



NOTICE OF PROPOSED AMENDMENT (NPA) No 2008-06

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

and

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

AMENDING

DECISION NO. 2003/1/RM OF THE EXECUTIVE DIRECTOR OF THE EUROPEAN AVIATION SAFETY 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")

"Restricted type-certificates and restricted certificates of airworthiness"

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A. Explanatory Note

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to envisage amending Regulation (EC) No 1702/2003¹ and Decision 2003/1/RM of the Executive Director of 17 October 2003² to elaborate the requirements and acceptable means of compliance and guidance material related to the issuance of restricted type-certificates (R-TC) and restricted certificates of airworthiness (R-CoA). The scope of this rulemaking activity is outlined in Terms of Reference (ToR) for task 21.023(b) and is described in more detail below.
2. The European Aviation Safety Agency (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 Regulation³ which are adopted as "Opinions" (Article 19(1)). It also adopts Certification Specifications, including Airworthiness Codes and Acceptable Means of Compliance (AMC) and Guidance Material (GM) to be used in the certification process (Article 19(2)).
3. When developing rules, the Agency is bound to following a structured process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the Agency's Management Board and is referred to as "The Rulemaking Procedure"⁴.
4. This rulemaking activity is included in the Agency's rulemaking programme for 2008. It implements the rulemaking task 21.023(b) 'Restricted Certificates of Airworthiness'.
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 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure.

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 Rulemaking Procedure. Comments on this proposal should be submitted by one of the following methods:

CRT: Send your comments using the Comment-Response Tool (CRT) available at <http://hub.easa.europa.eu/crt/>

¹ 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 (*OJ L 243, 27.9.2003, p. 6*). Regulation as last amended by Commission Regulation (EC) No 287/2008 of 28 March 2008 (*OJ L 87, 29.3.2008, p. 3*).

² Decision No 2003/1/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"), last amended by Decision No 2007/12/R of the Executive Director of the Agency of 22.11.2007.

³ 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/EC (*OJ L 79, 19.03.2008, p. 1*).

⁴ 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 08-2007, 13.6.2007

E-mail: In case the use of CRT is prevented by technical problems these should be reported to the [CRT webmaster](#) and comments sent by email to NPA@easa.europa.eu.

Correspondence: If you do not have access to internet or e-mail you can send your comment by mail to:
 Process Support
 Rulemaking Directorate
 EASA
 Postfach 10 12 53
 D-50452 Cologne
 Germany

Comments should be received by the Agency before 10 July 2008. If received after this deadline they might not be taken into account.

III. Comment response document

7. All comments received in time will be responded to and incorporated in a comment response document (CRD). The CRD will be available on the Agency's website and in the Comment-Response Tool (CRT).

IV. Content of the draft opinion/decision

8. The concept of R-CoA is incorporated in the Basic regulation for dealing with aircraft that cannot comply with all the applicable airworthiness requirements but for which adequate safety can nevertheless be ensured through restrictions, limitations and other mitigating measures. This concept is also included in Part-21, but due to a lack of time, no detailed and comprehensive set of requirements and AMC/GM were developed. In the mean time the R-CoA is used to deal with aircraft for which there is no more active type-certificate (TC) holder and for aircraft within the scope of the Agency that have not (yet) received an Agency TC. The practice developed for these aircraft needs to be codified in Part-21.

9. The current rule already describes two ways to obtain an R-COA. These are further defined and elaborated in this NPA:

- *R-CoA based on a R-TC:*

This is intended for aircraft that cannot comply with all applicable airworthiness requirements because they are specifically designed for a special purpose such as crop spraying, weather control, etc.

- *R-CoA based on a design approval attesting compliance with specific airworthiness specifications (SAS) issued by the Agency for the specific case:*

This is intended for individual aircraft that for various reasons cannot comply with the applicable airworthiness requirements but for which adequate safety can nevertheless be ensured through restrictions, limitations and other mitigating measures. The examples for which this option is used today are aircraft without active TC holder ('orphan' aircraft) and aircraft designed in the former Soviet Union for which the Agency has not (yet) issued a TC.

