airworthiness is not appropriate” the holder is the owner but a name would not be filled on the Form to facilitate the transfer of the PtF.

A new Form 20A is created to be used by POA holders that are approved to issue PtF.

V. Regulatory Impact Assessment

Introduction

This Regulatory Impact Assessment (RIA) addresses the work of the EASA rulemaking group 21.023 for PtF.

The terms of reference of this group were defined in a document ToR 21.023 Issue 1 dated 20th January 2006.

This RIA has been compiled with reference to document reference EASA RM/AGNA/02/04, AGNA working Paper No.6 dated 17th May 2004.

A pre-RIA dated 2nd May 2005 relating to the issue of PtF was provided to the group.

The RIA discusses the options considered during the work carried out by the above referenced rulemaking group in developing the NPA.

1 Purpose and Intended Effect

1.a. The issue that the NPA is intended to address

During the transposition of JAR-21 into Community law it was recognised that common requirements were necessary to address the issuance of PtF. However due to a lack of time no detailed and comprehensive set of requirements and associated guidance material was developed. Therefore, a transition period until 28 March 2007 was established during which the National Aviation Authorities (NAA) of the Member States were still responsible for all aspects related to PtF, giving the Agency time to prepare an opinion for amending Regulation 1702/2003. Many comments on the draft Part 21A.185 ("Issue of Permits to Fly") were deferred and were intended to be addressed in this rulemaking activity.

1.b. The scale of the issue and sectors of aviation concerned

All aircraft within the scope of EASA for which a CoA or an RCoA cannot be issued, or is not valid, but which can still perform safely one or several flights. This means potentially any aircraft on an EU Member State register, which at any time could be in a condition temporarily or permanently where it does not meet the relevant certification specifications but needs to fly for some specific purpose.

In broad numerical terms, there are many thousands of aircraft that at any specific time could be eligible/apply for the issue of a PtF for any number of purposes. Given the current status of the regulation, CAA UK for example issued over 100 temporary PtF (damaged aircraft or for flight testing for the issue of a CoA) during a three-month period at the end of 2005/early 2006. These PtF were based upon a limited set of circumstances, which are likely to be expanded in the revised regulations.

Extrapolating for the other authorities would indicate a significant number to be issued across the EU Member States.

The issue crosses all boundaries of aviation in that it affect large transport aircraft for temporary periods where for example they may be out of maintenance or be damaged in a remote location and need ferry, and also the general aviation sector, where there are a number of aircraft types which may not be able to meet all the relevant requirements on a permanent basis, but will still be fit to fly under defined conditions.

For the purposes of the RIA there were three primary stakeholders to be considered:-

- The EASA;
- The NAAs;
- The applicant/owner.

1.c. Objectives

The objectives of the rulemaking group were to examine and establish cases where an aircraft may be eligible for a PtF (temporary or permanently) and assess the involvement of the Agency and NAA in the process of investigation and issuance of PtF. The resulting NPA could add to, amend or complement the relevant existing requirements in Part 21 and related AMC or GM.

2. The options

2.a. The initial options identified to/by the group for consideration were:-

- Option 1 Do nothing (leaving the Agency to define conditions for all PtF prior to issue by the NAA).
- Option 2 Amend Regulation 1702/2003 to allow NAA to issue PtF in accordance with common rules (including definition of work sharing and criteria for cases where EASA involvement is not required).
- Option 3 Amend the regulations to require the agency to issue all PtF.
- Option 4 Amend the regulations to require issue of the PtF by EASA or NAA depending upon the classification of the flight.
- Option 5 Add AMC and GM to existing regulations.

2.b. Initial review of the options

An initial review of the options clearly identified that the following three options were the least effective or desirable for all stakeholders for the reasons stated below:-

Option 3 was eliminated because EASA had already recognised in a proposed amendment to the Basic Regulation, the need for at least some PtF to be issued by the NAA.

Option 4 was eliminated because again there are already proposed amendments to the Basic Regulation, which addressed this aspect of work-share. This group had no influence on the legislative process so it could not address that proposal.

Option 5 was eliminated because there were inadequate requirements in Regulation 1702/2003 against which to define the procedures and AMC/GM without anomalies or contradictions and to address all of the various types of PtF/flight purposes that could be needed.

In both of the remaining options (1 and 2) there are no anticipated effects in respect of environmental, social aspects or other aviation requirements outside the scope of EASA.

In respect of comparable regulatory requirements from outside the EU, these are considered to be not relevant in this assessment because the PtF is not an ICAO standard document and the relevant PtF will need to be validated by the authorities of those third party countries prior to flight in their airspace.

