

European Aviation Safety Agency

DECISION OF THE MANAGEMENT BOARD AMENDING DECISION OF THE MANAGEMENT BOARD No 07-2004 CONCERNING THE GENERAL PRINCIPLES RELATED TO THE CERTIFICATION PROCEDURES TO BE APPLIED BY THE AGENCY FOR THE ISSUING OF CERTIFICATES FOR PRODUCTS, PARTS AND APPLIANCES ("PRODUCTS CERTIFICATION PROCEDURES")

The Management Board

- Whereas the European Parliament and the Council of the European Union, by adopting Regulation (EC) 1592/2002, (hereinafter the Basic Regulation), have created the European Aviation Safety Agency (hereinafter the Agency);
- Whereas Article 44 of the Basic Regulation requires, amongst others, the Management Board to establish transparent procedures the Executive Director shall follow for taking individual decisions;
- Whereas in certain cases, where a prior publication for comments would make timely compliance with the corrective actions impossible or where the substance of an Airworthiness Directive has been previously subject to a national Airworthiness Directive, require the immediate issuance of an Airworthiness Directive without prior notice and publication for comments.
- Whereas notwithstanding the notification in writing which remains mandatory the use of electronic means to transmit an Airworthiness Directive to the approval holder can ensure that the latter will timely become aware of it.
- Having regard to the Opinion of the Advisory Body of Interested Parties

Has adopted the Decision, as detailed in the annexed document
Done at London on 01 October 2007,

The Vice Chairman
Michael Smethers

Section 1 – basic principles and applicability

Article 1 - objectives

1. The objective of this Decision is to establish the general principles of the procedures to be followed by the Agency to perform environmental and airworthiness certification of aeronautical products, parts and appliances, including post type certification activities, in accordance with the applicable implementing rules of the Basic Regulation.
2. This Decision does not affect the rights and obligations derived from applicable bilateral agreements as specified in Article 9 of the Basic Regulation.

Article 2- terminology and definitions

For the purposes of this decision:

- Certification Review Items shall mean a document that is used to track and record the resolution of a certification subject which requires clarification or interpretation or represents a major technical or administrative issue.
- Post type certification activities shall mean any of the activities following the issuing of a type certificate or restricted type certificate. It covers:
 - i. Changes to products, parts or appliances,
 - ii. Supplemental Type Certificates,
 - iii. Repairs to products and
 - iv. Continuing airworthiness of the product, part or appliances, including collection of information related to failures, malfunctions and defects, analysis of reported occurrences, service information and the issuing of Airworthiness Directives.

Section 2 – certification procedure

Article 3 – applicable requirements, certification specifications, acceptable means of compliance and guidance material

1. When the Agency handles an application for a product certificate, it shall follow the administrative requirements contained in Part-21 when available and the related applicable certification specifications and guidance material.
2. Deviations from the applicable airworthiness codes, environmental protection certification specifications and/or acceptable means of compliance with Part 21, as well as important special conditions and equivalent safety findings, shall be submitted to the panel of experts and be subject to a public consultation of at least 3 weeks, except if they have been previously agreed and published in the Official Publication of the Agency. The final decision shall be published in the Official Publication of the Agency.

Article 4 –reception and eligibility of the application

1. The Agency shall publish all application forms together with the scheme of charges covering applicable fees.
2. An acknowledgement and receipt of applications received shall be sent to the applicant within ten working days following the application receipt by the Agency. Applications received will be reviewed for correct completion; where incorrect or incomplete information is supplied, the applicant shall be notified as soon as possible by a letter detailing the omissions and errors.
3. An acknowledgement and receipt for fees paid will be sent to the applicant.
4. The Agency shall make a first check on eligibility according to Part-21 and will determine how it will proceed with the application. Such preliminary determination, including that of the applicable requirements, shall be communicated to the applicant within the month following receipt of the correct application.

5. When eligibility, where appropriate, has been fully assessed, the Agency shall inform the applicant whether its application is accepted or not. In case of refusal, any fees paid shall be returned to the applicant, except for administrative costs of handling the application as specified by the Commission Regulation on the Agency's Fees and Charges.