This NPA envisages to add a third option:

- *R-CoA based on a TC and a restricted supplemental type-certificate (R-STC):*

This is intended for aircraft that already have a normal certificate of airworthiness (CoA) based on a normal TC, but which are modified for a special purpose as in the above first case. Without this new option the only way for modifiers of aircraft for special purposes to obtain approval would be to apply for a whole new R-TC. The associated responsibility for the entire aircraft design would usually go beyond the capability of the

modifier and it would not be consistent with the way that "normal" modifications to aircraft are treated under Subpart E.

10. Part of the rulemaking task as formulated in the ToR was to consider possible amendments to Part-M addressing maintenance requirements specifically for aircraft on a R-CoA. The Agency has concluded that the current Part-M is appropriate for aircraft on a R-CoA, when operated commercially or in the case of large aircraft. For 'general aviation' aircraft it should be noted that the Agency is developing amendments to Part-M that will bring significant alleviations to the maintenance requirements for this class of aircraft. At the same time the entry into force of Part-M for general aviation will be postponed with one year. The Agency considers the amended Part-M provisions for general aviation aircraft also appropriate to aircraft on a R-CoA. Therefore in this NPA no proposals for amendment of Part-M are being made.
11. In the current Part-21 the TC of an aircraft becomes automatically invalid if the TC holder is no longer in compliance with Part-21. This means that formally there is no more active TC holder and that all the CoA based on this TC are invalid. Without further action this would lead to grounding of the affected ('orphan') aircraft. As the Agency considers this consequence disproportionate and thinks that continued operation of these aircraft should be possible on an R-CoA. However, in order to limit the number of 'orphan' aircraft in the future, this NPA envisages additional changes to Part-21 promoting the continued support of a TC by its holder.
12. The NPA will describe all cases when a R-CoA can be issued. This will include cases for which in the recent past permanent permits to fly were issued. The issuance of permanent permits to fly is not in line with the intent of article 5 of the basic regulation where it is stipulated that a permit to fly can be issued to aircraft that are capable of performing safely a basic flight. The issuance of permanent permits to fly in accordance with Part 21A.701(15) has therefore to be seen as transitional measure for aircraft that were on a permanent permit to fly under the previously applicable national rules. This transitional measure was necessary because the owners of the aircraft concerned would not be able to comply with all relevant requirements of Part-21. However, rulemaking task MDM.032 which is scheduled to lead to an NPA in the second quarter of 2008, is intended to bring considerable alleviations to Part-21 for aircraft with a maximum take-off mass of 2000 kg or below. The aircraft that are currently on a permanent permit to fly are typically in this category. With these alleviations in place it will be possible again for the owners of aircraft for which the transitional measure applies, to comply with all Part-21 requirements, thus allowing them to be issued a R-CoA. Moreover, Part-M is envisaged to be amended later this year bringing considerable alleviations to the maintenance requirements for small aircraft. It will therefore no longer be needed to exempt certain aircraft from the applicability of Part-M through the issuance of permits to fly.
Therefore this NPA envisages to discontinue the provision of Part 21A.701(15) which allowed the issuance of permanent permits to fly.

The envisaged changes to Regulation (EC) No 1702/2003 and Agency Decision 2003/1/RM are:

13. A new article 2f is introduced in the Regulation to grandfather existing Specific Airworthiness Specifications issued by the Agency or determined by law to make clear that they are also considered to constitute the approval of the aircraft design.
14. Occurrence reporting.
Changes to 21A.3 are envisaged to clarify that the holder of an R-TC has the same obligations regarding continued airworthiness as the holder of a TC. Furthermore specific provisions are introduced for reporting requirements for holders of an aircraft design approval which is based on SAS.