3. Sectors Concerned

Because of the wide variety of cases for which a PtF is required many sectors are affected by this draft rule:

- Design organisations (designing aircraft or components and designers of modifications);
- Production organisations;
- Operators;
- Maintenance organisations;
- Air racers;
- Owners of aircraft that do not qualify for a (R)CoA;
- European NAAs.

4 Impacts

This RIA considers the remaining options 1 and 2 in respect of their impact on safety, economics and any equity and fairness issues with due regard for the stake holders.

4.1 Impact on safety

Option 1: Leave the existing regulation without change or guidance.

The existing regulation provides only for an application and lists information to be provided. Currently there are no internal EASA procedures to assure a consistent approach to applications for the issue of a PtF, or indeed what is acceptable therefore. This would mean that there was implicitly the possibility that different standards of airworthiness would be possible based on personal interpretations of the regulation and circumstances of the application, and indeed that certain types of operation may or may not be eligible for the issue of a PtF, even though it must be assumed that EASA technical staff would be able to define minimum conditions for airworthiness to assure safe flight (I.e. compliance with the regulations) for those where eligibility is agreed. NAAs still issue the document taking into account the EASA identified conditions and limitations as advised.

In essence therefore, the minimum expected safety level would be achievable.

Option 2: Amend Regulation 1702/2003 to allow NAA to issue PtF in accordance with common rules (including definition of work sharing and criteria for cases where EASA involvement is not required)

By establishing common guidelines and practices, it would still ensure that EASA has the opportunity to define the minimum conditions for safe flight where necessary and to assure that the applications fall within the relevant criteria for eligibility. Additionally, by defining criteria where others (NAA/DOA/POA) may issue a PtF within given constraints, EASA workload is reduced, thus assuring more resource available for those more significant applications which need a high degree of attention which should provide a potential benefit in airworthiness terms.

In summary, the minimum expected safety level would be assured whilst relieving EASA of some of the administrative and technical burden.

4.2 Economic Impact

Option 1: Leave the existing regulation without change or guidance.

All applications for the issue of a PtF will go to EASA, despite the fact that EASA may not be responsible for the issue of PtF related to maintenance issues for example. This may result in delays in issue (due to EASA rejection of such applications) and consequential financial impacts for the operators. Additionally, there will be repeat applications for

“standard flight tests”. Such applications to EASA each time will introduce additional lead time and consequent adverse financial impact.

Operators in some cases expect service outside normal hours, for example damaged aircraft at remote locations needing EASA determination of conditions. There is doubt if EASA will be in a position to provide such support. Inability to fly home quickly for repair has major knock on financial effects. It is noted that article 10.3 of the Basic Regulation may provide a solution in this case, but that would mean that the standards applied to such determinations by the various NAA could be different.

As currently worded and interpreted by many NAA, the Regulation 1702/2003 does not allow for the permanent PtF; for example for “orphan” type aircraft. The only other option for these aircraft is an RCoA without TC. This invokes Part M, parts and release issues etc., which has a major impact on the cost of ownership for the owner. It could also indeed force aircraft ultimately to be scrapped if the requirements of Part M cannot be fulfilled.

Without guidance as to the eligibility criteria, all applications, even for an application, which is patently not appropriate, will go to EASA. This will soak up EASA resources (additional administrative processing needs would appear necessary as a minimum) in evaluating and rejecting applications. This will have adverse financial impact for EASA.

In summary, to take no action would have potentially significant economic impacts upon EASA in respect of the resource needs to fulfil the obligations to evaluate all applications and for the applicants in terms of the time required for turn round affecting operating schedules or aircraft deliveries (with consequent financial implications).

Option 2: Amend Regulation 1702/2003 to allow NAA to issue PtF in accordance with common rules (including definition of work sharing and criteria for cases where EASA involvement is not required)

By defining what is a normally expected purpose for a PtF, the Agency will reduce the number of inappropriate applications and hence resources for processing and evaluating them. This could be further improved by allowing other recognised bodies to evaluate and issue PtF under agreed procedures or privileges associated with a DOA or POA or by an NAA.

This will have a large positive economic benefit for the applicant. One example would be production test flying carried out under an EASA PtF but without the need for individual EASA involvement with the PtF being issued under a POA privilege.

Allowing orphan aircraft to hold a PtF, will perpetuate the already proven safe environment experienced in many countries with a current national scheme, although care must be taken to assure that transfer to EASA Form 20 Permit to Fly is not financially penalising (“Grandfathering” of the design/PtF and conditions is part of the proposal in this case).

There are issues concerning the use of a PtF and the ability for EASA to apply operational limitations related to any pre-existing national rules, which can be addressed in the NPA.

In summary therefore, to provide a unique section of the Part 21 rule, which details the eligibility criteria for a PtF, the application process and technical submissions required is of significant economic benefit to EASA and the applicants. Nominal effect on the NAA appears relatively neutral.

