

**Comment Response Document (CRD)  
to Notice of Proposed Amendment (NPA) 2007-06**

**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 OPINION OF THE EUROPEAN AVIATION SAFETY AGENCY**

**for a Commission Regulation amending Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks**

**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 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")**

**AND**

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

**amending Decision No 2003/19/RM of the Executive Director of the Agency of 28 November 2003 on acceptable means of compliance and guidance material to Commission Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks**

**Permit to Fly privilege for Continuing Airworthiness Management Organisations and Approved Maintenance Organisations**

## **Explanatory Note**

### **I. General**

1. The purpose of the Notice of Proposed Amendment (NPA) 2007-06, dated 22 June 2007 was to propose amendments to 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<sup>1</sup>, Commission Regulation (EC) No 2042/2003 of 20 November 2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks<sup>2</sup>, 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")<sup>3</sup> and Decision No 2003/19/RM of the Executive Director of the Agency of 28 November 2003 on acceptable means of compliance and guidance material to Commission Regulation (EC) No 2042/2003 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks<sup>4</sup>.

### **II. Consultation**

2. The NPA was published on the web site (<http://www.easa.europa.eu>) on 28 June 2007.

By the closing date of 28 September 2007, the European Aviation Safety Agency ("the Agency") had received 62 comments from 13 National Aviation Authorities, professional organisations and private companies.

### **III. Publication of the CRD**

3. All comments received have been acknowledged and incorporated into this Comment Response Document (CRD) with the responses of the Agency.
4. In responding to comments, a standard terminology has been applied to attest the Agency's acceptance of the comment. This terminology is as follows:

- **Accepted** – The comment is agreed by the Agency and any proposed amendment is wholly transferred to the revised text.
- **Partially Accepted** – Either the comment is only agreed in part by the Agency, or the comment is agreed by the Agency but any proposed amendment is partially transferred to the revised text.
- **Noted** – The comment is acknowledged by the Agency but no change to the existing text is considered necessary.
- **Not Accepted** - The comment or proposed amendment is not shared by the Agency

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<sup>1</sup> OJ L 243, 27/9/2003, p. 6. Regulation as last amended by Regulation (EC) No 375/2007 (OJ L 94, 4.4.2007, p. 3).

<sup>2</sup> OJ L 315, 28/11/2003, p. 1. Regulation as last amended by Regulation (EC) No 376/2007 (OJ L 94, 4.4.2007, p. 18)

<sup>3</sup> Decision as last amended by Agency Decision 2007/008/R of 2 April 2007

<sup>4</sup> Decision as last amended by Agency Decision 2007/009/R of 25 April 2007

The resulting text highlights the changes as compared to the current rule.

5. The Agency's Opinion and Decision will be issued at least two months after the publication of this CRD to allow for any possible reactions of stakeholders regarding possible misunderstandings of the comments received and answers provided.
6. Such reactions should be received by the Agency not later than 5 December 2007 and should be submitted using the Comment-Response Tool at <http://hub.easa.europa.eu/crt>.

#### IV. CRD table of comments, responses and resulting text

<b>(General Comments)</b>		-
comment	<p>33</p> <p>AEA Comment 1: General Comment- TC holders</p> <p>AEA strongly supports the proposed provisions of this NPA. The current provisions regarding the Permit to fly is a cause of great concern to the European operators, the privileges to the CAMO organisations would, to some extent alleviate the operational constraints faced by many operators as result of the current situation.</p> <p>On the other hand, for many European operators, what is essential is that non-EU TC holders, such as Boeing, Bombardier and Embraer, are granted the privileges to approve the flight conditions. Many European operators rely entirely on their TC holders.</p>	comment by: AEA
response	<p><i>Noted</i></p> <p>Possible privileges for non-EU TC holders is not the subject of this NPA. However, EASA is discussing with its international partners arrangements that would allow the use of statements from those TC holders by European operators.</p>	
comment	<p>34</p> <p><b>AEA Comment 2</b>                      General Comment: Permit to Fly and BASA</p> <p>Permit to Fly has not been included in the framework of the BASA. AEA requests EASA to consider the possibility to recognize approved data from non-EU TC holders as approved flight conditions in the framework of future BASA and also that EASA forms related to Permit to Fly, to be recognized by FAA.</p> <p>AEA requests EASA to support European Commission to include this topic in the BASA negotiations.</p>	comment by: AEA
response	<p><i>Noted</i></p> <p>See also response to comment 33. The suggestion made by the comment provider is one of the options considered by the Agency.</p>	

comment	<p>35</p> <p><b>AEA Comment 3.</b>                    General Comment</p> <p>According to the current provisions the privileges will be granted to any TC holder that applies to EASA, it does not distinguish between aircraft TC holders and engine TC holders.</p> <p>There could be cases where there is a problem with an engine, you have to address them to the engine TC holder, not the aircraft TC holder but what if the problems are e.g. vibration related?(aircraft TC holder should be involved.)</p> <p>The AEA considers that this issue also needs more clarification and some examples should be included in the GM/AMC.</p>	comment by: <i>AEA</i>
response	<p><i>Noted</i></p> <p>The privilege to approve flight conditions can be granted to a DOA Holder that has appropriate knowledge of the aircraft type concerned. It is not very likely that this will be the TC holder of an engine.</p> <p>If a permit to fly is needed because of a problem with the engine the DOA holder approving the flight conditions may use information provided by the engine TC holder under its DOA (see AMC 21A263(b)(1))</p>	
comment	<p>36</p> <p><b>AEA Comment 4.</b>                    General Comment</p> <p>During the Permit to Fly Workshop for the Industry (May 2007 at EASA) it was agreed that EASA would use the FAQ section in their webpage as means to provide quick guidance material to all the doubts, concerns and problems raised during such workshop. No progress has been seen, does EASA still intend to do this?</p>	comment by: <i>AEA</i>
response	<p><i>Noted</i></p> <p>EASA is collecting questions from industry and will select the ones for publication.</p>	
comment	<p>39</p> <p><b>AEA Comment 7.</b>                    General comment: Unrepaired Damage</p> <p>We have detected an ambiguity between 21A.445 and GM 21A.701(a), point (11) for unrepaired damage. On one hand, 21A.445 seems to allow the approval of unrepaired damage and fly with a normal certificate of airworthiness. On the other hand, 21A.701(11) an associated GM seems to require a permit to fly. It is proposed to clarify as follows:</p> <p><u>21A.445 Unrepaired damage</u></p> <p>(a) When a damaged product, part or appliance, is left unrepaired, and is not covered by previously approved data, the evaluation of the damage to determine the continued validity of the certificate of airworthiness for its</p>	comment by: <i>AEA</i>

airworthiness consequences may only be made;

1. by the Agency, or

2. by an appropriately approved design organisation under a procedure agreed with the Agency.

Any necessary limitations shall be processed in accordance with the procedures of 21A.443.

response *Noted*

In general 21A.701 does not specify the cases when a permit to fly SHALL be issued, but when a permit to fly CAN be issued. The term "shall" in the requirement is used to indicate that the authority must issue the permit to fly, if the applicant has met all the conditions.

Only when a (restricted-) certificate of airworthiness is not issued or is (temporarily) invalid there is a need for a permit to fly to perform flights.

Whether a permit to fly is necessary or whether the certificate of airworthiness (and airworthiness review certificate which supports the validity of the C of A) is still valid depends on the extent of the damage. If the aircraft with damage is considered in compliance with the applicable certification specifications the C of A can still be valid if the data ("approving" the unrepaired damage) is approved as part of the manuals or under 21A.445(a). If no longer considered in compliance with the applicable CS or if the unrepaired damage is not "approved" in the manuals or under 21A.445(a) then a permit to fly is needed.