15. Subpart B of Part-21 is amended in various places to make the process for issuing an R-TC as much as possible consistent with the process for issuing a TC. The difference between the two is that the R-TC will only be allowed for certain special purposes and in the determination of the certification basis it is recognised that for an R-TC certain certification specifications cannot be complied with.
16. Paragraph 21A.44 is amended to make the capability requirement (design organisation approval or alternative procedure) for existing TC holders commensurate to their real activities/responsibilities and to avoid undue burden on TC holders. This will contribute to avoiding more 'orphan' aircraft cases in the future.
17. Through an amendment of 21A.51 the TC is no longer automatically invalid if the TC holder is not in compliance with Part-21. In stead it will require a positive legal act from the Agency to invalidate the TC in such cases. This will avoid uncertainty about the status of the certificate. The Agency can also choose to put additional limitations or to consider administrative enforcement actions⁵. This allows the Agency to make the enforcement measure commensurate to the level of non-compliance. In order to allow the Agency to take action when needed an obligation for the (R-)TC holder is added in 21A.44 to report any failure to comply with the applicable requirements.
18. Subpart E of Part-21 is amended to introduce the new concept of restricted supplemental type certificates (R-STC). This is meant for aircraft that already have a CoA based on a TC and are modified for a special purpose by which they can no longer fully comply with the applicable airworthiness requirements. The alternative in such case would be to apply for a complete new R-TC, which is inconsistent with the current practice for 'normal' modifications. The requirements for obtaining an R-STC are similar to those for a 'normal' STC except that eligibility is limited to modifications leading to using the aircraft for certain special purposes and to take into account that the modified aircraft cannot comply with all the applicable certification specifications. Furthermore the validity provisions for STCs are amended consistently with the above amendments to the validity conditions for a TC.
19. Subpart H is amended to cater for the possibility to issue an R-CoA to an aircraft that previously had a CoA, and which is modified by an R-STC. For this case it was necessary to add a new subparagraph 21A.181(a)(5) to make sure that an aircraft modified by an R-STC cannot continue operation under a normal CoA. Instead the owner must apply for an R-CoA. In accordance with the new 21A.174(c) such application only needs to include a recommendation for the issuance of an Airworthiness Review Certificate, which contains the proof that the aircraft is modified in accordance with an approved R-CoA. In Section B a requirement for the competent authority of the Member State of registry is introduced (21B.325(c)) to issue an Airworthiness Review Certificate for an aircraft which is modified by an R-STC and subsequently needs an R-CoA in stead of the normal CoA.
20. The requirements related to the case of an R-CoA based on SAS are further elaborated as described here. In the current Part-21 the concept of an R-CoA based on SAS has certain limitations which can create confusion. In the current approach the SAS contain something which can be seen as the type certification basis and at the same time it constitutes the Agency approval of the aircraft design which complies with this type certification basis. This approach is different from all other design approvals stipulated in Part-21, where these two elements are separate decisions by the Agency. The envisaged amendments to Subpart H intend to restore consistency. The SAS in the new approach only define the applicable specifications (or in other words 'type certification basis', see 21A.187). After compliance with the SAS is shown (21A.189) the Agency will then approve the design of the relevant aircraft in a separate design approval (21A.191). Based on this design approval the NAA can then issue an R-CoA. Changes to the design

⁵ Article 24a of the new Basic Regulation (EC) No 216/2008 of 20.02.08 (OJ L79, 19.03.08, p. 1) allows the Agency to request the Commission to impose fines or periodic penalty payments.

and repair designs are approved by the Agency or for minor changes or repairs by a Design Organisation Approval holder.