Article 5 - familiarisation with the project

To assist in the determination of the certification team and of the certification programme, the Agency may require the applicant to organise an initial briefing, in particular for new and/or complex products. This briefing shall take place at a convenient location jointly agreed with the applicant.

Article 6 – certification team

1. A certification team shall be established by the Agency as appropriate for the investigation to be performed. The team consists of a project certification manager and team members. Where the extent of the investigation does not justify the need for a team, one person may perform that investigation. - Trainees may participate in investigation teams at no direct cost for the applicant.
2. Both project certification managers and team members shall be trained in certification techniques and have established knowledge of the applicable requirements and procedures. They shall have practical technical experience in the field where certification is applied for. There shall be no conflict of interest with the application to be investigated.
3. The composition and size of the certification team shall be kept to a minimum, taking into account the complexity of the certification project.
4. For the certification of derivatives or major changes or major repairs, the certification team involved in the initial certification of the concerned product and its continuing airworthiness should be used as much as possible, without prejudice to adjust team size to the nature and complexity of the project.

Article 7 - determination of the certification basis and

applicable environmental protection certification specifications

1. An initial certification basis and an initial determination of applicable environmental protection certification specifications shall be developed and fixed as early as possible, having regard to airworthiness codes and taking into account the procedure specified in Article 3.2 of this Decision.
2. When decided, the initial certification basis and the applicable environmental protection certification specifications shall be notified to the applicant in writing, including a reference to the possibility for appeal as specified in Articles 35 to 41 of the Basic Regulation and published in the Official Publication of the Agency. Disagreements may also be handled in accordance with the procedure as specified in Article 18 of this Decision at the request of the applicant.
3. The initial certification basis shall be changed as necessary to address new applied technologies, introduction of design changes, discovery of unsafe conditions. The process for such changes is the same as for the establishment of the initial certification basis.
4. When finally decided, taking into account the result of a disagreement procedure, the certification basis and the applicable environmental protection certification specifications shall be recorded in a Certification Review Item document. Deviations, useful interpretations of acceptable means of compliance not covered by published guidance material will be recorded in a separate certification review item document.

Article 8 - Establishing a certification programme

1. On the basis of a proposal by the applicant, the Agency will examine and eventually accepts a certification programme which will identify the major programme milestones and associated certification decisions. Such programme shall in particular specify:
 - i. The means of compliance,
 - ii. the certification team involvement in the compliance determination process,
 - iii. the need for test witnessing,
 - iv. significant decisions affecting the result of the certification process.

2. The certification team shall participate in thorough technical briefings organised by the applicant about the certification programme for the product in order to fully understand the design, new technologies and any unique or unconventional features or intended unconventional usage of the product as necessary to define the certification basis.
3. The Agency may terminate the certification process if it appears that it cannot be completed because of the lack of resources within the applicant's structure or its lack of commitment to complying with the applicable requirements. Such decision shall be notified to the applicant three months before the envisaged date of termination in a letter making reference to the possibility for appeal as specified in Articles 35 to 41 of the Basic Regulation.

Article 9 – compliance determination

1. The certification team shall verify that the applicant establishes compliance with the certification basis and the environment protection requirements in accordance with the agreed certification programme.
2. For the certification of products, parts and appliances or of changes or repairs designed by organisations under the regulatory oversight of a foreign competent authority, the Agency may use the system of that authority for the demonstration of compliance with the certification basis and environment protection requirements. To that effect, the Agency shall:
 - i. establish detailed procedures for the assessment by a review team of that system in order to determine that it includes the same independent level of verifying of compliance as provided by its own requirements, either through an equivalent system of approvals of organisations or through direct involvement of that competent authority. This assessment shall be tailored to the scope of demonstration of compliance to be used by the Agency;
 - ii. following that assessment, establish with that competent authority a working arrangement detailing how its system will be used to establish compliance with its own requirements.