So the procedure for DOA in accordance with 21A.445(a)(2) is limited to cases where the aircraft with damage is still considered to comply with the applicable certification specifications.

comment 42

comment by: AEA

**AEA Comment 9.** MMEL GM 21A.701 (a)

General Comment: Clarification between MEL and

[reference]

GM 21A.701(a) Permit to fly when certificate of airworthiness or restricted certificate of airworthiness is not appropriate (Modified in DECISION No 2007/06/R)

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

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

[comment]

The basis for certification is MMEL and not MEL, the MEL is customized by the operators and (approved by the NAAs) therefore some items are not necessarily airworthiness-related

In the Guidance material there is a reference to the MEL not the MMEL, it should be changed to MMEL. The MEL should be addressed in the Part M, in the Part 21 the reference should be changed to MMEL.

response *Accepted*

"MEL" is changed to "MMEL"

comment

43

comment by: AEA

**AEA Comment 10.** General Comments:  
In reference to the comment above (Ref comment #42 /AEA Comment 9:Clarification between MEL and MMEL GM 21A.701 (a)), it should be clarified what would happen when the aircraft is in a situation outside the MEL but within the MMEL. AEA requests confirmation that in this case, since the CoA of the aircraft would be valid; there would not be any need to request a PTF.

response *Noted*

This is confirmed; a PtF is only necessary if the C of A is invalid.

comment

44

comment by: AEA

**AEA Comment 11.** General Comment : Re-usage of previously approved flight condition

In this NPA this situation is not explained, it was discussed in the Permit to Fly workshop for Industry (May2007), and EASA committed to provide more guidance material in their FAQ, yet, nothing has been published.

This privilege for re-usage of flight conditions should be granted also to CAMOS. AEA requests to incorporate some information in the guidance material.

response *Noted*

In general, approved flight conditions can be used for all aircraft of the same type in the configuration as described in the approved flight conditions.

The Agency will consider explaining this also in FAQ.

comment

45

comment by: AEA

**AEA Comment 12.** General Comment: Pre-approved flight Conditions

In this NPA is not addressed, nor it is on the EASA FAQ webpage. During the Workshop in May this was mentioned.

AEA considers potential scenarios where it would make sense to have associated approved flight conditions available would be, for example:

- The flights with landing gear extended.
- All PAX related mandatory items:
  - Doors (more than 1 INOP) e.g. 1 INOP, 2nd slide deployed;
  - Megaphone;
  - Passenger Oxygen;
  - Manual release tool not available in sufficient number;
  - PAX Oxygen bottles;

- Emergency lightning;
- Exit signs/lights;
- Emergency escape path marking;
- Cockpit door locking system, etc.

We request EASA to consider this list (without preventing other similar scenarios to be included), and develop procedures for the pre-approval of the flight conditions for these cases.

response *Noted*

This is outside the scope of this NPA. The Agency is considering the suggestions made by the comment provider whether it can be included in guidance or whether this requires a change to the requirements. Some of the items mentioned by the comment provider are not airworthiness issues and would not invalidate the C of A and therefore would not require a permit to fly.

comment

46

comment by: AEA

**AEA Comment 13.** General Comment: TC holder-pre-approved flight conditions

In line with the previous comment( Ref Comment #45, AEA comment 12), regarding the pre-approved flight conditions, there are situations where the flight conditions are "pre-approved" by the TC holder, they are in the manual, but do not constitute an operational approval (i.e. 3 engine ferry flight with the A340) for those situations, AEA would like EASA to consider privileges for the CAMOs to issue the PTF, given that the TC holder has pre-approved the flight conditions.

response *Noted*

The Agency is investigating whether such cases can be regarded as approved flight conditions in the sense of 21A.710. The result of this investigation will be published as FAQ.

comment

47

comment by: AEA

**AEA Comment 14.** General Comment: NEED a permit to fly vs. CAN have a permit to fly

In the new PTF provisions, the term SHALL is misleading. It is our understanding (according to the explanations given during the workshop in May 2007) that, if everything is substantiated (in permit to fly request) the authority SHALL issue the PTF, it does NOT mean that an operator SHALL request a PTF.

AEA requests EASA to clarify this aspect, which was briefly mentioned during the Workshop in May, but no further guidance has been provided.

(ref. CRD for NPA 2006-09)

response *Noted*

In general 21A.701 does not specify the cases when a permit to fly SHALL be issued, but when a permit to fly CAN be issued. The term "shall" in the requirement is used to indicate that the authority must issue the permit to fly,

if the applicant has met all the conditions.

A permit to fly is an airworthiness certificate to be used as an alternative to the certificate of airworthiness.

It follows plain logic that only when a (restricted-) certificate of airworthiness is not issued or is (temporarily) invalid there is a need for a permit to fly to perform flights.

comment

48

comment by: AEA

**AEA Comment 15.** General Comment: Need for 24h/7d service

In the past, many NAAs provided support to operators minimizing operational/commercial impact during out-of-office hours, as already mentioned in the RIA of the NPA 2006-09 (see reference below). AEA considers unacceptable that this level of service would be less following the introduction of the regulation EC 375/2007. AEA strongly requests EASA to commit to provide 24h/7d service.

[Reference]

NPA 2006-09 – V Regulatory Impact Assessment - 4 Impacts - 4.2 Economic Impact (Page 13 of 31)

*"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."*

response

Noted

This issue is outside the scope of this rulemaking activity.

The Agency previously communicated the following on this issue:

"I would like to confirm that the Agency is committed to implement EU legislation in a most efficient way which does not create an unnecessary burden to the regulated community. The legislation itself is the result of a formal process which aims for maximum transparency. The involvement of all affected parties is self-evident.

In the case of Permits to Fly, the change in the regulations is caused by the end of the transition period after the establishment of EASA, at which time all design related airworthiness issues are the exclusive competence of the Agency. When a Permit to Fly is necessary and the aircraft deviates from the approved design, the Agency or an approved design organisation, must be involved. The measure is a logical consequence of the shift of technical competence from the national aviation authorities to EASA (as the former will no longer have the design capabilities) and of the privileges recognised by the industry to make sound technical assessments. Making sure that decisions are made where the technical competence exists will be beneficial to safety.

Due to the division of responsibilities in airworthiness matters, whereby the Agency is responsible for all design related issues but the NAAs remain responsible for the conformity of Individual products, it was unavoidable to



have two separate approval processes. However, if all envisaged privileges for organisations are in place, most of the double approvals can be avoided. Until this is the case the Agency will try to avoid any delays in issuing approvals of flight conditions for the issuance of an individual Permit to Fly.

In case of unforeseen urgent operational circumstances, Member States may always make use of article 10.3 of the Basic Regulation. Member States also have the possibility to contact the Agency via an established privileged emergency channel at any time outside regular office hours.

To summarise: with the current approval processes, DOA privileges, and flexibility provisions in place we cannot agree that the new requirements have introduced an institutional problem causing airlines additional costs. The situation will be further improved when the envisaged additional privileges for approved Continuing Airworthiness Management Organisations (CAMO) are in place. I can assure you that the related rulemaking activity receives our highest priority. Use of Article 10.3 by NAAs is legal and an emergency twenty-four hour communication system between the Agency and the NAAs is already operational."

comment

49

comment by: AEA

**AEA Comment 16.** General Comment .

The comments provided by the AEA have also been agreed and are supported by the International Air Carriers Association (IACA)

The Association of European Airlines brings together 31 European established service and scheduled network carriers.

The International Air Carriers Association represents 37 airlines serving the leisure industry

response

*Noted*

comment

51

comment by: *European Regions Airline Association*

ERA support the intent of this NPA. However we feel that not only airworthiness review staff within a CAMO should be able to obtain the privilege to issue a permit to fly (if appropriately qualified).

Justification:

a) Organisations seeking the privilege to issue a permit to fly do not necessarily need to have the privilege for airworthiness review

b) There could be more appropriately qualified staff in a CAMO to issue permits to fly who were not chosen to become airworthiness review staff. The decision as to which staff hold which privilege should be left to the organisation concerned.

response

*Not accepted*

The Agency finds that the authority to issue the Permit to fly can only be given to a person who is appropriately qualified. At the same time the Agency tried to limit the changes to the rule and to avoid further complication. It also finds

that the task of checking conformity with approved flight conditions is very similar to the work that needs to be done for issuing an ARC.

Therefore the Agency regards the qualification of airworthiness review staff as appropriate for issuing the PtF.

comment 59 comment by: UK CAA

We already have the case where the applicant decides whether a case is design or non-design related. Our experience to date suggests that applicants.... which include Part 145 and Part F have great difficulty in making that decision and that this proposal in allowing a privilege to approve non-design related flight conditions (which is an extension over the first version of this proposal) will leave the industry in a position where inappropriate sets of flight conditions will be approved.

response *Noted*

The organisation will only be granted the privilege to approve flight conditions if it has a procedure in place and accepted by the authority for deciding if an individual case is within its privilege or not. In addition the authority is tasked to perform oversight over the organisation to enforce the rules and to make sure that the privileges are used as intended by the rule. This is the case for any privilege that an approved organisation has.

resulting text

**GM 21A.701(a)**  
**Permit to fly when certificate of airworthiness or restricted certificate of airworthiness is not appropriate**

.....