21. In addition to the above amendments to Subpart H some improvements to the existing text are envisaged. The one but last bullet point of 21A.174(b)(3)(ii) is amended to reflect that this provision refers to documents relevant to an imported aircraft for which a reference to a Community requirement is not appropriate. The last bullet point in the same subparagraph is corrected to restore consistency with Part-M: continuing airworthiness management organisations can issue recommendations for the issuance of an Airworthiness Review Certificate but not for the issuance of a CoA.
22. Amendments in 21A.263 and Subpart P are envisaged for discontinuing the possibility to issue permanent permits to fly in accordance with 21A.701(15).

V. Regulatory Impact Assessment

23. Purpose and Intended Effect

- a. Issue which the NPA is intended to address

The concept of R-CoA is incorporated in the Basic Regulation for dealing with aircraft that cannot comply with all the applicable airworthiness requirements but for which adequate safety can nevertheless be ensured through restrictions, limitations and other mitigating measures. This concept is also included in Part-21, but due to a lack of time, no detailed and comprehensive set of requirements and AMC/GM were developed. In the mean time the R-CoA is used to deal with aircraft for which there is no more active type-certificate (TC) holder and for aircraft within the scope of the Agency that have not (yet) received an EASA TC. In both cases there is a need for more detailed procedural requirements and guidance on how to establish the necessary design approval and how to issue the R-CoA.

- b. Scale of the issue (quantified if possible)

It is estimated that the number of aircraft in Europe designed or modified for a special purpose and eligible for an R-CoA is in the order of magnitude of 3000⁶.

The number of aircraft eligible for an R-CoA based on SAS (including ex-Soviet Union aircraft and orphan aircraft) is estimated to be in the order of magnitude of 1500.

- c. Brief statement of the objectives of the NPA

The NPA intends to elaborate and where necessary improve the procedural requirements in Part-21 for dealing with R-TC and R-CoA and to provide guidance where needed.

24. Options

The options identified are:

- Option 1: Doing nothing;
- Option 2: Developing detailed requirements for the issuance of R-TC and R-CoA without the option of R-STC.
- Option 3a: Developing detailed requirements for the issuance of R-TC and R-CoA including the option of R-STC while keeping the possibility of permanent permits to fly.
- Option 3b: Developing detailed requirements for the issuance of R-TC and R-CoA including the option of R-STC while discontinuing the possibility of permanent permits to fly.

25. Sectors concerned

⁶ Based on an extrapolation of national data of the UK

The affected sectors of the aviation community within the Community scope are:

- Manufacturers of aircraft designed for special purpose operations
- Developers of modifications for special purpose operations
- Owners of aircraft designed or modified for special purpose operations
- Owner/operators of ex-Soviet Union aircraft
- Owners of aircraft for which there is no more active TC holder ('orphan aircraft')
- Pilots, cabin crew and maintenance staff involved in the operation and maintenance of the above aircraft

26. Impacts

a. All identified impacts

i. Safety

Option 1 is the reference option for comparison with the other option and is considered neutral.

Option 2, 3a and 3b are expected to have a moderate positive impact on safety, taking into account that the main purpose of the regulatory action is to reflect in the requirements the current practice of the Agency and previous practice in Member States.

For orphan aircraft the responsibilities of the various actors will be more clearly defined allowing more efficient oversight of the continued airworthiness. This is expected to contribute to improved safety.

For the ex-Soviet Union aircraft the conditions to issue specific airworthiness specifications by the Agency will assure a basic and consistent level of safety. Only the aircraft types that will pass the test of compliance with those SAS can continue operation under an R-CoA. This is also expected to contribute to improved safety.

Option 3b is expected to have a more positive effect on safety than option 3a because it will provide a more consistent and structured approach to the airworthiness certification of the aircraft concerned allowing the authority to focus its oversight on potential safety issues.

ii. Economic

The economic impact of options 1 and 2 is expected to be comparable. All the aircraft concerned need some form of airworthiness certificate and in all cases a design approval by the Agency is needed followed by a determination of conformity by the Member State of Registry. This means that fees and charges linked to the authority involvement will be similar for the various options.

