

**Comment Response Document (CRD)
to Notice of Proposed Amendment (NPA) 9/2006**

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 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 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 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

Permit to Fly

Explanatory Note

I. General

1. The purpose of the Notice of Proposed Amendment (NPA) 9/2006, dated 05-07-2006 was to propose a 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 organisations¹, and a draft Decision of the Executive Director of the 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”) introducing miscellaneous improvements.

2. The NPA 9/2006 envisaged to allow certain privileges related to the issuance of a permit to fly for approved design organisations and approved production organisations. In response to several comments the Agency decided to allow also certain privileges for approved continuing airworthiness management organisations. Since these organisations are regulated by 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 tasks², this regulation also needs amendment as well as the 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.

II. Consultation

3. The NPA 9/2006 was published on the web site (www.easa.europa.eu) on 05 July 2006. By the closing date of 05 October 2005, the Agency had received 235 comments from national aviation authorities, professional organisations and private companies.

III. Publication of the CRD

4. All comments received have been acknowledged and incorporated into a Comment Response Document (CRD). This CRD contains a list of all persons and/or organisations that have provided comments and the answers of the Agency.

5. In responding to comments, a standard terminology has been applied to attest EASA’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.

¹ OJ L 243, 27.9.2003, p. 6. Regulation as last amended by Commission Regulation 706/2006 (OJ L 122, 9.5.2006, p.16)

² OJ L 315, 28.11.2003, p. 1. Regulation as amended by Commission Regulation 707/2006 (OJ L 122, 9.5.2006, p. 17)

- **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 is not shared by the Agency

6. The envisaged amendments will need to be implemented before the end of the current transition period for permit to fly as stipulated in Regulation (EC) No 1702/2003, which is 28 March 2007. Therefore the period to allow for any possible reactions of stakeholders regarding possible misunderstandings of the comments received and answers provided before issuing the Agency's Opinions and Decisions is reduced from 2 months to 6 weeks.

7. Such reactions should be received by EASA not later than **22 January 2007** and should be sent by the following link: CRD@easa.europa.eu;

IV. Additional information regarding the Comment Response Document

8. Due to the high number of interrelated comments it was not practical to indicate in the comment response document for each individual comment what the resulting text was. In stead the Agency has decided to provide for information the integral text of the proposal as amended after incorporating the accepted comments. (see Appendix)

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No.	Para	Comment provider	Comment/Justification	Response	Resulting text
1.	General Comment	Airbus Transport International	<p>It is not clear why full privileges for Permit to Fly issuance are granted to POA organizations and not DOA. Design Organizations and Maintenance & Repair organizations are at least as competent as Production Organizations for airworthiness matters, especially dealing with STC they have developed / installed and sometimes not well known by the POA who produced the initial product.</p> <p>Giving the PtF privileges and obligations proposed in the NPA for POA holders to appropriately approved DOA organizations would be in line with the present airworthiness responsibilities already granted by the Agency to these organizations (such as airworthiness approvals, continuous airworthiness for their developed STCs, etc) and reduce administrative burden to NAA and therefore cost for the industry.</p> <p>Justification: DOA holders are responsible for the initial and continuous airworthiness of their STCs. As the keepers of changes definition data, they should be in a better situation than the POA who produced the initial aircraft to evaluate the possibility and conditions of a PtF with full knowledge of the facts. Restricting DOA holders privileges to flight conditions only will not give substantial benefit to justify the effort to put in place new organizations and procedures compliant with proposed AMC 21A.263(c)(6).</p>	Accepted	See revised proposal.
2.	General Comment	Austrocontrol	<p>1) Coordination Procedure</p> <p>The procedures require a fast and clear administrative procedure between the Competent Authority and the EASA, the process is no longer in one hand.</p>	<p>1) Partially accepted</p> <p>The concept is changed and now two separate approvals are needed. It is agreed that more detailed procedures are needed. The Agency and each NAA will have to develop these procedures.</p>	

³ 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, 7.9.2002, p. 1). Regulation as last amended by Regulation 1701/2003 (OJ L 243, 27.9.2003, p. 5).

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			<p>The EASA shall establish in addition clear and simple tools (forms) for the communication between the Competent Authority and the EASA, this should be an AMC Material. A Focal Point shall be established to minimize any delay. This may also require a weekend service for the short time permits (e.g. commercial airline operations for maintenance ferry) Any administrative time delay by this new procedures is unacceptable.</p> <p>2) Permit is not valid within the EU</p> <p>The permit as proposed is in fact not valid within the EU, it is still a national airspace limited approval.</p> <p>The main goal of the BR and following regulations is, to achieve a free movement within the EU, this is not covered by this NPA and the procedures as an outcome are not simpler as the current procedures from the Member states. There is no additional clear benefit for the Holder of a Permit within this NPA. It should be argued why this cannot be postponed and issued later, at a time where the EASA itself is able to issue a permit covering all aspects and is valid within the EU.</p> <p>3) 21A.701 Experimental</p> <p>The wording Experimental Purpose is used in Annex II to the BR, this might be misleading and confusing and should not be used in 21A.701</p> <p>4) Competent Authority, Registration (21A.705)</p> <p>It should be clarified by definition which Authority is responsible (is it the NAA for Registration or is it the NAA of location). It should be also noted that in some NAA a Formal Registration for a permit is not</p>	<p>The EASA forms are developed for approval of the flight conditions and for application for permit to fly (PtF) Further comments are noted.</p> <p>2) Noted. The PtF is a certificate attesting that the aircraft can perform safely a basic flight in accordance with Regulation (EC) No 1592/2002³ article 5.3(a) if operated within the conditions and restrictions as specified on the PtF. It is valid in all EU member states in accordance with article 8 of that Regulation. However, as usual, the operator will also have to comply with applicable operational rules. These will only apply as far as they are outside the scope of the conditions as mentioned in 21A.708(b)</p> <p>3) Noted. “experimental” is not used in the proposal.</p> <p>4) Accepted</p>	<p>See revised 21A.705(b)</p>

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			<p>required, the applicant is holding a Registration Number without formal registration. The required registration process behind, which is still national should be noted for application.</p> <p>5) Maintenance and Continuing Airworthiness</p> <p>The Maintenance and Continuing Airworthiness Responsibility and requirements should be defined. If they are still national the permit cannot be valid within the EU.</p> <p>This Item cannot be left open, especially for cases of permanent permits (e.g. orphan aircraft).</p> <p>6) Coordination with NPA 14-2006</p> <p>Major efforts are currently being spent to develop a new concept for GA aircraft regulations. This will also have implications on the issuance of permit to fly regulations and hence should be coordinated. This also raises the concern about appropriate timing (march 07) of the implementation of the new permit to fly rule in EC 1702.</p>	<p>5) Noted. The maintenance / continuing airworthiness arrangements are approved as part of the flight conditions; see 21A.708(b)6.</p> <p>6) Noted. It is not possible at this stage to anticipate on future rules. In the mean time the closing date of the transition 28-03-07 (Regulation 1702/2003 article 2.11) is approaching and the rules need to be adapted to address the new responsibilities with regard to Permits to Fly.</p>	
3.	General Comment	Turbomeca	<p>This NPA only addresses the Aircraft aspects related to the permit to fly. The Engines aspects are not addressed whereas generally rotorcraft prototype flights (e.g for development/certification testing) are carried out with prototype turboshaft engines (i.e. not yet type certified). Establishment and approval process of "prototype engine" flight conditions (i.e. installation/operating/maintenance conditions/limitations established at engine level by the Engine manufacturer) should be addressed at least for Turboshaft engines even briefly.</p> <p>These "prototype engine" flight conditions should be approved by the Engine manufacturer under its DOA (or by the Engine EASA Team if required). These approved</p>	<p>Accepted.</p> <p>There is always a need to approve the flight conditions at aircraft level. In order to use the DOA privilege related to the approval of flight conditions the scope of the DOA should therefore include the installation of the engine in the aircraft.</p> <p>The process as described by the commenter is already possible under current rules. However, a new privilege is described in 21A.263(b) and a new AMC is added to address the issue mentioned in the comment.</p>	<p>See new 21A.263(b)(1) and AMC 21A.263(b)(1)</p>