3. Significant decisions affecting the result of the certification process as specified in the certification programme shall be communicated by the Agency to the applicant by writing, including a reference to the possibility for appeal as specified in Articles 35 to 41 of the Basic Regulation. Disagreements may also be handled in accordance with the procedure as specified in Article 18 of this Decision at the request of the applicant.

Article 10 – interface with other activities

1. For the development of initial minimum scheduled maintenance requirements for derivative or newly type certificated aircraft, the Agency shall set up, as appropriate, a maintenance review board (MRB). It shall therefore appoint a chairperson and define the terms of reference of that board. A maintenance review board shall include persons with relevant maintenance, certification and operational expertise. The product manufacturer and representative operators shall be invited to present to the board proposals for a maintenance programme. The Chairperson shall ensure that there is appropriate co-ordination with the operations evaluation board (OEB).
2. When the applicant requests the formation of an operations evaluation board, the Agency shall allocate the necessary resources from the certification team to support this process. These resources shall include the project certification manager and other technical specialists as appropriate to address LROPS, ETOPS, MMEL, electronic flight bag, cabin crew or training issues, *inter alia* which affect compliance with the certification basis for specific technical features of the product, or technical issues relating to compliance with operating rules.

Article 11 – issuing of the certificate

On acceptance of all necessary compliance demonstrations made by the applicant, and including a statement of compliance, the Executive Director of the Agency shall issue the certificate, taking into account the opinions of the panels of experts, if such opinions have been sought at the request of the applicant in accordance with article 18 of this decision. This decision will be notified by letter to the applicant. This letter will make reference to the possibility for appeal as specified in Articles 35 to 41 of the Basic Regulation.

-Article 12 –continuing airworthiness

1. The Agency shall hold regular continuing airworthiness review meetings with certificate holders to exchange on in-service experience, occurrence reporting and the handling of corrective actions not subject to Airworthiness Directives. The frequency of such meetings shall be agreed with the certificate holder, taking into account the number and complexity of the products under the responsibility of that certificate holder and the reliability of such products
2. When an unsafe condition requires corrective action, the Agency shall require the certificate holder to submit proposals for such action by a prescribed time. In case of a foreign product the request shall also be submitted to the authority of the state of design. Disagreements shall be handled in accordance with the procedure of Article 18 of this Decision.
3. In the absence of any proposal from the certificate holder by the prescribed time, the Agency shall proceed and formulate an envisaged Airworthiness Directive.
4. When considering the proposed implementation schedule for corrective actions, the Agency shall take into account the urgency of that corrective action and/ or practical constraints.
5. The envisaged Airworthiness Directive, taking into account the opinions of the panel of experts if such opinions have been sought in accordance with Article 17 of this Decision, shall then be published for comment in the Official Publication of the Agency and through the Airworthiness Directives distribution system, specifying in particular the required form of the comments and response time. The duration of the comment period shall be determined by the Agency, taking into account the urgency of the corrective action and the need for a proper consultation.

In certain cases the required corrective actions demand the immediate issuance of an Airworthiness Directive without prior notice and publication for comments.

Such a case exists where a prior publication for comments would make timely compliance with the corrective actions impossible, or where the substance of an Airworthiness Directive has been previously subject to a national Airworthiness Directive.

Upon issuance, the immediately issued Airworthiness Directive shall be notified, distributed and published for comments in accordance with paragraphs 5, 6 and 7.

6. Taking into account the comments received, the Agency shall adopt the Airworthiness Directive and notify it in writing to the approval holder. Such notification shall make reference to the possibility for appeal as specified in Articles 35 to 41 of the Basic Regulation.

Notwithstanding the aforesaid mandatory notification in writing, the Agency may, in addition, transmit by electronic means an issued Airworthiness Directive in order to timely make the approval holder aware of it.