4.3 Equity and fairness issues

Option 1: Leave the existing regulation without change or guidance.

The primary equity and fairness issue identified is in relation to those aircraft, such as the “orphan” types where they cannot meet the requirements for a CoA/RCoA, but have operated satisfactorily on a national PtF or equivalent national certificate for many years. They are mature, possess a good operational history, and are a fleet where the fleet size is unlikely to increase (the occasional restoration may add to the group, but there will be cases where they are taken out of commission as well). There would be a sudden requirement for recertification (as the current rules do not appear to allow for permanent PtF as well as the ongoing costs of ownership (assuming that parts can be manufactured in an appropriate manner) if an RCoA without TC was the base standard for this type of aircraft. This would result in this sector of aviation being penalised disproportionately, both in financial, and regulatory terms with little if any discernable airworthiness benefit.

The remaining sectors, whilst having increased costs and practical difficulties should not be radically affected if the regulations were unchanged, since the existing limited text would ensure all PtF conditions (as applicable to all applications) were established by EASA, although the current lack of internal processes and guidance would leave the situation vulnerable to variations in acceptance criteria and conditions.

In summary, to do nothing will leave one, not unsubstantial, sector (in numerical terms and in terms of their available technical competence) of the aviation industry in a difficult position relative to the remainder.

Option 2: To amend Regulation 1702/2003 to allow NAA to issue PtF in accordance with common rules (including definition of work sharing and criteria for cases where EASA involvement is not required)

An amendment to Part 21 as proposed to allow aircraft to hold a permanent PtF if they cannot for genuine reasons meet the regulations will address the “orphan” aircraft scenario, but there is a need to recognise that these aircraft have been safely operating for many years, so the transfer of relevant aircraft to an EASA PtF should not require a detailed investigation and significant changes to PtF conditions. The proposal exists for a grandfather clause in the NPA for this reason.

The need to establish genuine rationale for acceptance of an aircraft is key here, and the NPA addresses that by confirmation that the aircraft must have a CoA if it can do so. The use of a PtF as an option to reduce costs is not a suitable or practical situation.

The NPA also recognises that the PtF is a document that is issued on a completely different philosophy to the CoA/RCoA. To segregate the basic rules and criteria, a separate section of the Part 21 specific to PtF was necessary to avoid confusion as far as possible over the applicability of sub parts of individual paragraphs. In this way, it reduces the opportunity for misinterpretation resulting in inappropriate application of CoA/RCoA rules and regulations to the PtF environment.

In summary, the segregation of the rules for PtF adds clarity and reduces potential issues of perceived and actual unfair treatment of certain groups of aircraft with proven safe operating history.

5. Summary/Conclusion

- 5.1 The current Regulation 1702/2003 includes a derogation that allows the NAA make determinations for safe flight up to 28 March 2007. After that date as currently written EASA will make all determinations directly for all PtF for whatever purpose. The numbers involved will likely result in radically increased workload for EASA, and pressure due to requirements for rapid response from industry. This could result in significant resource issues for EASA and delays for industry.

Current Regulation 1702/2003 does not define or give guidance as to what may be eligible for the issue of a PtF. This may result in applications to EASA for unacceptable activities, which require evaluation before rejection (further resource implications, both technical and administrative)

Current Regulation 1702/2003 (based on the interpretation advised to the rulemaking group by EASA) do not allow for the permanent PtF, which would adversely affect a group of aircraft that cannot comply with the full rigours of Part M.

There are inadequate requirements in the current Regulation 1702/2003 to allow a consistent approach to regulation in respect of the PtF, and the current location of the requirements within Part 21 Subpart H will cause confusion regarding the applicability of some of the regulatory paragraphs.

The need for a PtF can be wide ranging in terms of the aircraft type and the purpose of the flights. The process and the certificate are also distinctly different from the CoA/RCoA. It is concluded that the issue of PtF is an area that justifies a unique section of Part 21 with associated AMC/GM.

Note: The circumstances where a PtF may be needed are diverse, so the level of the guidance material needs to allow flexibility of approach as far as possible.

There are impacts post 28 March 2007 for the NAA which will result regardless of any adoption of a revised Part 21 (for example the need where local legislation dictates, to set up procedures and charging schemes for work carried out).

5.2. Recommendation

It is recommended that option 2 be adopted and that the content of the proposed NPA be implemented as a basis for the processes and procedures for the issue of a PtF.

B DRAFT OPINION(S) AND/OR DECISION(S).

The following explanation must be given before the actual draft text.