The change in the category of airworthiness certificate for orphan and ex-Soviet Union aircraft and the possible change in the allowed operations for these aircraft is the consequence of requirements that already exist and is not affected by any of the options.

Option 3a and 3b are expected to have a positive economic impact compared to option 2. It will allow the modifiers of aircraft to limit their compliance efforts to only the changed design in stead of having to apply for a complete new R-TC, with the need to show compliance for the entire aircraft with the latest requirements.

iii. Environmental

For all options the existing environmental requirements will continue to apply to the aircraft concerned so no environmental impact is expected.

iv. Social

All options would allow continuation of the operation of the affected aircraft so a social impact is not expected.

v. Other aviation requirements outside the Agency scope

The more elaborated and detailed requirements of option 2 and 3 will bring improved standardisation in Europe and will therefore contribute to a better functioning of the internal market in case of transfer of an affected aircraft from one Member State to another.

Options 2 and 3 will bring improved alignment with the requirements for issuance of R-CoA as used in third countries and will make it easier to import or export affected aircraft.

b. Equity and fairness in terms of distribution of positive and negative impacts among concerned sectors.

Most of the impacts will be borne by a relatively small sector of the aviation community. However this is a logical consequence of the subject that is being addressed by this NPA: R-CoAs are issued only to special purpose aircraft or to aircraft that cannot meet all the airworthiness requirements for other reasons. It is therefore unavoidable that only a limited number of entities will bear the costs of the options.

27. Summary and Final Assessment

Options 2, 3a and 3b are expected to have a moderately positive impact on safety. The positive impact on safety of option 3b is expected to be the best. Option 3a and 3b are expected to have a positive economic impact. In view of the above the Agency is of the opinion that option 3b is to be preferred.

B DRAFT OPINION AND DECISION

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

- deleted text is shown with a strike through: ~~deleted~~
- new text is highlighted with grey shading: **new**
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Indicates that remaining text is unchanged in front of or following the reflected amendment.

I Draft Opinion

Regulation (EC) 1702/2003

Article 2f

Approval of aircraft design

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

ANNEX to Regulation (EC) 1702/2003: PART-21

SUBPART A – GENERAL PROVISIONS

21A.3 Failures, malfunctions and defects

- (a) System for Collection, Investigation and Analysis of Data. The holder of a type-certificate, restricted type-certificate, supplemental type-certificate, **restricted supplemental type-certificate**, European Technical Standard Order (ETSO) authorisation, **or** major repair design approval ~~or any other relevant approval deemed to have been issued under this Regulation~~ 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 type-certificate, restricted type-certificate, supplemental type-certificate, **restricted supplemental type-certificate**, ETSO authorisation, **or** major repair design approval ~~or any other relevant approval deemed to have been issued under this Regulation~~. 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 type-certificate, restricted type-certificate, supplemental type-certificate, **restricted supplemental type-certificate**, ETSO authorisation, major repair design approval **or approval of aircraft design in accordance with 21A.191** ~~any other relevant approval deemed to have been issued under this Regulation~~ 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 type-certificate, restricted type-certificate, supplemental type-certificate, **ETSO authorisation, major repair design approval or approval of aircraft design in accordance with 21A.191** ~~any other relevant approval deemed to have been issued under this Regulation~~, 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 type-certificate, restricted type-certificate, supplemental type-certificate, restricted supplemental type-certificate, major repair design approval, ETSO authorisation, or approval of aircraft design in accordance with 21A.191 ~~any other relevant approval deemed to have been issued under this Regulation~~, 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 type-certificate, restricted type-certificate, supplemental type-certificate, restricted supplemental type-certificate, major repair design approval, ETSO authorisation, or approval of aircraft design in accordance with 21A.191 ~~any other relevant approval deemed to have been issued under this Regulation~~, or the manufacturer as appropriate, shall submit the relevant data to the Agency.