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			<p>"prototype engine" flight conditions will then be provided to the Rotorcraft manufacturer which will use them for the establishment of the Rotorcraft flight conditions for the PTF.</p> <p>This "prototype turboshaft engine flight clearance" activity represent a significant amount of work load (around 40 issues/revisions of engine prototype flight conditions documents (called Prototype Flight Clearance Note) per year for one Turboshaft engine manufacturer.</p> <p>The above process reflects current usage in France for prototype Turboshaft engine flight clearance even for engines fitted on prototype rotorcraft made by rotorcraft manufacturer from another Member State.</p>		
4.	General Comment	CAA-UK	<p>The FAA already have in progress a Sub Part P to address PMA parts and may have others in progress. It is suggested that to allow for future harmonisation with FARs this proposal should be redesignated Sub Part R (or S, T?) and the paragraph numbers changed to 8xx (or 9xx, 10xx,?) Perhaps EASA Rulemaking should contact FAA to ensure coordination between the two codes?</p> <p>Justification: Coordination</p>	<p>Not accepted. EASA Part 21 and FAA Part 21 are not harmonised. Moreover the FAA NPRM for Part 21 includes the new PMA requirements in Subpart K.</p>	
5.	General Comment	CAA-UK	<p>The competence of the crews for flight test, and of EASA and the competent authorities to assess their suitability, is not defined sufficiently. The package of draft EASA "flight test" NPAs (MDM.003) is pertinent to this subject.</p> <p>Justification: Clarification</p>	<p>Noted. The NPA resulting from that rulemaking task will be circulated for comments shortly.</p>	
6.	General Comment	CAA-UK	<p>Continuing airworthiness</p> <p>It will be essential in practice for EASA to have generic requirements for continuing airworthiness of permit</p>	<p>Noted The maintenance / continuing airworthiness arrangements are approved as part of the flight conditions; see</p>	

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			<p>aircraft, at least those used for recreational purposes to provide a consistent standard of continuing airworthiness for this group of aircraft.</p> <p>Justification: Clarification</p>	<p>21A.708(b)6. It is recognised that it may be beneficial in the future to develop generic maintenance requirements for aircraft under 21A.701(a)15</p>	
7.	General Comment	British Airways Plc	<p>1. Scope of the permit to fly:</p> <p>Page 20 of 31</p> <p>21A.701 Scope</p> <p>....</p> <p>11. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage;</p> <p>....</p> <p>BA Comment: This would include any required maintenance (including AD's, ALI, CMR) but also Maintenance Programme tasks (as explained in the explanatory note page 7 of 31):</p> <p>(11) Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage:</p> <p><i>Ferry flights in cases where maintenance is not performed in accordance with approved programmes, where certain equipment outside the Minimum Equipment List (MEL) is unserviceable or when the aircraft has sustained damage beyond the applicable limits.</i></p> <p>This is confirmed by the statement page 8 of 31:</p> <p>The conditions under which flights under a Permit To Fly have to be conducted can be approved by the Competent Authority if they are related to deviations from the maintenance programme not being part of</p>	<p>1) Noted. The intent of 21A.701 is to list the cases when a PtF <u>can</u> be issued it is not intended to prevent the use of other solutions where they are permitted under other regulations, for example: The Competent Authority has also other legal means to allow deviations from the approved maintenance programme; e.g. an exemption or temporary modification to the maintenance programme, or an exemption under article 10.3 of Regulation (EC) No 1592/2002.</p>	

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			<p>the airworthiness limitations.</p> <p>British Airways under current arrangements are not required to request a Permit To Fly to operate outside maintenance limits. A request is made to the NAA for a one time exemption. This would equally apply to AD's CMR's, and ALI's, in similar circumstances.</p> <p>2. Validity of the Permit to fly</p> <p>As clarified in the RIA, page 11 of 31, the Permit To Fly is only valid within the EU:</p> <p>In respect of comparable regulatory requirements from outside the EU, these are considered to be not relevant in this assessment because the Permit To Fly is not an ICAO standard document and the relevant Permit To Fly will need to be validated by the authorities of those third party countries prior to flight in their airspace.</p> <p>BA Comment:</p> <p>This, combined with the extended scope of Permit To Fly, may render the operation of a British Airways aircraft outside the limits of the Maintenance Programme, of a CMR or an ALI, extremely burdensome and time consuming in term of obtaining necessary administrative authorisations.</p> <p>3. Agency involvement:</p> <p>Page 24 of 31 :</p> <p>21B.515 Determination of responsible party for approval of the flight conditions</p> <p>Upon receipt of the application the Competent Authority shall notify to the applicant the responsible party for approval of the flight conditions, in</p>	<p>2) Noted. See above</p> <p>3) Not accepted. The flexibility is increased by adding privileges for DOA, POA, CAMO and creating a possibility for accredited NAA's to approve the flight conditions. The concept of published general pre-approved cases is not retained for legal reasons. Please note that 21B.515 is deleted due to other comments.</p>	

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			<p>accordance with the following:</p> <p>(a) The Agency, when</p> <ol style="list-style-type: none"> 1. the aircraft does not conform to an approved design or 2. an Airworthiness Limitation, a Certification Maintenance Requirement or an Airworthiness Directive have not been complied with, or 3. the intended flight(s) is/are unusual. <p>(b) The Competent Authority in all other cases.</p> <p>BA Comment:</p> <p>Currently, the NAA takes the decision. As many cases relate to urgent situation, and considering the usual response time by the Agency, this provision may result in aircraft being grounded at a line station for several days.</p> <p>British Airways does recognise, there are some flexibility provisions envisaged by the Agency <u>in the Explanatory Note</u> (page 8 of 31):</p> <p style="padding-left: 40px;">It is also envisaged that a number of cases can be pre-approved by the Agency. In such case the competent authority will be able to issue the Permit To Fly without a specific approval of the flight conditions by the Agency. The list of pre-approved cases is expected to grow based on all previously approved cases.</p> <p>but is not reflected by the proposed draft regulation. Furthermore, a minimum list should be provided upfront, in other to avoid that the list be established solely upon the experience made through EU aircrafts being grounded for days or weeks pending an EASA decision on a minor certification issue.</p> <p>The use of DOA privileges may possibly avoid the need for an EASA involvement (page 19 of 31):</p>		

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			<p>SUBPART J — DESIGN ORGANISATION APPROVAL 21A.263 Privileges</p> <p>.... (c) The holder of a design organisation approval shall be entitled, within its terms of approval and under the relevant procedures of the design assurance system: 6. Except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, to approve the conditions under which a permit to fly can be issued.</p> <p>21A.265 Obligations of the holder The holder of a design organisation approval shall: (f) Where applicable, under the privilege of 21A.263(c)(6), determine the conditions under which a permit to fly can be issued.</p> <p>It is further specified in the explanatory note that (page 6 of 31):</p> <p>This privilege is limited to aircraft for which the DOA holder has design capability and cannot be used for the first test flights of complete new designs or significantly modified designs.</p> <p>However, for operators, there are instances where the Permit To Fly arises when an event places the aircraft outside the certification basis (e.g. damage, ALI, CMR), but the role of the DOA is to demonstrate compliance with the certification basis. <u>This is does not appear consistent with the scope of a DOA.</u></p> <p>Actually the TC holder is the one who possesses the calculation elements that may help demonstrate that an</p>	<p>Noted. The new privilege under 21A.263(c)6 creates the possibility for a DOA to approve flight conditions even in cases outside the applicable certification basis. A DOA should be able to assess specific risk.</p> <p>Noted. TC holders have to demonstrate their design capability by obtaining a DOA. The DOA is then the tool to perform</p>	