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. New paragraph or parts are not highlighted with grey shading, but are accompanied by the following box text:

Insert new paragraph / part (*Include N° and title*), ore replace existing paragraph/ part

4.
Indicates that remaining text is unchanged in front of or following the reflected amendment.
....

I Draft Opinion Regulation 1702/2003

Add a new paragraph 15 to article 2:

“15. The conditions determined by the Member States for PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be determined in accordance with this Regulation.

The PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be issued in accordance with this Regulation until 28 March 2008.”

II Draft Opinion Regulation 1702/2003 Part 21

SECTION A

SUBPART G — PRODUCTION ORGANISATION APPROVAL

21A.163 Privileges

Pursuant to the terms of approval issued under 21A.135, the holder of a production organisation approval may:

....

(e) Issue a permit to fly in accordance with 21A.711(b) for an aircraft it has produced and amend it in accordance with 21A.717(b).

21A.165 Obligations of the holder

The holder of a production organisation approval shall:

....

(j) Establish compliance with 21A.711(b) and (c) before issuing or amending a permit to fly (EASA Form 20A, see Appendix) to an aircraft.

SUBPART H — CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS

21A.173 Classification

Airworthiness certificates shall be classified as follows:

.....

~~(e) Permits to fly shall be issued to aircraft that do not meet, or have not been shown to meet, applicable certification specifications but are capable of safe flight under defined conditions.~~

21A.174 Application

....

~~(d) Each application for a permit to fly shall include:~~

- ~~(1) The purpose of the flight(s);~~
- ~~(2) The itineraries or airspace, or both, used for the flight;~~
- ~~(3) Minimum flight crew and its qualification, required to operate the aircraft;~~
- ~~(4) Restrictions for carriage of persons other than flight crew;~~
- ~~(5) The ways in which the aircraft does not comply with the applicable certification specifications;~~
- ~~(6) Any restriction considered necessary for safe operation of the aircraft;~~
- ~~(7) Any other information considered necessary for the purpose of prescribing operating limitations.~~

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

....

(b) Where ownership of an aircraft has changed, and the aircraft has:

(1) a restricted certificate of airworthiness not conforming to a restricted type-certificate, or

(2) a permit to fly,

such airworthiness certificates shall be transferred together with the aircraft provided the aircraft remains on the same register, or issued only with the formal agreement of the competent authority of the Member State of registry to which it is transferred.

21A.185 — Issue of permits to fly

~~The competent authority of the Member State of registry shall issue a permit to fly after the Agency has found that the aircraft and appropriate associated restrictions compensating for departure from the essential requirements permit the aircraft to perform safely a basic flight. For that purpose, the Agency may make or require the applicant to make appropriate inspections or tests necessary to ensure safety.~~

SUBPART J — DESIGN ORGANISATION APPROVAL**21A.263 Privileges**

....

(c) The holder of a design organisation approval shall be entitled, within its terms of approval and under the relevant procedures of the design assurance system:

....

6. Except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, to approve the conditions under which a permit to fly can be issued.

21A.265 Obligations of the holder

The holder of a design organisation approval shall:

....

(f) Where applicable, under the privilege of 21A.263(c)(6), determine the conditions under which a permit to fly can be issued.

Insert new subpart P – Permit to Fly

SUBPART P – PERMIT TO FLY

21A.701 Scope

(a) This Subpart establishes the procedure for issuing permit to fly for the following purposes:

1. Development;
2. Showing compliance with regulations or certification specifications;
3. Design organisations or production organisations crew training;
4. Production flight testing of new production aircraft;
5. Flying aircraft under production between production facilities;
6. Flying the aircraft for customer acceptance;
7. Delivering or exporting the aircraft;
8. Flying the aircraft for Authority acceptance;
9. Market survey, including customer's crew training;
10. Exhibition and airshow;
11. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage;
12. Flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available;
13. Air racing or record breaking;
14. Flying aircraft meeting the applicable airworthiness requirements before conformity to the environmental requirements is shown;
15. For recreational flying activity on individual aircraft or types for which the Agency agrees that a certificate of airworthiness or restricted certificate of airworthiness is not appropriate.
16. Any other purpose agreed by the Agency.

(b) This Subpart does not apply to aircraft registered outside the Member States except for aircraft for which the regulatory safety oversight has been delegated to a Member State

21A.703 Eligibility

Any natural or legal person shall be eligible as an applicant for a permit to fly except for a permit to fly requested for the purpose of 21A.701(a)(15) where the applicant shall be the owner.

21A.705 Competent Authority

Notwithstanding 21.1, for the purpose of this Subpart, the 'Competent Authority' shall be:

- (a) The authority designated by the Member State of registry; or
- (b) For unregistered aircraft, the authority designated by the Member State where the flight will take place.