SUBPART B – TYPE CERTIFICATES AND RESTRICTED TYPE-CERTIFICATES

21A.12 Restricted type-certificate

A restricted type certificate may be applied for when a type certificate is inappropriate and the aircraft is designed for a special purpose for which the Agency agrees it justifies deviations from the essential requirements of Annex I to the Basic Regulation.

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 unless:
 - (i) Otherwise specified by the Agency; or
 - (ii) Compliance with 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).
 3. For restricted type-certificate, the list of paragraphs of the applicable airworthiness code that the Agency finds inappropriate for the special purpose for which the aircraft is to be used.
- (b) An application for a type-certificate ~~on~~ or a restricted type-certificate ~~off~~ 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.

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 an aircraft 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.

~~**21A.23 Issue of a restricted type-certificate**~~

- ~~(a) For an aircraft that does not meet the provisions of 21A.21(c), the applicant shall be entitled to have a restricted type-certificate issued by the Agency after:~~
- ~~1. complying with the appropriate type-certification basis established by the Agency ensuring adequate safety with regard to the intended use of the aircraft, and with the applicable environmental protection requirements;~~
 - ~~2. expressly stating that it is prepared to comply with 21A.44.~~
- ~~(b) The engine or propeller installed in the aircraft, or both, shall:~~
- ~~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.~~

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 special purpose. 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.

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.

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 its ability to qualify under the criteria of 21A.14 the capability required in 21A.44(a).

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:
 1. ~~The holder remaining in compliance with this Part; and~~
 2. ~~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.

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

21A.111 Scope

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

21A.113B Restricted Supplemental Type-Certificate

- (a) A restricted supplemental type-certificate may be applied for when
 1. a supplemental type-certificate or major change approval is inappropriate; and
 2. the aircraft is modified for a special 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 and shall include the list of paragraphs of the applicable airworthiness code that the Agency finds inappropriate for the special purpose for which the aircraft is to be used.
- (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 specific certification specifications as notified under subparagraph (c) above and the applicable environmental protection requirements;
 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 special purpose.

21A.118A Obligations and EPA marking

Each holder of a supplemental type-certificate shall:

-
- (c) report to the Agency any failure to fulfil the obligations imposed on it by this Subpart E.

21A.118B Duration and continued validity

- (a) A supplemental type-certificate shall be issued for an unlimited duration. It shall remain valid subject to:
1. ~~The holder remaining in compliance with this Part; and~~
 2. 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 shall be returned to the Agency.

SUBPART H - CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS

21A.173 Classification

~~Airworthiness certificates shall be classified as follows:~~

- (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 modified by a restricted supplemental type-certificate that have been issued in accordance with this Part;
 23. which have been shown to the Agency to comply with specific airworthiness specifications ensuring adequate safety.

21A.174 Application

- (a) Pursuant to 21A.172, an application for an certificate of airworthiness or a restricted certificate of airworthiness certificate shall be made in a form and manner established by

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 a 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 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 associated with a restricted certificate of airworthiness under 21A.184(c) applicable to the aircraft under the rules of the State where the aircraft is or was registered.
 - a recommendation for the issuance of a certificate of airworthiness or restricted certificate of airworthiness and 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, shall include a recommendation for the issuance of an airworthiness review certificate following an airworthiness review in accordance with Part-M.
- (ed) 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.

21A.177 Amendment or modification

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

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 conforming to a restricted type certificate only, 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 ~~conforming to a restricted type certificate only~~, 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 not conforming to a restricted type certificate, 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.~~ reserved

21A.180 Inspections

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

21A.181 Duration and continued validity

- (a) An ~~certificate of airworthiness certificate~~ shall be issued for an unlimited duration. It shall remain valid subject to:
- (1) compliance with the applicable ~~approved design type design~~ and continuing airworthiness requirements; and
 - (2) the aircraft remaining on the same register; and
 - (3) the ~~type-certificate or restricted type certificate~~ under which it is issued not being previously surrendered or revoked under 21A.51.
 - (4) the certificate not being surrendered, ~~suspended~~ or revoked ~~under 21B.330~~.
 - (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.
- (bc) Upon surrender or revocation, the certificate shall be returned to the competent authority of the Member State of registry.