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

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

.....

**A. Explanatory Note - I. General** p. 3

comment 52 comment by: IACA International Air Carrier Association

IACA strongly supports NPA 2007-06 to provide privileges to CAMO.

IACA agrees with the additional comments provided by AEA, such as but not limited to:

- privileges non-EU TC holders
- include approved data non-EU TC holders in BASA negotiations
- pre-approved flight conditions
- 24h/7d service by EASA

response *Noted*

See responses to comment nrs. 33 through 49.

**A. Explanatory Note - IV. Content of the draft opinion and decision - General** p. 4-5

comment

2

comment by: *FR Aviation*

Although this NPA is intended for CAM Organisations, the ability of approved design organisations to support the Permit to Fly activity could be affected by the current wording in CR (EC) 375/2007.

response

*Not accepted*

The privileges for DOA related to permit to fly are not affected by this NPA.

comment

5

comment by: *Air Berlin*

It is good to give the privilege to issue a Permit to Fly also to CAMO.  
But it should also be extended to Part145 organisations.

response

*Not accepted*

The Agency has explained in the NPA why it finds that the privilege is not appropriate for Part-145 approved maintenance organisations.

comment

10

comment by: *FAA*

EASA has not adequately defined flight conditions "not related to the safety of the design":

In NPA Paragraphs 8 and 10, CAMOs will be granted the privilege to approve flight conditions "not related to the safety of design". Researching this in EASA's GM material (GM21A.710) and technical process C.P004-00, *Approval of Flight Conditions for a Permit to Fly*, paragraph II.3.1 states that flight conditions related to the safety of the design are when an "aircraft does not conform to an approved design". This criteria applies to ALL permits to fly, i.e. a permit to fly would not be required if the aircraft met type design.

Stronger criteria and guidance are needed to avoid problems of individual interpretation and ensure a consistent understanding of what flight conditions relate to the design's safety. The more organizations that are granted this privilege, the greater the need for specific guidelines/criteria.

response

*Not accepted*

A permit to fly may be needed when the certificate of airworthiness is invalid or not yet issued for another reason than not being in conformity with the approved design. This is for example the case for flights that are necessary to establish conformity after production or after maintenance. Examples are given in paragraph 2 of GM 21A710.

comment

18

comment by: *FFVV*

On behalf of Fédération Française de Vol à Voile (French Gliding Union) it is proposed to give the privilege of issuance of permits to fly, to organisation which get APDOA qualification, although not being a CAMO.

Permit to fly may be necessary for flight test, or transfert in flight from different workshops. Within the scope of APDOA approval the configuration of aircraft must be properly established, then this privilège could be allowed.

response *Not accepted*

The Alternative Procedure to DOA recognises the capability of the applicant for a TC (or STC) for showing compliance to known requirements but does not contain a management system in accordance with the Essential Requirements of Regulation (EC) No 1592/2002, allowing the granting of additional privileges to organisations working under these procedures.

comment 32

comment by: *DGAC France*

- In paragraph 8, the Explanatory note mentions the case of an aircraft to qualify or requalify for a certificate of airworthiness. Does that mean that if the Certificate of airworthiness of an aircraft has become invalid because the airworthiness review has not been carried out in accordance with Part M, that a Permit to Fly can be issued instead ?
- Should a CAMO be authorised to issue a Permit to Fly to an aircraft rebuilt after an accident, and if yes should there not be some guidance material ?
- Should Permits to Fly be only issued by CAMO under unforeseen urgent operational circumstances of a limited duration ?
- Can a CAMO be approved to issue Permits to Fly on the Register of another State (see the question of the competent authority for the approval of the maintenance programme in NPA 2007/08) ?

As issuance of Permits to Fly by CAMO is a new privilege and most of them have no real experience with such privilege, we consider that the adoption of this regulation should be postponed until a seminar is organised to exchange views on these questions and further AMC and guidance material are developed where needed.

response *Noted*

- first bullet: Noted. A PtF may be needed if a flight would be necessary before the ARC can be renewed.

- second bullet: Noted. Damaged aircraft can be repaired in accordance with data approved by the Agency in accordance with Subpart M of Part 21. If these data require a flight for demonstrating conformity to the approved data then a permit to fly may be necessary and such permit can be issued by the CAMO.

- third bullet. Not accepted. These conditions are not applicable to the issuance of permits to fly.

- fourth bullet. Noted. The CAMO can use the privilege to issue permit to fly also for aircraft on the register of another Member State.

- last comment: Not accepted. The privilege for CAMOs is not automatically applicable when the rule is in place. It is granted upon an application for extension of the approval. The applicant needs to show that it is capable of performing the task under this privilege before the privilege is granted.

comment 58

comment by: *European Sailplane Manufacturers*

The European sailplane manufacturers have some general comments in regard to Permit to Fly (PtF) and the proposed new privileges for Part M Subpart G organisations (CAMO) as described in NPA 2007-06.

Since introduction of the new Permit to Fly rules in March 2007 first the flight conditions have to be approved and thereafter the PtF can be issued.

Introduction of this distinction between flight conditions approval and PtF issuance resulted into several effects which need further comment:

Regarding approval of flight conditions most sailplane manufacturers made the positive experience that approval by the Agency was granted relatively fast. Nevertheless some delayed flight conditions approvals and especially the very high approval fees have resulted into complains from the manufacturers.

It is felt that most of the technical investigation work for the flight conditions is made at the manufacturers design organisation anyway and that flight condition approval for prototypes should be considered as part of the type certification process - therefore the very high fees are not acceptable.

As most of these small companies have no Subpart J DOA the privilege to approve the flight conditions in-house is not existant for the majority of the sailplane manufacturers. Introduction of such a privilege for an ADOAP organisation has therefore been proposed towards EASA at several occasions - unfortunately without any positive reaction until now.

This is outside the scope of the NPA 2007-06 but fitting to the topic of flight conditions approval in general.

Regarding issuance of the Permit to Fly it is considered appropriate from the side of the European sailplane manufacturers that an approved Subpart G organisation (CAMO) might issue directly the PtF if the according flight conditions have already been approved.

This will ease the existing burden for the national aviation authorities (NAA). The sheer number of PtF for sailplanes sometimes has already exceeded the capabilities of some NAA to issue the according documents within acceptable time limits.

Since introduction of the new PtF rules in March 2007 several manufacturers had to postpone flights / deliveries to customers due to late issuance of PtF by the responsible NAA - this resulted into loss of money and increased workload for the manufacturers.

Direct issuance of the PtF by a CAMO seems appropriate as this organisation will have the resources and personnel (inspectors) for checking that the according aircraft is suited and airworthy for operation under the approved flight conditions.

response

*Noted*

first paragraph: Noted

second paragraph: Noted.

The Alternative Procedure to DOA recognises the capability of the applicant for a TC (or STC) for showing compliance to known requirements but does not contain a management system in accordance with the Essential Requirements of Regulation (EC) No 1592/2002, allowing the granting of additional privileges to organisations working under these procedures. However, nothing prevents several manufacturers or other interested organisations to join efforts and to

apply together for a DOA which could obtain the privilege.

In all other case the Agency can approve the flight conditions.

third paragraph: Noted

fourth paragraph: Not accepted.

The Agency has explained in the NPA why it finds that the privilege is not appropriate for approved maintenance organisations.

**A. Explanatory Note - IV. Content of the draft opinion and decision - Detailed** p. 5-6

comment 11

comment by: FAA

Paragraph 10: Reference is made to an aircraft "in an already approved configuration". In principle, most aircraft in an approved configuration would fall under the responsibility of a POA. There is limited EASA guidance on used aircraft at this point. If this provision is linked to the renewal of a Certificate of Airworthiness only, this should be the condition in the rule. (C.P004-00, *Approval of Flight Conditions for a Permit to Fly*, paragraph II.3.3).