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			<p>aircraft may fly safely while outside the certification limits. This privilege should therefore be granted to TC holders (This would be particularly relevant to Boeing, who does not hold a DOA, and then whose statements will not be automatically recognised by EASA!).</p> <p>4. Conclusion:</p> <p>The perceived extended scope of the Permit To Fly + the need for an EASA validation in most cases + the limitation of validity to the EU territory leads British Airways to consider that the economic consequences of the NPA on the EU operators has been widely underestimated by the Agency.</p> <p>In British Airways view the rule should provide:</p> <ul style="list-style-type: none"> ▪ An extended delegation to the NAA for accepting the flight conditions when certification issues are at stake ▪ The recognition of the TC Holder ability to approve the flight conditions ▪ A provision to ensure that when a deviation to a Maintenance Programme, ALI, CMR or AD is accepted, this be automatically valid for all countries overflown, not limited to EU countries. This may involve the use of another mechanism than the Permit To Fly for this kind of exemption. 	<p>design activities with allocated privileges. The DOA is not imposed on non-EU TC holders and therefore no privileges can be granted directly. Current bilateral agreements do not address PtF, and the current draft Bilateral Aviation Safety Agreement with the USA do not include provisions for accepting findings for obtaining a PtF. It is not very likely that statements from US TC holders related to PtF for European registered aircraft will be approved under the FAA system because the applicant is European. Therefore validation or automatic acceptance of such statements is not possible.</p> <p>Noted.</p> <ul style="list-style-type: none"> - All design responsibility has been allocated to the Agency and as a consequence design issues related to PtF should be handled by the Agency. - See above - Exemptions and approved temporary revisions to maintenance programmes as well as exemptions granted in accordance with Regulation (EC) No 1592/2002, article 10.3 are automatically valid elsewhere, since the normal C of A remains in force. 	
8.	General Comment	EADS Elbe Flugzeugwerke GmbH	<p>The privileges to issue a Permit to Fly should be extended to Maintenance Organisation Approval holder under the same conditions as for Production Organisation Approval Holder.</p> <p>Justification: The new regulation should assure equal treatment of permits to fly to be issued for new production aircrafts handled under production organisations and for aircrafts in service handled under maintenance organisation.</p>	<p>Noted. A privilege for continuing airworthiness management organisations similar to productions organisations is considered appropriate.</p>	See new 21A.711 and new text in Part M

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			<p>This would allow to better meet the intent of the rule as expressed under 21A.701(a), e.g. item 1. and 2. if permits to fly are requested for development and/or flight tests in case of changes (STC) and repairs installed by maintenance organisations on respective aircrafts.</p> <p>In addition this would allow the agency to further improve its resources allowing other recognized bodies to evaluate and issue Permit to Fly under agreed procedures or privileges associated with a DOA, POA and/or MOA.</p>		
9.	General Comment	European Sailplane Manufacturers	<p>The sailplane manufacturers in Europe have approached EASA Rulemaking on several occasions to ease the bureaucratic burden regarding the issuance and cross-accepting of PtF between the European Member States. EASA has always stated that it cannot decide how questions of sovereign importance (like registration of aircraft) will be handled in the different Member States but nevertheless Rulemaking Task 21.023 was started to deal with harmonised rules for PtF and Restricted CofA.</p> <p>The sailplane manufacturers appreciate this effort because in order to complete flight testing and to gain experience with the product before certification is finished it has been long standing procedure to operate sailplanes under PtF even outside the member state which issued the PtF. The procedure of acceptance of foreign PtF is quite different within the member states and creates a lot of friction and financial burden for the aircraft owners / manufacturers.</p> <p>Therefore a common practice between all Member States about the requirements to issue a certain level of PtF is needed and will hopefully lead to fast authorisation of a Member State to operate there an aircraft whose PtF was not issued there.</p> <p>Nevertheless it would be much more preferable to have a PtF which is valid EASA-wide.</p>	<p>Noted.</p> <p>The PtF is a certificate attesting that the aircraft can perform safely a basic flight in accordance with Regulation (EC) No 1592/2002 article 5.3(a) if operated within the conditions and restrictions as specified on the PtF. It is valid in all EU member states in accordance with article 8 of that Regulation. However, as usual, the operator will also have to comply with applicable operational rules. These will only apply as far as they are outside the scope of the conditions as mentioned in 21A.708(b)</p>	

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10.	General Comment	Association of European Airlines	<p>AEA fears that the implications of the NPA for aircraft operators in term of operational and economic impact have been largely underestimated. The extension of the use of the PtF to cases where it was not required under previous National regulations, associated to the fact that in most cases the flight conditions will have to be approved by the Agency (or a DOA) will increase the risk of having aircraft grounded at line station for a significantly longer period of time in case of e.g. damage beyond the limits.</p> <p><u>The NPA should therefore be amended to include alternate provisions to be used by the NAA in case a quick decision process is needed.</u> Such provisions, which should be made clear and explicit in Part 21, could be based on Regulation (EC)1592/2002 article 10.3.</p> <p>Justification: Extention of the use of PtF: Currently, most NAA's do not use PtF for the operation of a given aircraft outside the maintenance programme limits, including obviously MRBR tasks, but also AD's, CMR's or ALI's. The process is known e.g. as a "one time exemption". Compared to the PtF, this allows a much shorter approval process, with a direct cost benefit, through:</p> <ul style="list-style-type: none"> - Direct approval by the NAA, including in the case of AD's, CMRs or ALI - No need of time consuming PtF validation by all overflown countries. <p>Validation of flight conditions by the Agency (or a DOA) The approval of flight conditions only by the Agency or a DOA particularly in case of a damage outside the limits or the extension of an AD or CMR or ALI is likely to considerably increase the approval timeframe, thus the costs, without any safety benefit (there is no record of such safety issues in the past). Currently, such permits to</p>	<p>Noted.</p> <p>The intent of 21A.701 may have been misunderstood by the commenter. It only lists the cases when a PtF <u>can</u> be issued but does not mandate the use of PtF in those cases. Only if the C of A is not valid it is necessary to obtain a PtF for performing certain flights.</p> <p>21A.701 is not intended to prevent the use of other solutions where they are permitted under other regulations, for example: The Competent Authority has also other legal means to allow deviations from the approved maintenance programme; e.g. an exemption or temporary modification to the maintenance programme, or an exemption under article 10.3 of Regulation (EC) No 1592/2002.</p> <p>If an aircraft will operate outside its approved configuration, envelope or operating conditions there is a need for a design assessment to ensure the safety of such flights. In the current split of responsibilities only the Agency, or a DOA, can formally perform such design assessment.</p> <p>See response to comment No. 7</p>	

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			<p>fly or “one time exemptions” are issued on the basis the TC Holders advice, which are the one who possess all the certification data and calculation necessary to make a proper decision. It is likely that EASA or a DOA themselves may only take their decision on the basis of the TC holder advice. The added value of EASA or DOA approval will be little, but the administrative burden, cost and delays will be high. (Note: the TC Holder, e.g. Boeing, is not necessarily an EASA DOA holder)</p>		
11.	General Comment	Association of European Airlines	<p>The explanatory note states (page 8 of 31):</p> <p>“It is also envisaged that a number of cases can be pre-approved by the Agency. In such case the competent authority will be able to issue the PtF without a specific approval of the flight conditions by the Agency. The list of pre-approved cases is expected to grow based on all previously approved cases.”</p> <p>However, such provision is not found in the proposed amendment.</p> <p>The amendment should therefore include a clear provision for pre approved cases.</p> <p>Furthermore, a list of pre approved cases should be already proposed for discussion in the NPA (such as a list of typical minor cases when the Competent Authority may decide on the flight condition)</p> <p>Justification:</p> <ul style="list-style-type: none"> ▪ Clarity + avoid another NPA to include the adequate provision. ▪ If the list is not discussed and published upfront, then there is a significant risk of the EASA experience being made at the expense of aircraft operators having to wait days or weeks for an EASA decision on a minor certification issue. This may include the costly case of an aircraft being grounded at a line 	<p>Noted. See response to comment No 7.3</p>	

