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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 restore consistency in the provisions on establishing the certification basis for type certificates and changes to type certificates by introducing the possibility to elect to comply with later standards also for changes.
- (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. The Annex (Part-21) is amended in accordance with the Annex to this Regulation.

¹ OJ L 79, 19.03.2008, p.1

² Opinion 01/2009 on “Possibility to deviate from airworthiness code in case of design changes”.

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) in point 21A.17, point (a) is replaced by the following:
 - (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 unless:
 - (i) Otherwise specified by the Agency; or
 - (ii) Compliance with certification specifications of later effective amendments is elected by the applicant or required under paragraphs (c) and (d).
 2. Any special condition prescribed in accordance with 21A.16B(a).
 - (2) in point 21A.17, point (d) is replaced by the following:
 - (d) If an applicant elects to comply with a certification specification of an amendment to the airworthiness codes that is effective after the filing of the application for a type-certificate, the applicant shall also comply with any other certification specification that the Agency finds is directly related.
 - (3) in point 21A.101, point (a) is replaced by the following:
 - (a) An applicant for a change to a type-certificate shall demonstrate that the changed product complies with the airworthiness code that is applicable to the changed product and that is in effect at the date of the application for the change, unless compliance with certification specifications of later effective amendments is elected by the applicant or required under paragraphs (e) and (f), and with the applicable environmental protection requirements laid down in 21A.18.
 - (4) in point 21A.101, a new point (f) is added as follows:
 - (f) If an applicant elects to comply with a certification specification of an amendment to the airworthiness codes that is effective after the filing of the application for a change to a type, the applicant shall also comply with any other certification specification that the Agency finds is directly related.