Recommend clarifying when this situation will occur. Suggest adding an example for clarity after the i.e. phrase or substituting this for the i.e, "for example, when a conformed aircraft is requalifying for a Certificate of Airworthiness."

response Noted

This refers to cases where the aircraft is in compliance with approved data (no unapproved modification, no unrepaired damage outside the limitations and no overdue airworthiness limitation) and for some reason the C of A is not yet issued or not valid. In some of those cases it might be necessary to conduct a flight to re-affirm that the aircraft fully conforms before the C of A is issued or becomes valid again.

comment 19

comment by: Walter Gessky

**To 9. General**

**Add to the first sentence of the second paragraph:**

".....continued airworthiness of the aircraft **when the aircraft is used under the AOC of the commercial operator holding the CAMO or for general aviation aircraft when the owner of the aircraft has entered in a contract with the CAMO (Controlled environment).**"

Justification:

Clarification is required that only for aircraft operated by a commercial operator or general aviation aircraft in the controlled environment the CAMO has control over the conditions of 21A.708. For General Aviation aircraft the operator has to enter in a contract, than the CAMO has control over the configuration of the aircraft.

response

*Partially accepted*

The limitation as proposed by the comment provider is currently also valid for the privilege to issue an Airworthiness Review Certificate. However EASA NPA 2007/08 envisages reducing this limitation allowing all CAMO to issue an ARC for all aircraft below 2730 kg MTOM when not used in commercial air transport. The permit to fly privilege will be linked to the privilege to issue an ARC in such way that the PtF privilege can only be obtained if the ARC privilege is already granted. This is a conformation of the link between the two privileges which was already implied in the NPA through requiring the same qualification for the staff executing these privileges.

comment

60

comment by: UK CAA

**Comment:**

If a CAMO is to control the personnel performing continuing airworthiness activities that includes issuing a PtF and setting the flight conditions associated, (and may also include elective check flights that do not require a PtF), what does it have to do to ensure that the operator, it works on behalf of, has suitable pilots?

Should the CAMO be responsible for the competence of flight crews performing Permit to Fly flights? This would place a new burden on the CAMO.

**Justification:**

Part M, MA 706 and MA201(e)

response

*Noted*

If the approved flight conditions have limitations regarding the qualification of the flight crew beyond the normally required qualifications then it is the responsibility of the operator to adhere to those conditions. The CAMO issuing the permit to fly cannot be responsible for ensuring that the operator has suitable pilots.

comment

61

comment by: UK CAA

Would additional guidance material be required for the CAMOs regarding the competence of flight crews and the understanding of the flight conditions (and any possible risk) declared on the Permit to Fly?

response

*Noted*

The CAMO will only approve flight conditions when not related to the safety of the design. The Agency does not expect that for these permits to fly there will be additional conditions on the qualification of the flight crew. The CAMO will have to show that it understands possible risks associated with flights under a permit to fly before it will be granted the privilege to approve flight conditions.

resulting text

**M.A.711 Privileges of the organisation**

.....

(b) An approved continuing airworthiness management organisation, may additionally be approved to:

1. issue an airworthiness review certificate, or;

2. make a recommendation for the airworthiness review to a Member State of Registry.

3. when for the particular aircraft the organisation is approved to issue the airworthiness review certificate, issue a permit to fly in accordance with Part 21A.711(d) including approval of the flight conditions in accordance with Part 21A.710(b), under procedures agreed with its competent authority for maintenance, when the continuing airworthiness management organisation is attesting conformity with the design conditions approved for the flight in accordance with Part 21A.710(a).

**A. Explanatory Note - V. Regulatory Impact Assessment - 1. Purpose and Intended Effect**

p. 7

comment

12

comment by: FAA

Paragraph V.1.a and paragraph V.4.c - The NPA references the approval of flight conditions by "an appropriately approved design organisation". It further argues that opening certain privileges to CAMOs will have a positive impact on operators. Further, it states that overall, this rule "may create minor equity and fairness issues".

The existing rule already has a major equity and fairness issue because it negatively impacts operators of imported aircraft by limiting the privilege of approving flight conditions related to safety of design to DOAs only (linking it to 21A.263(c)(6)). This unfairly penalizes import aircraft whose design approval holders do not hold EASA DOA and undermines the principle of bilateral agreements. This rulemaking provides the opportunity to correct this inequity.

Paragraph 21A.710 should be amended to add to 21A.710(a) 2 the following phrase "or equivalent". This would clarify the situation for non-EU companies, i.e. there must be a determination that another country's system is equivalent to a DOA.

response

*Noted*

The Agency does not agree that the proposed measure or the existing rules for issuing of permits to fly is discriminatory. The rules allow all operators of any aircraft in Europe to obtain a permit to fly. The organisations that are under the jurisdiction of the Community or the Member States can be given privileges.

The Agency recognises however that operators of non-EU aircraft may not have the same service from the TC holder as for EU aircraft.

There are different solutions to this problem:

- Foreign TC holders could be granted an organisation approval with the same privileges as EU TC holders;
- The issue is covered by international arrangements
- European organisations can be given the privilege to approve data coming from foreign TC holders.

All the above solutions are being investigated by the Agency and with the help of its international partners the best solution should be agreed.



**A. Explanatory Note - V. Regulatory Impact Assessment - 2. The options**

p. 7

comment 37

comment by: AEA

**AEA Comment 5.** Comment to Explanatory Note - V. Regulatory Impact Assessment. 2. The options (page 7 of 19)

We support the option 2: CAMO or similar qualified and capable organizations

response *Noted*

This is the option that is envisaged by this NPA.

**A. Explanatory Note - V. Regulatory Impact Assessment - 4. Impacts**

p. 8-9

comment 6

comment by: Air Berlin

to 4.a.:

For option 2 all things are right in our opinion.

Option 3 we have a different view, we don't see that negative impact. We think it is not unrealistic that an approved maintenance organisation can have this resources, because most of such resources are also necessary for dealing on a daily basis with the aircraft (such as manuals, qualified staff etc.).

The operator always has to give the current configuration to the maintenance organisation anyway because they need this information to do the maintenance correctly.

Also a NAA can issue a PtF, how do they ensure that they have the current configuration?

Approved maintenance organisations can also ask the operator for current configuration if they are not sure.

to 4.b. and 4.c. option 3:

We don't see special investments for training and experience requirements, because normally the approved maintenance organisation has well experienced staff and the training is also available. So there will be no high economically extra investments for training, because the staff have to get training also in the maintenance organisations to the necessary extent.

response *Not accepted*

The Agency has explained in the NPA why it finds that the privilege is not appropriate for approved maintenance organisations.

It is true that an approved maintenance organisation can obtain the information which is necessary to establish the airworthiness status and configuration of a particular aircraft from third parties. However it is not the primary task of a maintenance organisation to manage the airworthiness status and configuration of aircraft and it will therefore always have to rely on information provided by others. Since it will not be able to establish the airworthiness status and configuration from its own resources, it will be difficult for the maintenance organisation to discharge the responsibility associated to the privilege to issue permits to fly.

Moreover the staff in an approved maintenance organisation does not

necessarily have the appropriate expertise to establish the overall airworthiness status and configuration of a particular aircraft.

comment 20 comment by: *Walter Gessky*

**To V. RIA § 4a:**

**Add to the second bullet:**

- The CAMO is fully aware of the airworthiness status **for the aircraft on the AOC or for aircraft under a contract**, and...

Justification:

Clarification is required that only for aircraft operated by a commercial operator or general aviation aircraft in the controlled environment the CAMO has control over the conditions of 21A.708. For General Aviation aircraft the operator has to enter in a contract, than the CAMO has control over the configuration of the aircraft.

response *Partially accepted*

See response to comment nr. 19.  
The text of the RIA is not changed after the NPA consultation.

comment 21 comment by: *Walter Gessky*

**To V. RIA § 4c:**

**Option 2, add the following at the end:**

"Privat owner must enter in a contract with a CAMO."

Justification:

It is not clear if the privilege to issue a PtF is only granted to CAMO`s of AOC holders or also granted to CAMO`s for general aviation aircraft when in controled environment.

response *Partially accepted*

See response to comment nr. 19.  
The text of the RIA is not changed after the NPA consultation.

**A. Explanatory Note - V. Regulatory Impact Assessment - 5.**

p. 9

comment 7 comment by: *Air Berlin*

We see **no** negative impact to safety so that we think option 3 is the best.

response *Not accepted*

See response to comment nr. 6.

**B. Draft Rules - I. Draft Opinion Regulation 1702/2003 Part 21 - 21A.165** p. 11

comment	9	comment by: <i>Air Berlin</i>
	Why changes 21A.711(b) to 21A.711(c), when only change is added with 21A.711(d)?	
response	<i>Noted</i>	
	21A.711(a), (b) and (c) are not affected by this NPA.	