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			<p>station pending an EASA decision. (It should be noted that an AEA airline, which competent Authority decided to anticipate this NPA provisions, had to wait several weeks for an EASA decision on an ALI extension: such cases, if repeated, would be clearly unacceptable)</p>		
12.	General Comment	CAA-Sweden	<p>Swedish CAA (SCAA) is positive to this NPA in general. However, in case of the approval of flight conditions, which in this NPA are proposed to be approved by the Agency if they are part of the airworthiness limitation, SCAA propose that the Competent Authority should be able to approve these flight conditions if they are within their scope of work (accreditation).</p> <p>Justification: SCAA have a contract with the Agency, enabling us to do the technical investigations for allocated tasks for the Agency. The Agency allocates tasks within our scope of work. The Agency issues approvals based on our technical investigations of these tasks. If a permit to fly should be issued by SCAA and the flight conditions relates to deviations from the airworthiness limitations, SCAA should be able to approve these deviations if they are within SCAA scope of work.</p>	Accepted	See revised 21A.710(a)1.
13.	General Comment	Walter Geßky	<p>General</p> <p>1. Implementing rules for issuance of Permit to Fly are essential, but since several areas which effects the conditions and restrictions to compensate missing compliance to the standards like</p> <ul style="list-style-type: none"> – restrictions with regard to the airspace used for the flight, – qualification of flight crew, – minimum equipment requirements for operation which are not covered under the type design , 	<p>Noted.</p> <p>The regulation of airworthiness certificates is within the scope of Regulation (EC) No 1592/2002. The possible design approval part of such certificates is an Agency responsibility.</p> <p>For PtF, Regulation (EC) No 1592/2002 stipulates that restrictions related to</p> <ul style="list-style-type: none"> — purpose of the flight, — airspace used for the flight, — qualification of flight crew, — carriage of persons other than flight crew; <p>can be included in the PtF. This is clarified in the text of</p>	See new 21A.708

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			<ul style="list-style-type: none"> - minimum standards for maintenance because EC 2042/2003 is not in force for this aircraft, are not regulated by EU, the issuance of the PtF should remain responsibility of the NAA of the MS. <p>The future extension to EC 1592/2002 and his associated implementing rules should cover this issues.</p> <p><i>Therefore for the moment until the changed EC 1592/2002 and its implementing rules are in force the Ministry of Transportation, Innovation and Technology has concerns against the proposed introduction of the privileges for DOA and POA.</i></p> <p>The issuance of the PtF should remain responsibility of the NAA of the MS and not delegated to POA's because a neutral review of the data and decision to verify</p> <ul style="list-style-type: none"> - if the non-compliance of the requirements and - features or characteristics which might making it unsafe to operate are adequately compensated by conditions and restrictions. <p>The NAA can decide neutral because the NAA is no under the pressure of commercial competition like the POA and DOA.</p> <p>In addition if it is supported by majority of the MS to adapt the proposed changes to the privileges updates are recommended to clarify more detailed the obligation and liability of the organisation and to provide common standards to apply the rule. Since some tasks are under the responsibility of the MS clear advise might be required to prevent that all organisation apply the rule in the same manner.</p>	<p>21A.708. The holder of the PtF will also have to comply with locally applicable rules outside the scope of the approved flight conditions.</p> <p>Not accepted. Today many privileges are granted to approved organisations, including releasing an aircraft after (heavy) maintenance. There is no evidence that such privileges lead to lower safety levels. The granting of privileges also involves allocating of responsibilities. Moreover the execution of privileges will remain under the surveillance of the authorities. It is recognised that approved organisations have commercial pressure but the associated risks are mitigated by the above measures.</p>	
14.	General Comment	Walter Geßky	<p>General statement to the change of the privileges</p> <p>1. DOA Proposed change to 21A.263(c) 6.</p>	<p>1. Noted. In order to obtain the privilege to approve flight</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>To approve technical conditions under which a permit to fly can be issued it recommended that</p> <ul style="list-style-type: none"> a. procedures are establish and a statement is issued under which conditions and restrictions a PtF can be issued, b. the privilege should be limited to cases in line with the delegation of tasks as mentioned in the scope of approval (f.e. not for test flights required for significant major changes, STC's, flights outside of the envelope) b. the minimum documentations required for initial approval should be regulated in section A, c. minimum required maintenance instructions (initial instructions for continued airworthiness including initial airworthiness limitations) are provided in consultation with the NAA of the MS because Part M to EC 2042/2003 is not eligible and requires coordination with the NAA of the MS, d. minimum required equipment according national regulations is taken into consideration and requires coordination with the NAA of the MS, e. restrictions with regard to the airspace used for the flight and qualification of flight crew requires coordination with the NAA of the MS e. the DOA is fully liable in any cases. <p>Restrictions with regard to the airspace used for the flight and qualification of flight crew, maintenance and minimum equipment are for the moment based on national law and require involvement of the NAA of the MS</p> <p>2. POA the proposed change to 21A.163(e) 6. to issue a PtF requires that,</p>	<p>conditions the DOA holder shall have to submit appropriate procedures to control the activity in accordance with 21A243. See AMC 21A.263(c)6</p> <p>Not all the points mentioned by the comment provider are DOA responsibilities.</p> <p>See response to Comment No 13</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>a. the cases according 21A.701 (a) for which a POA can issue a PtF has to be defined, (the purpose of the flights is limited to production flight testing, ferry flights within production facilities or delivery flights),</p> <p>b. the minimum standards for record keeping has to be defined,</p> <p>c. the surrender and revocation of the PtF is clarified, (MS under 21A.723(c) when POA does not inform the MS about the issuance of a PtF,</p> <p>d. the DOA is fully liable in any cases.</p> <p>Restrictions with regard to the airspace used for the flight and qualification of flight crew, maintenance and minimum equipment are for the moment based on national law and require involvement of the NAA of the MS.</p> <p>3. Transition of PtF</p> <p>a. transition of existing PtF including a grandfathering is supported.</p> <p>b. issuance of PtF for orphan has to be clarified - might be added to 21A.701 (a) orphan aircraft not eligible for the issuance of a restricted CofA</p>	<p>Noted. It is agreed that AMC or GM to the new privilege is needed.</p> <p>Noted. If a (R-)C of A cannot be issued to an orphan aircraft the PtF is the only remaining option under Part 21 as airworthiness certificate. See the explanatory note to 21A701(a)(15). The specific conditions will be established for each individual case.</p>	<p>See new AMC 21A163(e)</p>
15.	General Comment	Walter Geßky	<p>Specific comments to Draft Opinion Regulation 1702/2003 Part 21 SECTION A</p> <p>The proposed changes are recommended to take into consideration the general observations to the proposal as notified above. Some details might be missing to provide a very clear minimum standard that all DOA and POA organisations apply the rule in a consistent manner that we have not 25 different systems for issuance of a PtF by a POA. Coordination with the NAA of the MS is essential</p>	<p>Noted. The privilege for DOA is the most extensive of the privileges envisaged by the proposal. Its extent and use is directly controlled by the Agency, that will take care of consistent application of rules. The issuance of PtF as done by the NAA's and approved organisations will be subject to standardisation activities of the Agency, in order to achieve uniform application of rules.</p>	

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			for common application of the rule, because until the change to 1592/2002 and the associated implementing rules are in force national rules has to be taken into consideration. Common guidelines for the issuance of a PtF for aircraft not registered but operated in a MS seems to be helpful specially in the case when the PtF will be issued by a POA.		
16.	General Comment	Malta Department of Civil Aviation	It is not clear whether the Explanatory Note - General Section - Paragraph Section (14) includes also to aircraft listed in Annex II to Regulation (EC) No1592/2002. A clarification on whether new Subpart P will be applicable to those aircraft this matter may be appropriate.	Not accepted. Regulation (EC) No 1592/2002 and its implementing rules are not applicable to aircraft listed in Annex II.	
17.	General Comment	LBA	It is not clear whether the PtF is unlimited or, if not, for how long it shall be valid. If needed, a procedure for a prolongation should be possible?	Noted. The PtF will be valid for as long as is deemed appropriate by the entity approving the flight conditions within the boundaries set by 21A.723. Prolongation of the PtF is addressed by 21A.725 and is considered a change.	
18.	General Comment	LBA	<p>The new Subpart P should clearly describe / outline a way of conduct where an Part-21J organisation is allowed to establish restrictions and conditions i.a.w. 21A709 for third parties (air operator).</p> <p>(These -21J organisation should have a defined range of type / scope, on which they are approved to comment and establish limitations.)</p> <p>Justification: It should be clear that a PtF will not only be required for work by Design and Production organisation (as an interrelation between Airbus Design and Production facilities) but even more often for cases of 21.A.701 A point 11, where a Part-21J organisation could be responsible to define appropriate restrictions + conditions in case no valid / approved data exist (for example structural damage that needs development of approved</p>	Noted. The DOA privilege is in principle not limited to certain purposes. The exact scope will be defined during the DOA approval process and further guidance is available in the new AMC 21A.263(c)6 (see revised text).	