21A.182 Aircraft identification

Each applicant for an ~~certificate of airworthiness or restricted certificate of airworthiness certificate~~ under this Subpart shall demonstrate that its aircraft is identified in accordance with Subpart Q.

21A.185 Restricted certificate of airworthiness based on specific airworthiness specifications

- (a) 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) 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.
- (c) The application shall include a three-view drawing of that aircraft and preliminary basic data, including the proposed operating characteristics and limitations.

21A.187 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.

21A.189 Restricted certificate of airworthiness based on specific airworthiness specifications - Compliance with the specific airworthiness specifications and environmental protection requirements

- (a) The applicant shall show compliance with the specific airworthiness specifications and environmental protection requirements designated in accordance with 21A.187 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.187.

21A.191 Restricted certificate of airworthiness based on specific airworthiness specifications - Approval of aircraft design

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

- (a) submitting the declaration referred to in 21A.189(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.187;
 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.
- (c) The approval of the aircraft design 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;
 4. 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.

- (d) an approval of the aircraft design 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.
- (e) Upon surrender or revocation, the attestation of the approval of the aircraft design shall be returned to the Agency.

21A.18493 Issue of restricted certificates 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 modified by a restricted supplemental type-certificate or in accordance with specific airworthiness specifications, and is in 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 modified 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) For an aircraft that cannot comply with the essential requirements referred to in the Basic Regulation and which is not eligible for a restricted type certificate, the Agency shall, as necessary to take account of deviations from these essential requirements:~~
- ~~1. issue and check compliance with specific certification specifications ensuring adequate safety with regard to the intended use, and~~
 - ~~2. specify limitations for use of this aircraft.~~
- (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,
- (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 restricted type-certificate, under a type certificate modified by a restricted supplemental type-certificate or in accordance with specific airworthiness specifications; 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.191(c). ~~will be associated with restricted~~

~~certificates of airworthiness, including airspace restrictions as necessary to take account of deviations from essential requirements for airworthiness laid down in the Basic Regulation.~~

21A.195 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.191.
- (c) Minor changes shall be approved by the Agency or an appropriately approved design organisation in accordance with 21A.191.

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.
- (b) Major repair designs shall be approved by the Agency in accordance with 21A.191.
- (c) Minor repair designs shall be approved by the Agency or an appropriately approved design organisation in accordance with 21A.191.

SUBPART I – NOISE CERTIFICATES

21A.211 Duration and continued validity

- (a) A noise certificate shall be issued for an unlimited duration. It shall remain valid subject to:
 - (1) compliance with the applicable approved design ~~type design~~, environmental protection and continuing airworthiness requirements; and
 -

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. To approve the conditions under which a permit to fly can be issued in accordance with 21A.710(a)(2),

- ~~(i) except for initial flights of~~
 - a new type of aircraft; or
 - an aircraft modified by a change that is or would be classified as a significant major change or significant STC; or
 - an aircraft whose flight and/or piloting characteristics may have been significantly modified;

~~(ii) except for permits to fly to be issued for the purpose of 21A.701(a)(15).~~

.....

SUBPART P – PERMIT TO FLY

21A.701 Scope

Permits to fly shall be issued in accordance with this Subpart to aircraft that do not meet, or have not been shown to meet, applicable airworthiness requirements but are capable of safe flight under defined conditions and for the following purposes:

.....

- ~~15. for non-commercial flying activity on individual non-complex aircraft or types for which a certificate of airworthiness or restricted certificate of airworthiness is not appropriate.~~

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.~~ A person eligible for an application for permit to fly is also eligible for application for the approval of the flight conditions.