21A.707 Application

- (a) Pursuant to 21A.703, an application for a permit to fly shall be made in a form and manner established by the Competent Authority to that authority. The application to the Competent Authority constitutes an application to the Agency when approval of the flight conditions by the Agency is required.
- (b) Each application for a permit to fly shall include:
1. the purpose(s) of the flight(s), in accordance with 21A.701;
 2. the description of the aircraft configuration;
 3. The ways in which the aircraft does not comply with the applicable airworthiness requirements;
 4. when available, the conditions under which flight is requested, as defined in 21A.709.

21A.709 Establishment of flight conditions

- (a) The applicant shall establish and document:
1. The configuration(s) for which the permit to fly is requested
 2. Any conditions or restrictions necessary for safe operation of the aircraft, including:
 - (i) the conditions or restrictions put on itineraries or airspace, or both, required for the flight(s);
 - (ii) the conditions and restrictions put on the flight crew and its qualification, to fly the aircraft;
 - (iii) the restrictions regarding carriage of persons other than flight crew;
 - (iv) the operating limitations, specific procedures or technical conditions to be met;
 - (v) the specific flight test programme (if applicable);
 - (vi) the specific continuing airworthiness arrangements including maintenance instructions and regime under which they will be performed.
 3. The justifications that the aircraft is capable of safe flight under the conditions or restrictions of paragraph (a)(2)
 4. The method used for the control of the aircraft configuration, in order to remain within the established conditions.
- (b) The applicant shall submit the documentation supporting the conditions of subparagraph (a), together with a declaration that the aircraft is capable of safe flight under the conditions or restrictions of paragraph (a)(2) to the responsible party notified under 21B.515, except:
1. when established by an approved design organisation under the privilege of 21A.263(c)(6); or
 2. when covered by a general approval by the Agency.

21A.710 Approval of flight conditions

- (a) The conditions of 21A.709(a) shall be approved:
1. in case the Agency is the responsible party notified under 21B.515:
 - (i) by the Agency, in accordance with its administrative procedures, or
 - (ii) by an appropriately approved design organisation, under the privilege of 21A.263(c)(6)
 2. in all other cases by the Competent Authority.
- (b) Before approving the flight conditions, the Agency or the Competent Authority may make or require the applicant to make appropriate inspections or tests necessary to assure safety.

21A.711 Issue of a permit to fly

- (a) The Competent Authority shall issue a permit to fly:
1. upon presentation of the data required by 21A.707;
 2. when the conditions of 21A.709(a) have been approved in accordance with 21A.710(a);
 3. when
 - (i) the Competent Authority is satisfied that the aircraft conforms to the related design which may include inspections; or
 - (ii) The Competent Authority, through procedures agreed with the applicant, is satisfied that the aircraft will conform to the related design before flight.
- (b) An appropriately approved production organisation may issue a permit to fly (EASA Form 20A, see Appendix) for an aircraft it has produced, under procedures agreed with its competent authority for production:
1. when the aircraft is produced under approved design data for the purpose of production flight testing of new production aircraft;
 2. when the aircraft is produced under the applicable design data under which the conditions or restrictions for flight have been established and approved in accordance with 21A.710(a) for the purpose of:
 - (i) production flight testing of new production aircraft; or
 - (ii) ferry flight within production facilities of a new aircraft under production process;
 3. for the purpose of delivering or exporting a new aircraft, when the aircraft conforms to a design approved by the Agency or by the importing State and when a statement of conformity has been issued under 21A.163(b).
- (c) The permit to fly shall include the purpose and any conditions and restrictions resulting from 21A.709(a) or 21A.711(b). It may include operational conditions and restrictions prescribed by the Competent Authority;

21A.713 Changes

- (a) A change to the purpose requires an application for a new permit to fly.
- (b) Any change that invalidates the conditions or associated justifications established for the permit to fly shall be approved in accordance with 21A.710.
- (c) Application for approval of the change shall be made in accordance with 21A.707, where the information provided can be limited to that necessary to identify and justify the change.
- (d) Notwithstanding subparagraph (c), changes not affecting the content of the permit to fly may be approved by a Design Organisation Approval holder without an application.
- (e) Following approval of the change, the permit to fly shall be amended in accordance with 21A.717.

21A.715 Language

The manuals, placards, listings, and instrument markings and other necessary information required by applicable certification specifications shall be presented in one or more of the official language(s) of the European Community acceptable to the Competent Authority.

21A.717 Amendment

A permit to fly shall only be amended by:

- (a) the Competent Authority; or
- (b) by the holder of a production organisation approval, within its terms of approval and under the relevant procedures of its quality system.

21A.719 Transferability

- (a) A permit to fly is not transferable.
- (b) Notwithstanding subparagraph (a) for a permit to fly issued for the purpose of 21A.701(a)(15), where ownership of an aircraft has changed, the permit to fly shall be transferred together with the aircraft provided the aircraft remains on the same register, or issued only with the formal agreement of the competent authority of the Member State of registry to which it is transferred.