**B. Draft Rules - I. Draft Opinion Regulation 1702/2003 Part 21 - 21A.265** p. 11

comment	3	comment by: <i>FR Aviation</i>
	Following the reference to 21A.263(c)7 as introduced under paragraph 12.7 of the Annex to CR (EC) 375/2007, the wording here seems unnecessarily restrictive and has implications which seem to preclude a competent DOA from offering a supporting service.	
	<i>"21A.263(c)7. To issue a permit to fly in accordance with 21A.711(b) for an aircraft it has designed or modified, and when the design organisation itself is controlling under its DOA the configuration of the aircraft and is attesting conformity with the design conditions approved for the flight."</i>	
	The limitation <i>"for an aircraft it has designed or modified"</i> would prevent a competent design organisation experienced in flight test, such as FR Aviation, from selling this service to other less competent DOAs. The remainder of the limitation relating to configuration control and conformity with the conditions approved for flight are wholly understandable.	
	FRA might hope to issue a permit for an aircraft modified by another organisation without flight test capability but assessed and controlled by FRA's privileges (applied for) under 21A.263(b)1 and 21A.263(c)6, effectively providing the review and approval of flight conditions under 21A.708 and 21A.710.	
response	<i>Not accepted</i>	
	The comment is outside the scope of this NPA. In general the possible privilege for a DOA to issue a permit to fly must be limited to cases where the airworthiness and configuration of the aircraft is fully under the control of the design organisation. This is only the case if the DOA has designed the aircraft or the modification itself. The possible privilege for a DOA to approve the flight conditions for a permit to fly is much wider and can be obtained for all aircraft for which it is competent to establish compliance with certification specifications.	

**B. Draft Rules - I. Draft Opinion Regulation 1702/2003 Part 21 - 21A.703** p. 11

comment	13	comment by: <i>FAA</i>
	New text proposal: Amend 21A.710(a)(2) as follows:	

"an appropriately approved design organisation, under the privilege of 21A.263(c)(6)" **or equivalent.**

Rationale: See comment 12 above. This change is needed to remove the major inequity in the existing regulation.

response *Not accepted*

See also response to comment nr. 12.

The acceptance of statements from non-EU organisations should be the subject of international arrangements.

Even with the text as proposed by the comment provider an international arrangement would have to address the possibility to accept statements from non-EU organisations. If such international arrangement is in place the proposed text would be redundant.

**B. Draft Rules - I. Draft Opinion Regulation 1702/2003 Part 21 - 21A.711**

p. 11

comment

8

comment by: *Air Berlin*

The original paragraph 21A.711 consists of subparagraphs from (a) to (f) but here is a new (f) because of the add subparagraph (d). What is with the old (f); is it now (g), or deleted?

response

*Accepted*

The old 21A.711(f) will be renumbered (g) and a reference to the new subparagraph (d) is also added

comment

22

comment by: *Walter Gessky*

**To 21A.711(d)**

Add the following:

"...management organisation ~~or~~ **may issue a permit to fly (EASA Form 20b, see Appendix)**~~or~~—under the privilege..."

Justification:

Add what is the additional task (to issue a PtF) and to be consistent with the text of 711b) and c) and delete "or" .  
Editorial change.

response

*Accepted*

Text changed accordingly.

comment

23

comment by: *Walter Gessky*

**to 21A.711(e)**

**Add the following:**

"...restrictions prescribed by the Competent Authority **of the state of register**

	outside..."	
	Justification:	
	It should be clarified that this is the competent authority of the state of register, when the competence for oversight was not delegated according ICAO Convention Article 83bis which has the responsibility for oversight for safety. This is important when the PtF will be issued for foreign registered aircraft.	
response	<i>Not accepted</i>	
	The term "Competent Authority" as used in this provision, is already defined in 21A.705 as the authority of the Member State of Registry.	
comment	28	comment by: <i>DGAC France</i>
	The wording for Continuing Airworthiness management Organisations should be aligned with that for Design and Production Organisations in 21.A.711(b) and (c). Modify the proposed paragraph (d) as follows:	
	"(d) An appropriately approved continuing airworthiness management organisation <b><u>may issue a permit to fly (EASA Form 20b, see Appendix)</u></b> <del>of</del> under the privilege granted under M.A.711(b)(3) when the conditions of 21A.708 have been approved in accordance with 21A.710 "	
response	<i>Accepted</i>	
comment	29	comment by: <i>DGAC France</i>
	It should be clarified that copy of the Permit to Fly to be submitted to the Competent Authority should include copy of its associated flight conditions, as the Permit to Fly itself may only contain reference to the approved flight conditions. Such clarification is considered essential when CAMO are authorised to issue such documents that they are not accustomed to issue today. We thus propose to modify M.A.711(f) as follows : "(f) For permits issued under subparagraph (b), (c) or (d), a copy of the permit to fly <b><u>and associated flight conditions</u></b> shall be submitted to the Competent Authority. "	
response	<i>Accepted</i>	
	The State of registry should have the complete picture of the airworthiness status of the aircraft on its register.	
comment	53	comment by: <i>LBA-T51-CAMO</i>
	NPA draft rule text	
	(d) An appropriately approved continuing airworthiness management organisation or under the privilege granted under M.A.711(b)(3) when the conditions of 21A.708 have been approved in accordance with 21A.710.	
	new comment for rule text	

delete OR

(d) An appropriately approved continuing airworthiness management organisation under the privilege granted under M.A.711(b)(3) when the conditions of 21A.708 have been approved in accordance with 21A.710.

Reasons:

Clerical error.

response *Accepted*

However, see response to comment nr. 22. In addition to the deletion of the word "or" additional text is necessary to complete the sentence.

comment 62 comment by: UK CAA

**Comment:**  
The sentence does not read correctly.

**Proposed Text:**  
(d) " An appropriately approved continuing airworthiness management organisation under the privilege granted under M.A.711(b)(3) **may issue a Permit to Fly (EASA Form 20b)** when the conditions of 21A.708 have been approved in accordance with 21A.710.

response *Accepted*

resulting text

**21A.711 Issue of a permit to fly**

..... (d) An appropriately approved continuing airworthiness management organisation ~~or~~ may issue a permit to fly (EASA Form 20b, see Appendix) under the privilege granted under M.A.711(b)(3) when the conditions of 21A.708 have been approved in accordance with 21A.710.

.....

(~~e~~f) For permits issued under subparagraph (b), ~~or~~ (c) ~~or~~ (d), a copy of the permit to fly ~~and associated flight conditions~~ shall be submitted to the Competent Authority.

(~~f~~g) Upon evidence that any of the conditions specified in 21A.723(a) are not met for a permit to fly that an organisation has issued pursuant to subparagraph (b), ~~or~~ (c) ~~or~~ (d), that organisation shall revoke that permit to fly.

**B. Draft Rules - II. Draft Opinion Regulation 2042/2003 Part M - M.A.707** p. 12

comment 4 comment by: TYROLEAN AIRWAYS

Add before M.A. 707

M.A. 706 (i)

Airworthiness management staff authorized to issue a permit to fly (if applicable) shall have equal qualification as in M.A. 707 and be nominated by the organisation and acceptable to the competent authority

Reason:

Not only airworthiness review staff should be able to obtain the privilege to issue a permit to fly (if appropriately qualified) to provide more organisational flexibility

Justification:

a) Organisations seeking the privilege to issue a permit to fly do not necessarily need to have the privilege for airworthiness review

b) There could be more appropriately qualified staff in an organisation to issue permits to fly but were not chosen to become airworthiness review staff. This decision (which staff obtains which privilege) should be left (internally) to the organisation.

response *Not accepted*

Due to other comments (nr. 19, 20 and 21) the Agency decided to clearly link the privilege to issue permit to fly to the privilege to issue airworthiness review certificates (ARC). The Agency finds that in order to issue a permit to fly the organisation must be able to establish the airworthiness status and configuration of the aircraft concerned, which is exactly the purpose of the privilege to issue an ARC.

The same limitations should apply to both privileges and therefore the Agency decided to link the two.

comment 38

comment by: AEA

**AEA Comment 6.** Comment to B. Draft Rules - II. Draft Opinion Regulation 2042/2003 Part M - M.A.707 Airworthiness review staff

We support the option 2: CAMO or similar qualified and capable organizations, but NOT restricted to airworthiness review staff.

