

OPINION No 04/2007

OF THE EUROPEAN AVIATION SAFETY AGENCY

**for a Commission Regulation amending Commission Regulation (EC) No 1702/2003
laying down implementing rules for the airworthiness and environmental certification of
aircraft and related products, parts and appliances, as well as for the certification of
design and production organisations**

AND

**for a Commission Regulation amending 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:
Privileges for Continuing Airworthiness Management Organisations (CAMOs)*

I. General

1. The purpose of this opinion is to suggest the Commission to amend Commission Regulations (EC) No 1702/2003¹ and No 2042/2003². The reasons for this rulemaking activity are outlined further below.
2. The Opinion has been adopted, following the procedure specified by the Agency's Management Board³, in accordance with the provisions of Article 14 of Regulation (EC) No 1592/2002⁴.

II. Consultation

3. The draft Opinion for Commission Regulations amending Commission Regulation (EC) No 1702/2003 and Commission Regulation (EC) No 2042/2003 was published (Notice of Proposed Amendment – NPA-2007-06) on the Agency website on 22 June 2007.
4. By the closing date of 28 September 2007, the Agency had received 62 comments from 13 National Aviation Authorities, professional organisations and private companies.
5. All comments received have been acknowledged and incorporated into a Comment Response Document (CRD), which was published on the Agency's web site on 5 October 2007. Several of the comments have led to changes in the proposed amendments and these are reflected in the CRD.
6. Comments were made on the fact that the privilege to issue permits to fly was envisaged only for Continuing Airworthiness Management Organisations (CAMO) and not for approved maintenance organisations. The Agency considered however that a privilege to issue a permit to fly is not appropriate for approved maintenance organisations because within the scope of their approval they cannot easily establish the configuration of the aircraft. 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 always 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 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.

¹ Commission Regulation (EC) No 1702/2003 of 24 September 2003 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 243, 27.9.2003, p. 6). Regulation as last amended by Commission Regulation (EC) No 375/2007 of 30 March 2007 (OJ L 94, 4.4.2007, p. 3).

² 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 (OJ L 315, 28.11.2003, p. 1). Regulation as last amended by Commission Regulation (EC) 376/2007 of 30 March 2007 (OJ L 94, 4.4.2007, p. 18).

³ Decision of the Management Board concerning the procedure to be applied by the Agency for the issuing of Opinions, Certifications Specifications and Guidance Material. EASA MB/7/03 of 27.06.2003 (rulemaking procedure).

⁴ Regulation (EC) No 1592/2002 of the European Parliament and of the Council of 15 July 2002 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency (OJ L 240, 7.09.2002, p. 1.). Regulation as last amended by Commission Regulation (EC) 1701/2003 of 24 September 2003 (OJ L 243, 27.9.2003, p. 5).

7. Several comment providers indicated the need to restrict the privilege to issue permit to fly similarly to the limitations on the privilege to issue airworthiness review certificates (ARC). Following these comments, the Agency decided to clearly link the privilege to issue permit to fly to the privilege to issue ARC. The Agency considers 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.

8. By 5 December 2007 ten reactions to the CRD from six comment providers were received. Some were related to the Acceptable Means of Compliance and Guidance Material which are not the subject of this Opinion. The other reactions are discussed below.

One comment provider asked the Agency to reconsider the staff requirements for persons authorised to issue the permit to fly on behalf of the CAMO. This comment provider proposes to allow regular CAMO staff to issue the permit to fly. The Agency considers however that in order to be able to properly discharge the responsibility for signing a permit to fly on behalf of the approved organisation, the relevant person must have appropriate seniority and authority in the organisation. He or she may have to rely on statements from other persons in the organisation but must have the position to be able to overview the work done by others. The Agency considers it justified to have additional qualification requirements for such staff over and above the requirements for regular staff. It considers that the qualifications for airworthiness review staff are also appropriate for performing the function of issuing permits to fly.

Another comment provider thinks it is still unclear what happens when the State of Registry is different from the State where the CAMO is. The Agency considers this clear enough. The procedure for issuing the permit to fly must be agreed with the authority that issues the CAMO approval. In case the CAMO issues a permit to fly to an aircraft which is registered in another Member State it will submit a copy of the permit to fly to the authority of that State.

Another comment provider explained further its comment that an approved design organisation can have the privilege to issue permit to fly also for aircraft for which it has approved the flight conditions, provided it controls the configuration of the aircraft and attests conformity. With this additional explanation the Agency decided to accept the comment and subparagraph 21A.263(c)(7) is amended accordingly.

9. Following a final quality check of the envisaged measure by the Agency subparagraph M.A.711(b)(3) which defines the privilege for CAMOs is amended to read more logically and to be consistent with the comparable provision for Production Organisation Approval holders.

III. Content of the Opinion of the Agency

10. The Commission Regulations resulting from the Agency permit to fly proposals under rulemaking task 21.023 were adopted on 30 March 2007 and published on 4 April 2007. During the discussion on the Agency proposal it was decided to remove the envisaged privilege for CAMOs to issue a permit to fly, in order to examine more thoroughly all its implications. This privilege was subsequently not included in the Commission

Regulations (EC) Nos 375/2007 and 376/2007 resulting from the legislative process. The Agency had therefore to initiate a new rulemaking process on this particular subject.

11. The main privilege for the CAMO will be the issuance of the permit to fly after the flight conditions are approved by the appropriate authority or approved organisation. In addition the privilege to approve flight conditions is also foreseen, but this will be limited to cases where such approval is not related to the safety of the design. This may be the case for flights necessary to demonstrate continuing conformity with the design standard previously approved by the Agency for the aircraft to qualify or re-qualify for a certificate of airworthiness.

Cologne, xx December 2007

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Executive Director