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			<p>temporary repair data).</p> <p>It should be noted though, that not all 21J will have an applicable scope / qualification for all commercially operated acft types requiring an establishment of conditions for a technical ferry flight.</p>		
19.	Explanatory Note Approval of flight conditions	Airbus Transport International	<p>Cases of pre-approved flight conditions should be used by all the organizations allowed to issue PtF, and not only to competent authorities.</p> <p>Justification: A certain number of organizations will be allowed to issue permits to fly, according to this NPA. Therefore the advantage represented by these pre-approved cases should be offered to all of them, without distinction.</p>	Noted. See answer to comment no. 7.3	
20.	Explanatory Note A: IV Detailed 18. (6): Flying the aircraft for customer acceptance	Diamond Aircraft Ind. GmbH	<p>A: "Before the aircraft is sold and registered" should be modified to "<i>Before the aircraft is sold</i>"</p> <p>There is a quite long time period between registration of a new produced aircraft, which is the first necessary step for the completion of an insurance contract and other purposes and the issue of the final CoA. Following the NPA-Text the aircraft could not be presented to the customer for his acceptance incl. customer acceptance flight during this period.</p> <p>Justification: In our normal business of selling the aircraft that we are producing, we offer the customer the service of application for CoA at his EASA Member State of Registry. For this purpose the registration of the aircraft happens in a very early stage, because we need the registration and the insurance confirmation for the application for the issue of the CoA.</p> <p>So having the limit of "registered aircraft" for any purpose of PtF would ground the aircraft until the CoA process is completed.</p>	Accepted The privilege for a POA to issue a PtF has been amended as part of this Comment review and is now broader. It allows for the case as indicated by the comment provider.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
21.	Explanatory Note Part IV. 17	CAA-UK	<p>In response to the specific request for comment on the level of where the limitations should be put the committee should be aware that this level will have a knock on effect to Part 21 paragraphs 21A.35, 21A.97 and 21A.117.</p> <p>Justification: Consistency</p>	Noted	
22.	Explanatory Note Part IV 18, Approval of Flight Conditions	CAA-UK	<p>The paragraph entitled “Approval of flight conditions” includes the statement that a separate NPA will stipulate flight crew qualifications. AMC No.1 to 21A.243(a) 11 requires that “nominated persons with specific responsibilities such as mentioned in 21A.33 and 35 should be listed. This separate NPA should take cognisance of these paragraphs.</p> <p>Justification: Consistency</p>	<p>Noted</p> <p>The NPA regarding flight testing will include the qualifications of flight test personnel. They may be the same persons as the ones nominated under paragraph 11 of AMC 21A.243(a) but there is no overlap in regulatory requirements for these persons.</p>	
23.	Explanatory Note Part V 3, Sectors Concerned	CAA-UK	<p>Third parties should be included as they will be affected by the overflight of aircraft operating with a Permit to Fly.</p> <p>Justification: Augmentation</p>	Noted.	
24.	Explanatory Note 15 Changes to Part 21 G	Dassault Aviation	<p>The presentation of the POA privilege is not consistent throughout the paragraph. It seems initially to match the DOA privilege but ends restricted to production flight testing, ferry/delivery flights.</p> <p>Some credit should be given to POA which are TCH.</p> <p>These flight purposes are too restrictive for day to day operations of a TCH-POA. (Type Certification Holder)</p>	<p>Noted.</p> <p>The privilege for POA is different from that of DOA in that it can only relate to the conformity part of the PtF issuing process, whereas a DOA can perform design related tasks such as establishing the flight conditions. The privilege of POA has been reworded during this CRD process to be more generic and addresses this comment.</p>	
25.	Explanatory Note Section IV	FR Aviation	<p>We believe that the extent of privileges and associated limitations for a DOA to establish the conditions for the issuance of a PtF should form part of the terms of</p>	<p>Noted.</p> <p>The principle of the comment is accepted. Certain generic limitations to the DOA privilege are included in Part 21,</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	Paragraph 17 – Changes to Part 21 Subpart J		<p>approval recorded on the 21J approval certificate.</p> <p>The general limitations to a non type cert holder DOA could be based on GM similar to the classification guidance of Appendix 1 to GM 21A.101.</p> <p>A suggested overriding limitation to DOA privileges would be; to establish the conditions for safe flight on non-significant changes, except where the flight is conducted outside the essential limitations, (weight, speed, C of G range, engine performance etc).</p> <p>Justification: Any limitations or guidance regarding the DOA PtF approval put into the rule itself would have to be very generic and couldn't possibly capture or reflect suitable limitations per DOA which it is assumed will be based on audited capability.</p>	<p>but the details will be included in the Terms of Approval. Guidance is not per se necessary since all DOA approvals are granted by the Agency. It may be developed later when we have more experience with the subject.</p>	
26.	Explanatory Note 18. New Part 21 Subpart P dedicated to PtF, Scope	CAA-CZ	<p>The determination of the scope of use of Permits to Fly as proposed by this NPA fully covers all cases used by the CAA CZ today and it goes even beyond. However, the CAA CZ is of an opinion that caution is necessary in the implementation of item (15). As stated in the NPA, in this case it is the role of EASA to assess for which types of “orphan aircraft” it will be possible to issue Permits to Fly. It is necessary to ensure continued operation of “orphan aircraft” as operated nowadays in Member States. In case of the Czech Republic, this may have an impact mostly on gliders. We are also of an opinion that specific restrictions and/or conditions should be applied to and detailed guidance material should be associated with item (12), i.e. for flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available.</p> <p>In line with V.2.a. and V.5.2 the CAA CZ recommends to</p>	<p>Noted.</p> <p>The Agency is aware that it will have to make decisions on a case by case basis to allow certain aircraft to be handled under 21A.701(a)15. This will depend on the history of the individual aircraft concerned., the availability of spare parts, the availability of approved maintenance facilities, etc. It will normally only be used for “orphan” aircraft for which a Restricted C of A cannot be issued.</p> <p>The Agency will develop guidance for making the determination that an aircraft under a Permit to Fly is capable of safe flight under certain conditions or restrictions, to be made available to its own staff and DOA who will make the same determinations. This will cover all cases including the 21A.701(a)12case.</p> <p>Due to the split of responsibilities between the Agency and NAA's the Agency, accredited NAA's or a DOA will</p>	