7. The Airworthiness Directive shall be published in the Official Publication of the Agency and distributed through the Airworthiness Directives distribution system. In case of emergency, when the Agency has determined that urgent action is necessary to correct an unsafe condition, the Airworthiness Directive shall be distributed by fax, mail, email or telegraphic means. In such a situation the Agency may decide not to implement the provisions of paragraphs 5 and 8.
8. If the Agency decides to adopt an Airworthiness Directive issued by the authority of a foreign State of Design, it may do so without prior consultation, except if any person requests a consultation in writing within 30 days of the issue of the foreign Airworthiness Directive or of the initiation of the foreign authority consultation on that Airworthiness Directive, whatever is the earliest.
9. If the Agency decides to deviate from a foreign Airworthiness Directive the procedures of paragraphs 1 to 6 of this Article shall be followed. In addition the Airworthiness Directive shall identify the foreign Airworthiness Directive upon which it is based and the differences from that foreign Airworthiness Directive.
10. The published Airworthiness Directive shall, in addition to the information required by Part-21 paragraph 21A.3B(d), contain the following information:
 - i. an identification number,
 - ii. the name of the Agency,
 - iii. an identification of the affected products, parts or appliances,
 - iv. a date of issue and

v. information on how the Agency can be contacted.

11. The Agency shall maintain a listing of all Airworthiness Directives which it has issued or adopted and make it available to participants in the Airworthiness Directives distribution system. A full index list shall be published at least once a year in the Official Publication of the Agency.

Article 13 – limitation, suspension and revocation of a certificate

1. For the suspension, limitation and revocation of a certificate, the Agency shall follow the relevant provisions of the applicable implementing rules of the Basic Regulation.
2. When a certificate or a subsequent approval to a certificate shall be limited, suspended or revoked, the Agency shall notify by letter the holder of the certificate or approval and all the States of Registry of its decision and the reasons therefore. This letter will make reference to the possibility for appeal as specified in Articles 35 to 41 of the Basic Regulation.

Article 14 - publication of decisions

Decisions of the Agency related to the issuing, modification, limitation, suspension or revocation of certificates shall be published in the Official Publication of the Agency.

Section 3– Final provisions

Article 15 - implementing measures

1. The Executive Director shall establish the necessary associated detailed procedures for the implementation of this Decision, taking into account the nature and the urgency of the application.
2. The Executive Director shall ensure that the guidelines prescribed in this Decision are applied when certification tasks are allocated to national aviation authorities or qualified entities.

3. The Executive Director shall organise appropriate monitoring, coordination and management of project certification managers to ensure equal treatment of applicants across certification projects.
4. The Executive Director shall define procedures to describe how the teams responsible for the oversight of the production and design organisations and the product certification team work together to ensure the airworthiness of the product.

Article 16 – Panel of Experts

1. A Panel of Experts shall be set up by the Agency in order to provide advice on technical certification principles and opinions on the technical interpretation of implementing rules of the Basic Regulation. Its opinions are not binding on the Agency.
2. The panel shall consist of experts with extensive technical knowledge, experienced in certification tasks and representing all relevant technical disciplines necessary for the certification of aviation products
3. Panel members shall notify any possible conflict of interest and abstain from participating in deliberations when such a situation arises.
4. Panel members are subject to the Agency's rules relating to public access to documentation and information
5. The Agency shall provide the panel with the administrative and logistical support necessary for its operation.

Article 17 – Airworthiness Directives distribution system

The Agency shall establish an Airworthiness Directives distribution system allowing for the expeditious distribution of Airworthiness Directives to all Member States, the State of Design and any other State that have presented such a request to the Agency.

Owners and operators of the concerned product when registered in a Member State and any other party with a direct interest, in particular organisations involved in the maintenance of the concerned product may also ask the Agency to be notified of the Airworthiness Directive. Airworthiness Directives shall be published on the website of the Agency.

Article 18 – resolution of disagreements

1. Every effort shall be made to resolve all any disagreements between the applicant or the certificate holder and the Agency at the lowest possible level.
2. In case of disagreement of the applicant or certificate holder with a decision of the Agency, the Executive Director shall seek the opinion of the Panel of Experts. Such opinion shall not be binding on the Agency.
3. The applicant or the certificate holder shall have the right to be heard by the Panel of Experts
4. The opinion of the Panel of Experts shall be communicated to the applicant or certificate holder together with the final decision of the Agency.

Article 19 - entry into force

This Decision shall enter into force on the day of its publication in the Official Publication of the Agency.