21A.721 Inspections

The holder of, or the applicant to, a permit to fly shall provide access to the concerned aircraft upon request by the Competent Authority.

21A.723 Duration and continued validity

- (a) A permit to fly shall be issued for a maximum of 12 months and shall remain valid subject to:
 - 1. compliance with the conditions and restrictions of 21A.711(c) associated to the permit to fly;
 - 2. the permit to fly not being surrendered or revoked under 21B.530;
 - 3. the aircraft remaining on the same register.
- (b) Notwithstanding subparagraph (a) a permit to fly issued for the purpose of 21A.701(a)(15) may be issued for unlimited duration.
- (c) Upon surrender or revocation, the permit to fly shall be returned to the Competent Authority.

21A.725 Renewal of permit to fly

Renewal of the permit to fly shall be processed as a change in accordance with 21A.713.

21A.727 Obligations of the holder of a permit to fly

The holder of a permit to fly shall ensure that all the conditions and restrictions associated with the permit to fly are satisfied and maintained.

Section B -**SUBPART A — GENERAL PROVISIONS****21B.20 Obligations of the competent authority**

Each competent authority of the Member State is responsible for the implementation of Section A, Subparts F, G, H, and I and P only for applicants, or holders, whose principal place of business is in its territory.

21B.25 Requirements for the organisation of the competent authority

(a) General:

The Member State shall designate a competent authority with allocated responsibilities for the implementation of Section A, Subparts F, G, H, ~~and I~~ and P with documented procedures, organisation structure and staff.

.....

SUBPART H — AIRWORTHINESS CERTIFICATES**21B.325 Issue of airworthiness certificates**

- (a) The competent authority of the Member State of registry shall, as applicable, issue, or amend a Certificate of Airworthiness (EASA Form 25, see Appendix) ~~or~~ Restricted Certificate of Airworthiness (EASA Form 24, see Appendix) ~~or Permit to Fly (EASA Form 20, see Appendix)~~ without undue delay when it is satisfied that the applicable requirements of Section A, Subpart H are met.

.....

21B.330 Suspension and revocation of airworthiness certificates

- (a) Upon evidence that any of the conditions specified in 21A.181(a) is not met, the competent authority of the Member State of registry shall suspend or revoke an airworthiness certificate.
- (b) Upon issuance of the notice of suspension and revocation of a certificate of airworthiness, ~~or~~ restricted certificate of airworthiness ~~or permit to fly~~ the competent authority of the Member State of registry shall state the reasons for the suspension or revocation and inform the holder of the certificate or permit on its right to appeal.

Insert new subpart P – Permit to Fly

SUBPART P — PERMIT TO FLY**21B.510 Application**

The form and manner established by the Competent Authority for the application shall call for the information required by the Agency for approval of flight conditions.

21B.515 Determination of responsible party for approval of the flight conditions

Upon receipt of the application the Competent Authority shall notify to the applicant the responsible party for approval of the flight conditions, in accordance with the following:

- (a) The Agency, when
1. the aircraft does not conform to an approved design or
 2. an Airworthiness Limitation, a Certification Maintenance Requirement or an Airworthiness Directive have not been complied with, or
 3. the intended flight(s) is/are unusual.
- (b) The Competent Authority in all other cases.

21B.520 Investigation

- (a) The Competent Authority shall perform sufficient investigation activities for an applicant for, or holder of, a permit to fly to justify the issuance, amendment, or revocation of the permit.
- (b) The Competent Authority shall prepare evaluation procedures covering at least the following elements:
 - 1. evaluation of eligibility of the applicant;
 - 2. evaluation of the eligibility of the application;
 - 3. making the determination under 21B.515
 - 4. evaluation of the documentation received with the application;
 - 5. inspection of aircraft;
 - 6. determination of necessary conditions or restrictions to the permit to fly.

21B.525 Issue of permits to fly

The Competent Authority shall, as applicable, issue or amend a permit to fly (EASA Form 20, see Appendix) without undue delay when it is satisfied that the applicable requirements of Section A, Subpart P are met.

21B.530 Revocation of permits to fly

- (a) Upon evidence that any of the conditions specified in 21A.723(a) is not met, the Competent Authority shall revoke a permit to fly.
- (b) Upon issuance of the notice of revocation of a permit to fly the Competent Authority shall state the reasons for the revocation and inform the holder of the permit on its right to appeal.

21B.545 Record keeping

- (a) The Competent Authority shall establish a system of record keeping that allows adequate traceability of the process to issue or amend revoke each individual permit to fly.
- (b) The records shall at least contain:
 - 1. the documents provided by the applicant,
 - 2. documents established during the investigation, in which the activities and the final results of the elements defined in 21B.520(b) are stated, and
 - 3. a copy of the permit, including amendments.
- (c) The records shall be archived for a minimum retention period of six years after expiry of the permit to fly.