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			<p>retain the privilege of the National Aviation Authority of the State of Registry to issue Permits to Fly for all cases stated in IV.18.(1) to (15) (i.e. 21A.701 (a) 1 to 16) to be able to immediately respond to the requirements of operators.</p> <p>The CAA CZ recommends to develop in cooperation of EASA and Member States detailed guidance material for all cases stated in IV.18(1) to (15) to ensure uniform interpretation and implementation. This guidance material may for example exist in form of Checklists, as used today by the CAA CZ for specific cases.</p>	<p>have to be involved in all PtF with design consequences. After establishing the flight conditions by the Agency or a DOA the NAA's can issue all types of PtF.</p> <p>For responding to urgent operational needs NAA's can invoke article 10.3 of Regulation (EC) No 1592/2002.</p>	
27.	Explanatory Note V Regulatory Impact Assessment	CAA-CZ	<p>The CAA CZ is of an opinion that in the Regulatory Impact Assessment there is an insufficient relation to the Commission Regulation (EC) No 2042/2003.</p> <p>Justification: The concept proposed by the NPA in question may have an impact on the implementation of Part M, for example on CAMO organisations and their potential future need to issue PtF.</p>	<p>Noted.</p> <p>Part M is currently not applicable to aircraft under a PtF. The impact on maintenance organisations will be limited. However, based on other comments it is decided to give a privilege to CAMO to issue a PtF after the flight conditions have been approved.</p>	
28.	Explanatory Note A (IV.)(17.)	EADS Elbe Flugzeugwerke GmbH	<p>A clear indication of the limitations to the privileges in the rule itself is preferable.</p> <p>The nature of such limitations should be limited only by those that EASA believes to be still in the loop to assure safety, i.e. completely new aircraft design, aircraft handling characteristics or performance.</p> <p>Justification: This assures equal treatment within aviation industry.</p>	<p>Noted</p> <p>Certain generic limitations to the DOA privilege are included in Part 21, but the details will be included in the Terms of Approval.</p>	
29.	Explanatory Note § 17 Changes to Part 21 Subpart J, third indent	Air France	<p>Agency intends to distinguish between DOA holders that also hold or have applied for the (Supplemental) type certificate ((S)TC) for the aircraft concerned, and</p> <p>Justification:</p>	<p>Accepted</p> <p>The privilege is in principle possible for all DOA's provided it falls within the scope of its design capabilities as recognised through the DOA and its Terms of</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Such privileges have also to be extended to STC holder.	Approval.	
30.	Explanatory Note Paragraph 15 “Changes to Part 21 Subpart G”	European Sailplane Manufacturers	<p>The new opportunity of issuing a PtF directly by the approved production organisation is appreciated by the European sailplane manufacturers.</p> <p>Nevertheless it is still unclear how the task of registering such a PtF aircraft has to be done.</p> <p>The procedure proposed in the NPA 9-2006 seems to be practical only for the case that the national competent authority assigns registration number(s) to this production organisation and that the production organisation then operates this particular aircraft with the PtF issued by the production organisation and under the pre-issued registration number.</p> <p>Otherwise the privilege of self-issuance will not alleviate the need for contact with the national competent authority.</p> <p>Justification: Issuance of PtF directly by the POA holder (in the case of aircraft already type certified and to be flown as production flight testing) makes sense in order to minimize cost and effort during the production process.</p> <p>This should be done in a way that it will be not needed to contact the NAA for each aircraft produced as the production numbers might well be in the region of several per week.</p> <p>By using these pre-issued registration numbers the POA holder will be able to use this procedure fully under own responsibility.</p>	<p>Noted</p> <p>However, registration of aircraft is not within the Community competence. Specific arrangements on self administration of aircraft registration numbers can be made with the competent authority.</p>	
31.	Explanatory Note Paragraph 17 “Changes to Part	European Sailplane Manufacturers	In case of aircraft not (yet) having a type certificate (TC) and for flights such as production test flights the NPA 9-2006 offers a solution that an approved DOA which has established the conditions of flight might issue the PtF.	<p>Not accepted</p> <p>Within the current structure of the regulations it is not possible to grant privileges to non-approved</p>	

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	21 Subpart J”		<p>(With the exemption of first flights of complete new designs or significantly modified designs.)</p> <p>The sailplane manufacturers point out that the majority of design organisations for CS-22 aircraft work not under DOA but under ADOAP rules. This has several reasons of which too stringent procedures to obtain the DOA are cited most.</p> <p>Therefore the European sailplane manufacturers propose the following wording:</p> <p>In order to smoothen the process of issuing PtF it is envisaged to create a possible privilege for Production Organisation Approval (POA) holders allowing them to issue directly without authority involvement certain categories of PtF.</p> <p>This privilege would be limited to Ptf for aircraft the POA holder has produced itself and for which the design is already approved or for which the design is not approved but the conditions for flight have been established by a Design Organisation Approval (DOA) holder <u>or by an organisation working under alternative procedures to DOA (ADOAP)</u>. The purpose of the flights is limited to production flight testing, ferry flights within production facilities or delivery flights.</p> <p>So without having to do any design assessment the POA holder, after finding conformity of the aircraft with the applicable design data, can issue the PtF.</p> <p>The POA holder will use a standard EASA form which slightly differs from the standard form as used by the national authorities.</p> <p>Justification: The design organizations of the European sailplane manufacturers working under ADOAP rules already have to take the responsibilities as holders of the existing national PtF.</p>	<p>organisations. (see Regulation 1592/2002 article 5(2)(d)) Therefore this comment is considered outside the scope of this NPA.</p>	

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			<p>Furthermore they already define together with the NAA the conditions of flight for these PtF.</p> <p>Therefore they are already familiar with the responsibilities and requirements associated with these tasks.</p> <p>The fact that these organizations do not operate under DOA rules but under ADOAP rules is not a result of lesser qualification but of the higher bureaucratic burden associated with the full DOA approval.</p>		
32.	Explanatory Note Paragraph 17. "Changes to Part 21 Subpart J"	European Sailplane Manufacturers	<p>Regarding the limitations to the privileges of a DOA / ADOAP holder to issue a PtF the European sailplane manufacturers already are familiar with some well established rules:</p> <ul style="list-style-type: none"> • first test flights (or test flights with a significantly modified design) only with a flight envelope limitation regarding speeds, weights and manoeuvres • opening of the envelope to VA still with certain limitations regarding manoeuvres and/or weight configurations as soon as a preliminary structural analysis and a preliminary operations manual covering emergency procedures has been completed • further opening of the flight envelope after completion of flutter analysis, spin testing, etc. • possible opening to include flight assessment outside of the manufacturers regime (but before issuance of TC) when all requirements of chapter Flight of CS-22 have been complied with, and all other requirements listed above have been fulfilled <p>Only if such rules could be set by EASA and if these rules would be agreed upon by all EASA member state NAA then the major problems in conjunction with flight under PtF rules could be solved.</p>	<p>Noted.</p> <p>Regulation (EC) No 1702/2003 and later amendments such as these rules for PtF, which will be part of Regulation (EC) No 1702/2003, are directly applicable law in all EU member states. The Agency will review regularly through its standardisation activities whether member states implement these common rules in a uniform manner.</p> <p>Registration of aircraft is however not within Community competence and remains regulated by member states.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Within such rules it should be possible for the organisation developing the aircraft (product) to issue the relevant PtF directly or via simple procedures together with the NAA of the state of registry.</p> <p>Justification: As long as PtF have to be issued by the NAA (because of the fact that registration of an aircraft is a national task and not a EASA task) it is of utmost importance that the rules are identical in all Member States and that therefore it will be possible to fly with this PtF in all Member States – ideally without further bureaucratic effort.</p> <p>The only real alternative would be the creation of an EU-registration (perhaps this would still be registered in one of the member states instead) which will be accepted by all member states by means of a multi-lateral contract offered and promoted by EASA or the EC commission.</p> <p>Otherwise a free flow of goods and a free travel between Member States will be always hampered when aircraft flying under PtF rules are involved.</p>		
33.	Explanatory Note	Virgin Atlantic Airways	<p>As per the explanatory note para 11 (page 5)</p> <p>One of the main difficulties the rulemaking group had to address was the split in responsibilities between the Agency and the Competent Authorities of the Member States. The Agency is clearly responsible for all design related airworthiness issues where the Member States are responsible for finding conformity of the individual aircraft with the design as approved by the Agency. The PtF encompasses both elements in one certificate so in most cases a PtF can only be issued by the Competent Authority of the Member State after the Agency has determined that the aircraft can perform safely a flight. Therefore the rules had to be drafted taking into account</p>	<p>Noted</p> <p>The proposals are made to work as efficient as possible within the limitations of the regulations as set by the European legislator.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>the two responsibilities and at the same time trying to maintain a process that can work in day to day practice.</p> <p>VAA supports the principle the process must work in day-to-day practice.</p> <p>Justification: This is the current situation with our Competent Authority and we do not want to suffer a decline in service when the Agency become involved.</p>		
34.	Explanatory Note	Virgin Atlantic Airways	<p>RIA Economic Impact P13</p> <p>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.</p> <p>VAA, as an operator, supports this position. Therefore, the flight conditions must be approved by a DOA Holder or the Competent Authority allowing the permit to fly to be issued outside normal hours.</p> <p>Justification: So that damaged aircraft can be flown home quickly.</p>	<p>Noted.</p> <p>The rules are drafted to make efficient use of all parties involved. Privileges can be granted to organisations who will be able to provide services outside normal hours. The rules will not prevent the Agency to provide services outside office hours but other considerations might. However the latter is outside the scope of this NPA.</p> <p>To respond to urgent operational needs NAA's can use article 10.3 of Regulation (EC) No 1592/2002.</p>	
35.	Explanatory Note IV Content of the draft opinion and draft decision Par. 18 New Part 21 Subpart P dedicated to PtF Scope	ENAC	<p>Reference shall be done to GM 21A.701(a) instead of GM 21A.701(b)</p> <p>Justification: Clerical error</p>	<p>Noted. Clerical error</p>	
36.	Explanatory Note	ENAC	To improve the identification of the cases in order to	Noted.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	<p>IV Content of the draft opinion and draft decision</p> <p>Par. 18 New Part 21 Subpart P dedicated to PtF Scope (1) Development</p>		<p>avoid any misinterpretation or overlapping with the cases falling under Annex II par. (b) of 1702/2003</p> <p>Justification: Examples provided could fall in the cases of Annex II par. (b) of 1702/2003. The affected activity (i.e. experimental studies...etc.) could be carried out by the manufacturer before the application to EASA.</p>	<p>It is recognised that the borderline between “aircraft specifically designed or modified for research, experimental or scientific purposes” and the PtF category 21A.701(a)(1) is not always obvious. However, the PtF category 21A.701(a)(1) is needed for those category of flights which do not fall within the scope of Annex II.</p>	
37.	<p>Explanatory Note</p> <p>IV Content of the draft opinion and draft decision</p> <p>Par. 18 New Part 21 Subpart P dedicated to PtF Scope</p> <p>(9) Market survey, including customer’s crew training</p>	ENAC	<p>Change crew training with crew familiarization</p> <p>Justification: ENAC is of opinion that crew training should be performed only on type certificated aircraft</p>	<p>Not accepted.</p> <p>Type-training of crew cannot always be performed on type certificated aircraft, because the aircraft concerned is simply not yet type certificated. It is not practical to wait with type training until the TC is issued because valuable time will be lost.</p>	
38.	<p>Explanatory Note</p> <p>IV Content of the draft opinion and draft decision</p> <p>Par. 20 New Subpart P in Part Section B</p>	ENAC	<p>It should be better explained the process to establish the flight conditions, taking into account that they also include the operational , airspace and flight crew limitations that they are outside of the Agency scope.</p> <p>Justification: Responsibility for flight conditions are split between the Agency and the Member States.</p>	<p>Noted.</p> <p>The flight conditions are safety related, and can include restrictions on airspace (in generic terms such as “flying over densely populated area is prohibited”), conditions on the flight crew and operating limitations.</p> <p>The PtF is a certificate attesting that the aircraft can perform safely a basic flight in accordance with Regulation (EC) No 1592/2002 article 5.3(a) if operated within the conditions and restrictions as specified on the PtF. It is valid in all EU member states in accordance with article 8 of that Regulation. However, as usual, the operator will also have to comply with applicable</p>	