In the current text the PTF privileges are presented under the airworthiness review staff tasks. The text of the rule should describe the capabilities and competences that the person who issues the Permit to Fly must have in order to be granted the privileges and use the airworthiness review staff as an example. (ref MA707 an AMC 707(a))

response *Not accepted*

The Agency finds that the authority to issue the Permit to fly can only be given to a person who is appropriately qualified. At the same time the Agency tried to limit the changes to the rule and to avoid further complication. It also finds that the task of checking conformity with approved flight conditions is very similar to the work that needs to be done for issuing an ARC.

Therefore the Agency regards the qualification of airworthiness review staff as appropriate for issuing the PtF.

comment 50

comment by: DGAC France

We consider that issuance of a Flight Permit by a CAMO should not be restricted to airworthiness review staff and that it might be more appropriate for the personnel managing the aircraft to take such a decision. Checking the status of an aircraft once every three year when all the files have been prepared and the aircraft is in the hangar is not the same as checking the status of an aircraft grounded in a remote location and which needs a Flight

Permit to come back to its home base. On a day to day basis, the person managing the aircraft is probably best suited to take a decision. However, we agree that his qualification/experience should be similar to those of an airworthiness review staff (except for the independence).

We thus propose to keep M.A.707 as is and introduce a new paragraph as follows :

**"M.A.707 bis Permit to fly issue staff**

**(a) To be approved to issue Flight Permits and approve associated flight conditions, an approved continuing airworthiness management organisation shall have appropriate staff.**

**In addition to M.A.706 requirements, these staff shall have acquired:**

- 1. at least five years experience in continuing airworthiness, and;**
- 2. an appropriate Part-66 licence or an aeronautical degree or equivalent, and;**
- 3. formal aeronautical maintenance training, and;**

**(b) The organisation shall ensure that aircraft airworthiness review staff can demonstrate appropriate recent continuing airworthiness management experience.**

**(c) Staff authorised to issue permits to fly an approve associated flight conditions shall be identified by listing each person in the continuing airworthiness management exposition together with their authorisation reference.**

**(d) The organisation shall maintain a record of all these staff, which shall include details of any appropriate qualification held together with a summary of relevant continuing airworthiness management experience and training and a copy of the authorisation. This record shall be retained until two years after the staff have left the organisation."**

response *Not accepted*

The Agency finds that the authority to issue the Permit to fly can only be given to a person who is appropriately qualified. At the same time the Agency tried to limit the changes to the rule and to avoid further complication. It also finds that the task of checking conformity with approved flight conditions is very similar to the work that needs to be done for issuing an ARC.

Therefore the Agency regards the qualification of airworthiness review staff as appropriate for issuing the PtF.

comment

54

comment by: *LBA-T51-CAMO*

NPA draft rule text:

(a) To be approved to carry out airworthiness reviews and if applicable to issue permits to fly, an approved continuing airworthiness management organisation shall have appropriate airworthiness review staff to issue M.A. Subpart I



airworthiness review certificates or recommendations and if applicable to issue a permit to fly in accordance with Part 21A.711(d). In addition to M.A.706 requirements, these staff shall have acquired:

.....

new comment for rule text:

.....

1. at least five years experience in continuing airworthiness, and; 2. in order to perform airworthiness review an appropriate Part-66 licence or an aeronautical degree or equivalent, and; 3. in order to issue a permit to fly an appropriate Part-66 licence including a type rating for the type of aircraft for which the privilege of permit to fly shall be granted, and; 4. in order to issue a permit to fly a formal PART 21 training, and; 5. formal aeronautical maintenance training, and; 6. a position within the approved organisation with appropriate responsibilities.

reason:

separated AR and PtoF AR-staff requirements Due to the fact that a permit to fly has a direct impact on the actual airworthiness of the aircraft a distinction for the two privileges is necessary. In order to be in position to judge the adequacy of the flight conditions an in-depth knowledge of the type of aircraft is required. In order to evaluate the fulfilment of Part 21A.710(b) a detailed knowledge of PART 21 is necessary.

response

*Not accepted*

The Agency finds that the authority to issue the Permit to fly can only be given to a person who is appropriately qualified. At the same time the Agency tried to limit the changes to the rule and to avoid further complication. It also finds that the task of checking conformity with approved flight conditions is very similar to the work that needs to be done for issuing an ARC.

The additions as proposed by the comment provider are judged not necessary; in design related cases the flight conditions are approved by the Agency or a DOA and the CAMO does not need to judge the adequacy of these flight conditions.

Therefore the Agency regards the qualification of airworthiness review staff as appropriate for issuing the PtF.

**B. Draft Rules - II. Draft Opinion Regulation 2042/2003 Part M - M.A.711** p. 12

comment

24

comment by: *Walter Gessky*

**to M.A. 711(b)**

**Question:**

"....under the procedures agreed with its competent authority of **maintenance** ...

This requires clarification in the case where a PtF should be issued for a

foreign registered aircraft, when the competence for oversight was not delegated according ICAO Convention Article 83bis. According to ICAO the state of register is responsible for the continuing airworthiness if this responsibility is not delegated to the state of operator according to Art. 83bis.

Therefore "**competent authority of maintenance**" should be changed in "**competent authority for the oversight of the continuing airworthiness of the respective aircraft**".

response *Partially accepted*

The permit to fly rules in Subpart P of Part 21 are only applicable to aircraft registered in a Member State: see article 2.2 of Regulation (EC) No 1702/2003 as amended by Regulation (EC) No 375/2007. However the Agency agrees that the wording "its competent authority for maintenance" is not appropriate and that "its competent authority" is sufficient. What is meant here is the competent authority that issues the CAMO approval.

See resulting text under "**A. Explanatory Note - IV. Content of the draft opinion and decision – Detailed**"

comment 25

comment by: *Walter Gessky*

**to M.A. 711(b)**

**Question:**

"...under the procedures agreed with its competent authority of **maintenance** ...

This requires clarification in the case where a PtF should be issued for a foreign registered aircraft, when the competence for oversight was not delegated according ICAO Convention Article 83bis. According to ICAO the state of register is responsible for the continuing airworthiness if this responsibility is not delegated to the state of operator according to Art. 83bis.

Therefore "**competent authority of maintenance**" should be changed in "**competent authority for the oversight of the continuing airworthiness of the respective aircraft**".

response *Partially accepted*

The permit to fly rules in Subpart P of Part 21 are only applicable to aircraft registered in a Member State: see article 2.2 of Regulation (EC) No 1702/2003 as amended by Regulation (EC) No 375/2007. However the Agency agrees that the wording "its competent authority for maintenance" is not appropriate and that "its competent authority" is sufficient. What is meant here is the competent authority that issues the CAMO approval.

See resulting text under "**A. Explanatory Note - IV. Content of the draft opinion and decision – Detailed**"

comment 30

comment by: *DGAC France*

1. The text on the privileges of the CAMO in M.A.711(b)(3) should be aligned with the text on DOA and POA privileges in 21.A.163(e) and 21.A.263(c)(7)
2. Approval of flight conditions may require operational, flight crew

qualification expertise which may be more difficult to have. We thus consider that the privileges relating to Permit to Fly for CAMO should be split in two :

- a) issuance on a Permit to Fly under 21.A.711(d) when flight conditions have already been approved
  - b) approval of flight conditions under 21.A.710 and issuance of the Permit to Fly.
3. We consider that privilege to issue Permit to Fly should be restricted to aircraft under the continuing airworthiness management of the CAMO, because these are the aircraft for which it is "fully aware of the airworthiness status" as mentioned in paragraph 4.a "Impact on safety" of the explanatory note.  
*Note - Should this comment not be retained by the Agency, we consider, despite our comment on M.A.707, that only an organisation approved for airworthiness review ought to issue permits to fly for aircraft it would not manage*

We thus propose to redraft M.A.711(b)(3) as follows :

**"(b) ...**

**3. Under procedures agreed with its competent authority for continuing airworthiness management, for an aircraft it is managing, to approve Flight Conditions for the issue of a Permit to Fly in accordance with Part 21.A.710(b);**

**4. Under procedures agreed with its competent authority for continuing airworthiness management, for an aircraft it is managing, to issue a Permit to Fly in accordance with 21.A.711(d)"**

response

*Not accepted*

1. Not accepted: The privilege as described in M.A.711(b)3. is aligned with the privilege for a POA in 21A.163(e).

2. Not accepted. The main privilege for the CAMO will be the issuance of a permit to fly when the flight conditions are already approved. Only in limited cases where the approval of flight conditions is not related to the safety of the design the CAMO can also approve the flight conditions. In these limited cases the required knowledge of operational issues or crew qualification issues does not go beyond the general knowledge requirements for airworthiness review staff.