Appendices

EASA Forms

When the Forms of this Annex are issued in a language other than English they shall include an English translation.

The EASA (« European Aviation Safety Agency ») Forms referred to in the appendices to this Part shall have the following obligatory features. Member States shall ensure that the EASA Forms they issue are recognisable and shall be responsible for having those Forms printed.

Appendix I - EASA Form 1 Authorised release Certificate

Appendix II - EASA Form 15a Airworthiness Review Certificate

Appendix III - EASA Form 20 Permit to Fly

Appendix IV - EASA Form 20a Permit to Fly

Appendix ~~IV~~V - EASA Form 24 Restricted Certificate of Airworthiness

Appendix ~~V~~VI - EASA Form 25 Certificate of Airworthiness

Appendix ~~VI~~VII - EASA Form 45 Noise Certificate

Appendix ~~VII~~VIII - EASA Form 52 Aircraft Statement of Conformity

Appendix ~~VIII~~IX - EASA Form 53 Certificate of Release to Service

Appendix ~~IX~~X - EASA Form 55 Production Organisation Approval Certificate

Appendix ~~X~~XI - EASA Form 65 Letter of Agreement [Production without POA]

Competent authority LOGO

PERMIT TO FLY

(*)	
Competent authority of a Member State of registry granted by virtue of Regulation (EC) No 1592/2002 hereby permit the noted aircraft to fly within the Member States under conditions listed below provided applicable national operational rules are complied with. This permit is also valid for flight to and within other States provided separate approval is obtained from the competent authorities of such States.	1. Nationality and registration marks.
2. Aircraft manufacturer/type	3. Serial number
4. The permit covers <i>[purpose in accordance with 21A.701(a)]</i>	
5. Holder: <i>[in case of a permit to fly issued for the purpose of 21A.701(a)(15) this should state: "the registered owner"]</i>	
56. Limitations Conditions/Remarks	
67. Place and date of issue	78. Signature of the competent authority representative

EASA Form 20

This permit shall be carried on board during all flights

(*) For use by State of Registry

New Form to be used by POA holders for issuing Permit to fly
--

Approving Competent Authority/Country
--

PERMIT TO FLY

Production Organisation Approval holder Name and Address	(*)
In accordance with Part 21A.711(b) hereby permit the noted aircraft to fly within the Member States under conditions listed below provided applicable national operational rules are complied with. This permit is also valid for flight to and within other States provided separate approval is obtained from the competent authorities of such States.	1. Nationality and registration marks.
2. Aircraft manufacturer/type	3. Serial number
4. The permit covers <i>[purpose in accordance with 21A.701(a)]</i>	
5. Holder:	
6. Conditions/Remarks	
7. Place and date of issue	8. Authorised Signature Name Approval Reference No.

EASA Form 20a

This permit shall be carried on board during all flights

 (*) For use by Production Organisation Approval holder

III Draft Decision AMC/GM to Part 21

Insert new AMCs and GM

AMC 21A.263(c)(6)

Procedure for the approval of the conditions for issue of a permit to fly

1 INTENT

This AMC provides means to develop a procedure to determine that an aircraft can fly, under the appropriate restrictions compensating for non compliance with the certification specifications applicable to the aircraft category.

Each DOA applicant or holder must develop its own internal procedure following this AMC, in order to obtain the privilege to make this determination and approve associated conditions without Agency involvement, under 21A.263(c)(6). This privilege does not apply for a permit to fly to be granted to initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified,. However, in this case, the DOA holder will prepare all necessary data required for the determination in accordance with the same procedure required for the privilege, and will apply for Agency approval.

2 PROCEDURE FOR THE APPROVAL OF THE CONDITIONS FOR ISSUE OF A PERMIT TO FLY

2.1 Content

The procedure must address the following points:

- identification of the aircraft configuration
- determination of the conditions to perform a flight
- approval under the DOA privilege, except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified,
- authorised signatories.

2.2 Identification of the aircraft configuration

The procedure must indicate:

- how the aircraft, for which an application for permit to fly is made, is identified
- how changes will be managed.

2.3 Determination of the conditions to perform safely a flight

The procedure must describe the process used by the DOA holder to justify that an aircraft can perform safely a flight. This process should include:

- identification of deviations from applicable certification specifications or non compliance with Part 21 conditions for the issue of a certificate of airworthiness
- analysis, calculations, tests or other means used to determine under which conditions or restrictions the aircraft can perform safely a flight
- statement by the office of airworthiness (or equivalent), that the determination has been done according to the procedure
- approval by an authorised signatory.