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				operational rules. These will only apply as far as they are outside the scope of the conditions as mentioned in 21A.708(b)	
39.	Explanatory Note IV Content of the draft opinion and draft decision General Par. 12	ENAC	The development of the rule and procedures for the issuance of P.t.F. should take into account that the P.t.F. encompasses responsibilities split between Agency and Member States. Operational aspects and the establishment of any restrictions in the use of Airspace area are matter not under Agency responsibility, however necessary to guarantee the safety of the third party on ground (ref. 1592/2002 art. 5 par. 3(a)).	Noted: See response to comment number 38.	
40.	Explanatory Note IV, Paragraph 18, Scope	Airbus SAS	Paragraph 21A.701 defines the cases for which a PtF can be issued. In all these cases the issuance of a (Restricted) Certificate of Airworthiness is not possible or not appropriate. It allows also further simplification of the text in the other paragraphs. Explanations are provided in GM 21A.701 (b) (a) 15. Justification: GM 21A.701 (b) relates to “A/C registered outside the member states” only. Correct cross-reference should be GM 21A.701(a)15.	Accepted.	
41.	Explanatory Note IV, Detailed Issue of a PtF	Airbus SAS	Issue of a PtF The PtF can be issued by the competent authority when the flight conditions are approved. It can also be issued by an appropriately approved production organisation for aircraft it has produced for production flight tests, or ferry flights or delivery flights. Justification: Delivery flights are also subject to the issue of a PtF by an approved production organization.	Accepted The privilege of a Production Organisation Approval holder has been revised during this comment review activity and is presented in a more generic way. It allows the category as mentioned by the comment provider.	See new 21A.163(e)
42.	Explanatory Note	Airbus SAS	Revise Explanatory Note Section IV, Subsection 18, Scope, Item (11), to read:	Partially accepted.	See new 21A.701

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	IV, Subsection 18, Scope, Item (11)		<p>(11) Flying the aircraft to a location where maintenance or airworthiness review are to be performed, to a point of storage, for maintenance flight purposes, or when the aircraft does not comply with applicable airworthiness requirements:</p> <ul style="list-style-type: none"> - <i>Ferry flights in cases where... ..beyond the applicable limits.</i> - <i>Ferry flight or maintenance flights for aircraft not having a valid CoA such as off-lease aircraft or second hand aircraft being prepared for delivery to to another owner/operator.</i> <p>Justification: Clarification of scope for P-t-F applicability</p>	<p>The PtF is only needed in cases where a (Restricted) Certificate of Airworthiness cannot be issued or is not valid, because the aircraft does not comply or has not been shown to comply with all applicable airworthiness requirements. This is true for all cases and therefore it is introduced in 21A.701</p>	
43.	Explanatory Note IV, Subsection 18, Scope, Item (12)	Airbus SAS	<p>Revise Explanatory Note Section IV, Subsection 18, Scope, Item (12), to read:</p> <p>(12) Flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available. <i>Ad hoc flights for purposes where normally a RCoA would be issued. , such as firefighting.</i></p> <p>Justification: Deletion of “, such as firefighting”: Firefighting is a highly specialized aviation sector, usually performed with aircraft specifically developed for that purpose, or helicopters with external extinguishing agent dispensing units. This example may cause more confusion than add clarity for people not involved in firefighting. Further, without it the sentence is already considered self-explanatory.</p>	Accepted	
44.	Explanatory Note	Airbus SAS	Revise Explanatory Note Section IV, Subsection 18,	Accepted.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	<p>IV, Subsection 18, Application Draft Opinion Regulation 1702/2003 Part 21 21.A707</p>		<p>Application, first sentence, to read: “Application It is intended to keep the application for a P-t-F as simple as possible. Nevertheless, the application shall be made in a form and manner acceptable to the Competent Authority The application is made as simple as possible and is therefore made to the Competent Authority only even though in a number of cases the Agency must be involved. ...”</p> <p>Justification: While the current explanatory note proposal says “The application is made as simple as possible...”, current Part 21.A707 requires “...an application for a permit to fly shall be made in a form and manner established by the Competent Authority...”</p> <p>This is a clear requirement for each Member States Competent Authority to establish its own format, potentially leading to inconsistent applications and interference with the intentions expressed in the Explanatory Note. Even though the Airbus proposal above does not preclude different formats for application, but provides for simple application formats, possibly depending on the case. With a comment in parallel, Airbus proposes a corresponding revision to Part 21.A707.</p>	<p>As a result of other comments application forms are introduced.</p>	
45.	<p>Explanatory Note IV, Subsection 18, Changes</p>	Airbus SAS	<p>Revise Section IV, Subsection 18, Changes, to read (revised parts in bold):</p> <p>“Any change to those aircraft parts, areas or systems which status caused the need for the permit to fly, or affects the approved conditions for flight under P-t-F, requires approval under Part 21 Subpart P. To keep it simple, the process for approval of these changes follows the route for initial approval, except that only the documents related to the change need to be furnished. If</p>	<p>Noted</p> <p>The text of the explanatory note was a simplification of the requirement concerned (21A.713), which describes more precisely which changes need to be approved under the PtF regime. It is clear that all changes to an aircraft have to be approved in accordance with Subpart D or E before the (R-) C of A can be issued or becomes valid again.</p>	