3. Accepted. The privilege to issue permit to fly is linked to the privilege to issue airworthiness review certificates following comment nrs. 19, 20 and 21.

comment

56

comment by: *LBA-T51-CAMO*

NPA draft rule text:

(b) An approved continuing airworthiness management organisation, may additionally be approved to:

3. issue a permit to fly in accordance with Part 21A.711(d) including approval of the flight conditions in accordance with Part 21A.710(b), under procedures agreed with its competent authority for maintenance, when the continuing airworthiness management organisation is attesting conformity with the design conditions approved for the flight in accordance with Part 21A.710(a).

new comment for rule text

From the drafted Part-M rule text, it is not excluded for a Part-M organisation to issue appropriate conditions and restrictions and including a permit to fly, in cases where the aircraft is not operated under the CAMO approval of the issuing organisation.

This means that a CAMO with the respective privilege can be contracted for a one-off event, i.e. to determine conditions and restrictions and issue a P-to-F for another operator.

reason:

In these cases it would seem impracticable to require a modification of the EASA Form 14 of the organisation to include the respective approved maintenance programme for the aircraft in question.

response *Partially accepted*

The gist of the comment is accepted. The privilege to issue a permit to fly is now linked to the privilege to issue an airworthiness review certificate which is currently limited to the cases as indicated by the comment provider.

comment

57

comment by: *LBA-T51-CAMO*

draft rule text:

.....

3. issue a permit to fly in accordance with Part 21A.711(d) including approval of the flight conditions in accordance with Part 21A.710(b),

new comment for rule text:

-

reason:

A new paragraph in the AMC M.A.711 Privileges of the organisation should provide some guidance on which documentation would be considered appropriate for CAMO use (possibly SRM etc.) to determine cases, where the conditions are not related to the safety of design.

response *Partially accepted*

The guidance in Appendix V to AMC M.A.704 for the continuing airworthiness management organisation exposition is extended to include consideration regarding the possible use of the privilege to approve flight conditions. A reference is made to GM 21A.710 which is the basis for determining whether a case is design related or not. The CAMO will then have to establish its own procedure for deciding if it can use the privilege taking in to account the GM 21A.710, which is approved by the competent authority for that organisation.

resulting text

**Appendix V to AMC M.A.704 Continuing airworthiness management organisation**

**Exposition**

.....

**4B.1 Approval of the flight conditions (when relevant)**

(The procedure must include the process to decide if the presented case is within its privilege to approve flight conditions based on Part 21A.710 and GM 21A.710. The procedure must also include the process to establish and justify the flight conditions, in accordance with 21A.708, and include the EASA Form 18B as defined in AMC 21A.709(b) for the approval under the CAMO privilege.)

**B. Draft Rules - II. Draft Opinion Regulation 2042/2003 Part M - Appendix VI EASA Form 14**

p. 13

comment

56 ❖

comment by: *LBA-T51-CAMO*

NPA draft rule text:

(b) An approved continuing airworthiness management organisation, may additionally be approved to:

3. issue a permit to fly in accordance with Part 21A.711(d) including approval of the flight conditions in accordance with Part 21A.710(b), under procedures agreed with its competent authority for maintenance, when the continuing airworthiness management organisation is attesting conformity with the design conditions approved for the flight in accordance with Part 21A.710(a).

new comment for rule text

From the drafted Part-M rule text, it is not excluded for a Part-M organisation to issue appropriate conditions and restrictions and including a permit to fly, in cases where the aircraft is not operated under the CAMO approval of the issuing organisation.

This means that a CAMO with the respective privilege can be contracted for a one-off event, i.e. to determine conditions and restrictions and issue a P-to-F for another operator.

reason:

In these cases it would seem impracticable to require a modification of the EASA Form 14 of the organisation to include the respective approved maintenance programme for the aircraft in question.

response

*Partially accepted*

The gist of the comment is accepted. The privilege to issue a permit to fly is now linked to the privilege to issue an airworthiness review certificate which is currently limited to the cases as indicated by the comment provider.

**B. Draft Rules - III. Draft Decision AMC/GM to Part-21**

p. 14

comment

31

comment by: *DGAC France*

EASA Forms 18a and 18b should be modified to include the Flight purpose, which is requested for the application in block 6 of Form 21, as this information

response

is considered essential fro the person issuing the Permit to Fly and has to be included in block 4 of EASA Form 20s.  
**Accepted**  
 The Forms 18a and 18b are changed accordingly.

resulting text

**AMC 21A.263(c)(6)**

.....  
 Form 18A  
 .....

<b>3. Aircraft manufacturer/type</b>	<b>4. Serial number(s)</b>
<b>5. Purpose</b> [Purpose in accordance with 21A.701(a)]	
<b>56. Aircraft configuration</b> The above aircraft for which a permit to fly is requested is defined in [add reference to the document(s) identifying the detailed configuration of the aircraft] [For change(s) affecting the initial approval form: description of change(s). This form must be re-issued] <b>Further numbering adjusted accordingly</b>	

.....

**AMC 21A.709(b)**

.....  
 EASA Form 18B  
 .....

<b>3. Aircraft manufacturer/type</b>	<b>4. Serial number(s)</b>
<b>5. Purpose</b> [Purpose in accordance with 21A.701(a)]	
<b>56. Aircraft configuration</b> The above aircraft for which a permit to fly is requested is defined in [add reference to the document(s) identifying the detailed configuration of the aircraft] [For change(s) affecting the initial approval form: description of change(s). This form must be re-issued] <b>Further numbering adjusted accordingly</b>	

**B. Draft Rules - III. Draft Decision AMC/GM to Part-21 - AMC 21A.163(e)**

p. 14

comment

26

comment by: *Walter Gessky***Draft Decision AMC 21A.163(e)**

Item 2.6 change:

"....communication with *the local authority in consultation with the state of register* for compliance..."

Justification:

PtF should not be issued without coordination with the state of register. This requires clarification in the case where a PtF should be issued for a foreign registered aircraft, when the competence for oversight was not delegated according ICAO Convention Article 83bis. Competence for maintenance is usually the state of register if not delegated to the state of operator, but for a Subpart G organisation the local authority is responsible.

This requires coordination not to confuse the public. Clarification of the term "local authority" ist needed (the competent authority for POA/DOA or for oversight of continuing airworthiness of CofA or for oversight of AOC/CAMO .....

response

*Not accepted*

The coordination that is envisaged here is with the authority of the State(s) under which operational rules and/or rules of the air the flight(s) is (are) conducted. This is clear in the title of the chapter 2.6.

There is no need for coordination with the authority of the State of registry because the CAMO is supposed to know exactly what the airworthiness status of the aircraft is, without having to consult that authority.

As explained before the permit to fly rules are not applicable to foreign registered aircraft.

**B. Draft Rules - III. Draft Decision AMC/GM to Part-21 - AMC 21A.263(c)(7)**

p. 14

comment

27

comment by: *Walter Gessky***1) Draft Decision AMC 21A.263(c)(7)**

Item 2.6 change:

"....communication with *the local authority in consultation with the state of register* for compliance..."

Justification:

PtF should not be issued without coordination with the state of register. This requires clarification in the case where a PtF should be issued for a foreign registered aircraft, when the competence for oversight was not delegated according ICAO Convention Article 83bis. Competence for maintenance is usually the state of register if not delegated to the state of operator, but for a Subpart G organisation the local authority is responsible.

This requires coordination not to confuse the public. Clarification of the term "local authority" ist needed (the competent authority for POA/DOA or for oversight of continuing airworthiness of CofA or for oversight of AOC/CAMO .....).

response *Not accepted*

The coordination that is envisaged here is with the authority of the State(s) under which operational rules and/or rules of the air the flight(s) is (are) conducted. This is clear in the title of the chapter 2.6.

There is no need for coordination with the authority of the State of registry because the CAMO is supposed to know exactly what the airworthiness status of the aircraft is, without having to consult that authority.