2.4 Approval under the DOA privilege

2.4.1 Initial approval

The procedure must specify a form for the approval under the DOA privilege. This form must include at least:

- identification of the aircraft configuration covered by the approval
- reference to the document(s) showing that the aircraft conforming to such configuration(s) can perform safely a flight under defined conditions or restrictions
- conditions or restrictions for the flight
- a statement "Approved under the authority of DOA EASA.21J.xxx." , signed by an authorised signatory.
- date of the approval.

For initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, the same form should be used and presented by the office of airworthiness (or equivalent) to the Agency for approval.

2.4.2 Approval of changes

Except for changes that do not affect the conditions approved for the issue of the permit to fly, the procedure must specify how changes will be internally approved and how the form mentioned in paragraph 2.4.1 will be updated.

2.5 Authorised signatories

The person(s) authorised to sign for the approval under the privilege of 21A.263(c)(6) must be identified (name, signature and scope of authority) in the procedure, or in an appropriate document linked to the DOA handbook.

GM 21A.701(a)(15)

Permit to fly when certificate of airworthiness or restricted certificate of airworthiness is not appropriate

A certificate of airworthiness or restricted category certificate of airworthiness may not be appropriate for an individual aircraft or aircraft type when the Agency agrees that it is not practicable to comply with the normal continued airworthiness requirements and that the aircraft is to a design standard that is demonstrated to be capable of safe flight under defined conditions.

GM 21A.701(b)

Aircraft registered outside the Member States

An aircraft registered outside the Member States and used for flight testing by an organisation which has its principle place of business in a Member State, remains under the authority of its state of registry. The Agency or an appropriately approved design organisation can provide, on request, technical assistance to the state of registry for the issue of a permit to fly, or equivalent authorisation, under the state of registry applicable regulations. In addition, the authorisation to fly rests finally with the authority of the Member State where the flight will take place, under national regulations.

GM 21A.703

Applicant for a permit to fly

The applicant for a permit to fly may not necessarily be the registered owner of the aircraft. As the holder of this permit will be responsible for ensuring that all the conditions and limitations associated with the permit to fly are continuously satisfied, the applicant for the permit should be the most suitable person or organisation for assuming these responsibilities. In particular, the organisations designing, modifying or maintaining the aircraft should be the applicant and holder of associated permits to fly.

GM 21A.705

Competent Authority

An aircraft registered in a Member State is under the responsibility of this Member State for continuing airworthiness aspects. Consequently, any permit to fly under Part 21 should be issued by that Member State including cases where the aircraft will fly in another State. National airspace and operational aspects are not covered by Part 21 and remain the competence of the authority of the State where the flight will take place. The applicant should therefore also ensure compliance with the relevant regulations of that State. This may include asking for special permission.

GM 21A.709

Safe flight

Safe flight normally means continued safe flight and landing but in some limited cases (e.g. higher risk flight testing) it can mean that the aircraft is able to fly in a manner that will primarily ensure the safety of overflown third parties, the flight crew and, if applicable other occupants.

GM 21A.709(a)(3)

Justifications

The justifications should include analysis, calculations, tests or other means used to determine under which conditions or restrictions the aircraft can perform a flight.

GM 21A.709(a)(4)**Control of aircraft configuration**

The applicant should establish a method for the control of any change or repair made to the aircraft, for changes and repairs that do not invalidate the conditions established for the permit to fly.

All other changes should be approved in accordance with 21A.713 and the permit to fly amended accordingly in accordance with 21A.717.

GM to 21A.710**Conditions approved by the Agency**

Conditions approved by the Agency include standard cases that will be published by the Agency. For these cases, compliance with 21A.711(a)(2) is established. Permits to fly can be issued under these published approved conditions, without Agency involvement by the Competent Authority or by an appropriately approved production organisation.

GM 21A.711(c)**Additional operational conditions and restrictions**

The operational conditions and restrictions prescribed by the Competent Authority may include airspace restrictions, radio station license, insurance, etc. but should not address airworthiness issues which are covered by Part 21 and flight crew qualifications covered by Annex 1 to 21A.709.

GM 21A.719**Transfer of a permit to fly**

Except for permits to fly issued under 21A.701(a)(15), like aircraft without TC holder, a permit to fly is issued based upon the applicant's declaration of many aspects of the proposed flight or flights, some of which are specific to the applicant. Accordingly, the basis upon which a permit to fly has been issued necessarily is no longer fully in place when the holder of a permit to fly changes, ownership changes, and/or there is a change of register. Such changes necessitate a new application under 21A.707.

GM 21B.515(a)(3)**Unusual flights**

Unusual flights include:

- flying outside the flight envelope;
- non-standard flight profiles (e.g. zero-g flights).