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 agreement of the competent authority of the Member State of registry to which it is transferred.~~

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(d) 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. Reserved~~

(c) Upon surrender or revocation, the permit to fly shall be returned to the Competent Authority.

Section B

SUBPART A – GENERAL PROVISIONS

21B.325 Issue of airworthiness certificates

.....

~~(c) In addition to a restricted certificate of airworthiness for a used aircraft for which the certificate of airworthiness has become invalid, the competent authority of the Member~~

State of registry shall issue a new airworthiness review certificate (EASA Form 15a, see Appendix).

Competent authority LOGO

PERMIT TO FLY

(*)	
<p>This permit to fly is issued pursuant to Regulation (EC) 1592/2002, Article 5(3)(a) and certifies that the aircraft is capable of safe flight for the purpose and within the conditions listed below and is valid in all Member States</p> <p>This permit is also valid for flight to and within non Member States provided separate approval is obtained from the competent authorities of such States.</p>	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>	
6. Conditions/Remarks	
7. Validity period:	
8. Place and date of issue	9. Signature of the competent authority representative

EASA Form 20a

(*) For use by State of Registry.

II Draft Decision AMC and GM to Part-21

GM 21A.12 Justification for restricted type-certificate

In considering an application for a restricted type-certificate, a type-certificate is deemed inappropriate when the Agency agrees that the aircraft is designed intentionally for use under defined conditions that will justify permanent deviations from the essential requirements of Annex I to the Basic Regulation.

Examples of special purposes, as intended in 21A.12 are:

1. agricultural: spraying, dusting, seeding, livestock control and predatory animal control;
2. fire prevention and suppression;
3. aerial surveying: photography, mapping, oil and mineral exploration;
4. patrolling: patrolling of pipelines, powerlines and waterways;
5. weather control: cloud seeding;
6. aerial advertising: skywriting, banner towing, airborne signs and public address systems;
7. wildlife conservation;
8. special cargo transport: large volume cargo, heavy lift rotorcraft;

GM 21A.44(a) Demonstration of capability

A type-certificate holder required to have a design organisation approval issued in accordance with Subpart J to obtain a type-certificate, in accordance with 21A.14, may convert its DOA into alternative procedures if the nature of remaining activities justifies it. Such justifications could be for example continued airworthiness activities only, without design change activity.

GM 21A.173(b)(3) Restricted Certificate of Airworthiness based on specific airworthiness specifications

This category of R-CoA is intended for individual aircraft that for various reasons cannot comply with the applicable airworthiness requirements but for which adequate safety can nevertheless be ensured through restrictions, limitations and other mitigating measures; for example aircraft without active TC holder ('orphan' aircraft).

It can also be used for a special purpose aircraft as intended in 21A.12 when only one or a very limited number of aircraft of the same design will be produced.

This category of R-CoA can also be used for aircraft that were built as prototypes of a new design, but the design of which differs so much from the finally approved design that it is not possible to make them conforming to that approved design

GM 21A.174(c)

The term "aircraft for which the certificate of airworthiness has become invalid" is used to refer to the case where an aircraft that already had a normal CoA is modified for a special purpose by implementing an R-STC. As a result of 21A.185(a)(5) the CoA will then become invalid.

GM 21A.701(a)

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

.....

(15) — For non-commercial flying activity on individual non-complex aircraft or types for which 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 ("generically termed orphan aircraft") or aircraft

~~which have been under national systems of Permit to Fly and have not been shown to meet all applicable requirements. The option of a permit to fly for such an aircraft should only be used if a certificate of airworthiness or restricted certificate of airworthiness cannot be issued due to conditions which are outside the direct control of the aircraft owner, such as the absence of properly certified spare parts.~~

.....

**GM 21A.710
Approval of flight conditions**

1. The approval of flight conditions is related to the safety of the design, when:

.....

~~d. the permit to fly is issued for the purpose of 21A.701(a)(15).~~

.....

**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.

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