As explained before the permit to fly rules are not applicable to foreign registered aircraft.

comment

40

comment by: AEA

**AEA Comment 8.** Comment to Interface with the local authority for the flight

[Reference 1]

III. Draft Decision AMC/GM to Part 21. - AMC 21A.263(c)(7)

2.5 Interface with the local authority for the flight

*The procedure must include provisions describing the communication with the local authority for compliance with the local requirements which are outside the scope of the conditions of 21A.708(b) (see 21A.711(de)).*

[Reference 2]

IV. Draft Decision AMC/GM to Part M - Appendix V to AMC M.A.704

Part 4B Permit To Fly Procedures

4B.5 Interface with the local authority for the flight

*(The procedure must include provisions describing the communication with the local authority for flight clearance and compliance with the local requirements which are outside the scope of the conditions of 21A.708(b) (see Part 21A.711(e)))*

[Comment]

This issue needs further clarification from EASA; does this refer to the local authority or all the different local authorities belonging to the countries which will be overflowed? Will the local authority coordinate with all the other authorities?

response *Not accepted*

The coordination that is envisaged here is with the authority of the State(s) under which operational rules and/or rules of the air the flight(s) is (are) conducted. This is clear in the title of the paragraph.



Operational rules and rules of the air have their own applicability independent from the permit to fly rules which are airworthiness rules. For any flight (not just flights under a permit to fly) the operator must know what these applicable operational rules and rules of the air are. In some cases specific provisions apply to aircraft on a permit to fly and the organisation issuing the permit to fly should be aware of these specificities.

**B. Draft Rules - III. Draft Decision AMC/GM to Part-21 - GM to Subpart P** p. 15

comment	14	comment by: FAA
	Flowchart should be consistent with proposed new text.	
	Replace reference to DOA with "approved design organisation" per comments 12 and 13 above. This terminology is broader to encompass bilateral equivalency.	
response	<i>Not accepted</i>	
	The new text as proposed in comment nr. 12 is not accepted.	

**B. Draft Rules - III. Draft Decision AMC/GM to Part-21 - Flow-chart 4: changes after first issue of permit to fly** p. 16

comment	15	comment by: FAA
	Flowchart should match new proposed text.	
	Replace reference to DOA with "approved design organisation" per comments 12 and 13 above. This text will allow for bilateral equivalency.	
response	<i>Not accepted</i>	
	The new text as proposed in comment nr. 12 is not accepted.	

**B. Draft Rules - IV. Draft Decision AMC/GM to Part M - AMC M.A.707 (a)** p. 18

comment	55	comment by: LBA-T51-CAMO
	NPA draft rule text:	
	Airworthiness review staff are only required if the M.A. Subpart G organisation wants to be granted M.A.711 (b) airworthiness review and if applicable permit to fly privileges.	
	.....	
	new comment for rule text:	
	1. Airworthiness review staff are only required if the M.A. Subpart G organisation wants to be granted M.A.711 (b) airworthiness review and if applicable permit to fly privileges.	
	2. For airworthiness review a person qualified to the AMC M.A.706	

subparagraph 4.5 should be considered as holding the equivalent to an aeronautical degree.

3. For airworthiness review an appropriate Part-66 licence is a category B or C licence in the type of aircraft reviewed. It is not necessary to satisfy the experience requirements of Part-66 at the time of the review.

4 For issuance of a permit to fly an appropriate Part-66 licence is a category B licence including a type rating for aircraft for which a permit to fly shall be issued.

5. To hold a position with appropriate responsibilities means the airworthiness review staff should have a position in the organisation independent from the airworthiness management process or

reasons:

(separated AR and PtoF AR-staff requirements ) Due to the fact that a permit to fly has a direct impact on the actual airworthiness of the aircraft a distinction for the two privileges is necessary. In order to be in position to judge the adequacy of the flight conditions an in-depth knowledge of the type of aircraft is required.

response *Not accepted*

The Agency finds that the authority to issue the Permit to Fly can only be given to a person who is appropriately qualified. At the same time the Agency tried to limit the changes to the rule and to avoid further complication. It also finds that the task of checking conformity with approved flight conditions is very similar to the work that needs to be done for issuing an ARC.

The additions as proposed by the comment provider are judged not necessary; in design related cases the flight conditions are approved by the Agency or a DOA and the CAMO does not need to judge the adequacy of these flight conditions.

Therefore the Agency regards the qualification of airworthiness review staff as appropriate for issuing the PtF.

**B. Draft Rules - IV. Draft Decision AMC/GM to Part M – Appendix V to AMC M.A.704** p. 18-19

comment 16

comment by: FAA

Table of Contents -  
 Heading text could be confusing since approval of flight conditions is always relevant to a permit to fly; find alternative phrase for "when relevant".  
 Suggest revising title to parallel paragraph 4B.3

Revise parenthetical statement as follows: "(if relevant to the CAMO privilege)"

response *Not accepted*

This provision is applicable only when the CAMO uses the privilege to approve flight conditions which is only for non-design related cases. Since that is only in some limited cases the term "when relevant" is found appropriate.

comment	17	comment by: FAA
	<p>Paragraph 4B.1  This paragraph instructs the CAMO to use EASA Form 18B. EASA Form 18B contains a broad certifying statement that is wide-open and likely not to be substantiated by any DOA or EASA itself. "The aircraft has no features and characteristics making it unsafe for the intended operation under the identified conditions and restrictions". EASA should take the opportunity of this rulemaking to correct this certifying statement to make it truly defensible and supportable.</p> <p>The revision should address 1) a recognition that the statement may not be based on full disclosure by the applicant, and 2) the specific features and characteristics evaluated. We recommend that EASA revise the Form 18B certifying statement to reflect only "design" features, "hazardous operating" characteristics, and to refer to the specific information provided by the applicant. Rewrite as follows:</p> <p>"Based on the information provided, the aircraft has no design features and hazardous operating characteristics making it unsafe for the intended operation under the identified conditions and restrictions."</p>	
response	<i>Partially accepted</i>	
	<p>The statement is accepted by the affected industry during the consultation on NPA 09/2006.</p> <p>The statement is valid for the configuration and design of the aircraft as described in block 5 and based on the substantiations as given in block 6 of the form. If features not known to the organisation that approves the flight conditions would affect the safety these should not invalidate the statement.</p> <p>This clarification will be added to the statement.</p>	
comment	40 ❖	comment by: AEA
	<p><b>AEA Comment 8.</b> Comment to Interface with the local authority for the flight</p> <p>[Reference 1]</p> <p>III. Draft Decision AMC/GM to Part 21. - AMC 21A.263(c)(7)</p> <p>2.5 Interface with the local authority for the flight</p> <p><i>The procedure must include provisions describing the communication with the local authority for compliance with the local requirements which are outside the scope of the conditions of 21A.708(b) (see 21A.711(de)).</i></p> <p>[Reference 2]</p> <p>IV. Draft Decision AMC/GM to Part M - Appendix V to AMC M.A.704</p> <p>Part 4B Permit To Fly Procedures</p> <p>4B.5 Interface with the local authority for the flight</p>	

*(The procedure must include provisions describing the communication with the local authority for flight clearance and compliance with the local requirements which are outside the scope of the conditions of 21A.708(b) (see Part 21A.711(e))*

[Comment]

This issue needs further clarification from EASA; does this refer to the local authority or all the different local authorities belonging to the countries which will be overflowed? Will the local authority coordinate with all the other authorities?

response

*Not accepted*

The coordination that is envisaged here is with the authority of the State(s) under which operational rules and/or rules of the air the flight(s) is (are) conducted. This is clear in the title of the paragraph. Operational rules and rules of the air have their own applicability independent from the permit to fly rules which are airworthiness rules. For any flight (not just flights under a permit to fly) the operator must know what these applicable operational rules and rules of the air are. In some cases specific provisions apply to aircraft on a permit to fly and the organisation issuing the permit to fly should be aware of these specificities.

resulting text

**AMC 21A.263(c)(6)**

.....  
EASA Form 18A

**89. Statement**

The determination of the flight conditions has been made in accordance with the relevant DOA procedure agreed by the Agency.

The aircraft as defined in block 5 above has no features and characteristics making it unsafe for the intended operation under the identified conditions and restrictions.

AMC 21A.709(b)

.....  
EASA Form 18B

**89. Statement**

The flight conditions have been established and justified in accordance with 21A.708.

The aircraft as defined in block 5 above has no features and characteristics making it unsafe for the intended operation under the identified conditions and restrictions.