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			<p>necessary the PtF can be amended by the same entity who issued it.</p> <p>Any other change to aircraft parts, areas or systems that is neither related to the PtF nor affects the approved P-t-F conditions for flight, can be further approved according to Part 21 Subparts D and J.”</p> <p>Justification: Subsection 18, Changes, as currently written may be misunderstood that any change to the aircraft intended to be operated under P-t-F condition would need an approval under Subpart P. In that respect, the related paragraph 21.A713 is more precise. Nevertheless, to ensure consistency, Airbus proposes the above revised wording.</p>		
46.	Explanatory Note IV, Subsection 21, EASA Forms	Airbus SAS	<p>After the current text, add: “ Both new EASA forms 20 and 20A further include a box presenting reference to Non-EU states permission to operate over or into their territories.”</p> <p>Justification: As said in the current text, the EASA permit to fly is valid in EU member States only. As it may be the case that an aircraft has to operate under EASA P-t-F over or into countries outside the EU, it is assumed that – keeping in mind the different legal status of EASA compared to that of National Authorities of ICAO Member States – in some cases a pre-flight acceptance of those over-flown or destination countries has to be obtained. Further having in mind that these cases may not be very frequent with regard to a specific country, reference to that country’s acceptance document may help to ease operation under local Authorities’ oversight.</p>	<p>Noted.</p> <p>This “warning” is already in the current Form 20, and is kept in the new forms.</p>	
47.	Explanatory Note	Iain Young Marshall	<p><u>Paragraph 17. Changes to Part 21 Subpart J.</u> It is a shortcoming of Part 21 that it fails to consider Experimental and/or Development test flying where there</p>	<p>Partially accepted.</p> <p>A new privilege is added for DOA holders to issue a PtF</p>	See revised text

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
		Aerospace	<p>is no production or certification intent. Therefore, whilst it is appropriate that DOA holders should be able to establish the conditions under which a PtF can be issued, it is equally important that they should also be able to issue the PtF themselves as these activities need not involve a POA holder.</p> <p>Furthermore, the Agency is wrong to believe that it must always remain in the loop for test flights which fall into the category of test flights which include the first test flights of new designs or significantly modified designs. Firstly, an approved organisation is itself best placed to decide when a design is ready for flight. Secondly, if that organization does not have a robust mechanism for control of safety it should not be approved - Agency involvement in the activities will not therefore add any safety increment to a properly approved organization. Thirdly, Agency involvement will delay and hinder experimental and development test flying programmes.</p> <p>Proposed New Subpart P – Permit to Fly</p> <p><u>Paragraph 21A.701 Scope.</u> Add an Experimentation and Research category.</p> <p><u>Paragraph 21A.711 Issue of Permit to Fly.</u> See above. Do not limit issue of a PtF to a POA.</p>	<p>for aircraft the configuration of which it is controlling itself.</p> <p>It is true that the organisation designing the aircraft is best placed to determine when an aircraft is ready for flight, but the authorities have regulatory responsibility to set the boundaries around the privileges of private entities. The possible risk of the flight is a denominator for establishing its involvement. The Agency believes that initial flights of new types or significantly changed designs are of a risk to warrant Agency involvement.</p> <p>Please note that aircraft specifically designed or modified for research, experimental or scientific purposes, and likely to be produced in very limited numbers; are covered by Annex II of Regulation (EC) No 1592/2002 and therefore outside the scope of this NPA</p>	
48.	Explanatory Note IV, subchapter 18	LBA	<p>Section IV, subchapter 18 paragraph: "Approval of flight conditions:"</p> <p>"The conditions under which flights under a PtF have to be conducted can be approved by the competent authority if they are related to deviations from the maintenance programme..."</p> <p>Text offers significant potential for misunderstanding with regard to application / use of PtF</p>	<p>Noted.</p> <p>The Competent Authority approves the maintenance programme and may have other ways to deviate from the maintenance programme and therefore a PtF may not be needed.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Justification: A single short term extension of a scheduled maintenance task, allowed for by manufacturer documents and / or JAA-TGL-26 is not normally considered to be a criterium eligible for the issue of a Permit to Fly.</p>		
49.	Explanatory Note IV, subchapter 18	LBA	<p>Section IV, subchapter 18: "Approval of flight conditions:" ... "It is also envisaged that a number of cases can be pre-approved by the Agency..."</p> <p>Which cases are envisaged and when are they published? Requirement is seen for this with the introduction of new Subpart-P.</p> <p>Justification: If Part-21 Subpart-P does not give full guidance on how to conduct technical ferry flights for air operators under Part-M requirements, the pre-determined standard set of cases would offer the possibility for information to the operator / NAA .</p>	<p>Noted. However, see response to comment no. 7.3</p>	
50.	Explanatory Note: A/V/3 Sectors concerned	Turbomeca	<p>To modify the first item as follows: "Design organisations (designing aircraft or engines or components and designers of modifications)</p> <p>Justification: Design organisations designing prototype engines are obviously concerned by prototype flight clearance when permit to fly is issued for flights with non-certified engines.</p>	<p>Accepted. See response to comment number 3.</p>	
51.	Regulation 1702/2003	Popular Flying Association (PFA)	<p>Explanatory Note: <i>14. Change to Regulation 1702/2003</i> Although most PtF are issued to address a temporary situation, it is recognised that there is a category of PtF which are issued for a permanent replacement of an</p>	<p>Partially accepted. The explanatory note item 14 is not completely accurate and not comprehensive. The grandfathering clause contains two elements: 1. the grandfathering of existing valid PtF (or equivalent) until their expiry date (ultimately 28-03-08) when they</p>	See new article 2.15

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			<p>airworthiness certificate, because the aircraft concerned are not able to comply or for which it is not practical to comply with all relevant airworthiness requirements. As no safety issues have been detected with the existing national systems for issuing these permanent PtF, a grand-fathering clause is proposed for any existing NAA PtF existing and valid on 28 March 2007, to ensure a seamless transition.</p> <p>This will avoid EASA re-approval somewhere in the future. Of course these grandfathered PtF will have to fit within one of the categories as established by the new Part 21 proposal. A one year transition is proposed within which all the national PtF will have to be replaced by a PtF issued in accordance with the new rule.</p> <p>Draft Opinion Regulation 1702/2003:</p> <p>I Draft Opinion Regulation 1702/2003 <u>Add a new paragraph 15 to article 2:</u> “15. The conditions determined by the Member States for PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be determined in accordance with this Regulation. The PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be issued in accordance with this Regulation until 28 March 2008.”</p> <p><u>PROPOSED TEXT/ COMMENT:</u></p> <p>Explanatory Note:</p> <p><i>14. Change to Regulation 1702/2003</i></p> <p>.....As no safety issues have been detected with the existing national systems for issuing these permanent</p>	<p>have to be replaced by a PtF issued under Part 21. At the moment of issuing the replacing PtF the conditions of Subpart P will apply fully. Aircraft that do not fit within those conditions (including 21A.701) cannot be issued a new PtF.</p> <p>2. the grandfathering of the flight conditions approved by the NAA before 28-03-07.</p> <p>The grandfathering provision is modified to make this clear.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>PtF, a grand-fathering clause is proposed for any aircraft granted NAA PtF, or given formal permission to transfer to existing NAA PtF prior to existing and valid on 28 March 2007, to ensure a seamless transition. This will avoid EASA re-approval somewhere in the future</p> <p>Draft Opinion Regulation 1702/2003:</p> <p>I Draft Opinion Regulation 1702/2003 <u>Add a new paragraph 15 to article 2:</u> “15. The conditions determined by the Member States for PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be determined in accordance with this Regulation. The PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be issued in accordance with this Regulation until 28 March 2008.”</p> <p>Justification: In the explanatory notes it is stated that “, a grand-fathering clause is proposed for any existing NAA PtF existing and valid on 28 March 2007, to ensure a seamless transition”. However in the new paragraph 15 of article 2 of regulation 1702/2003 there is no requirement for the PtF to be valid on 28 March 2007.</p> <p>Many of the aircraft covered by the group 21A.701 (a) 15, are under long-term maintenance or refurbishment at any one time. If the condition that the PtF must be “existing and valid on 28 March 2007” is adopted, then there will be a significant number of aircraft excluded since the PtF may previously have been issued, but may not be valid on that date.</p> <p>Further to this point the period taken for some long-term refurbishment projects may well prevent their completion</p>		

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			(and therefore the issue or re-validation of the PtF) until after the date of 28 March 2008. If this prevents the aircraft receiving a PtF then the owner will be unnecessarily penalised.		
52.	Regulation 1702/2003 New paragraph 15 to Article 2 of Regulation 1702/2003	CAA-UK	<p>This states that “the conditions determined by the Member States before 28 March 2007 are deemed to be determined in accordance with this Regulation. It is assumed that this means “the flight conditions” referred to in 21A.709 etc.</p> <ul style="list-style-type: none"> • If so, when a new permit to fly is required to be issued in accordance with the new Regulation by 28 March 2008, does that deeming provision remain or must an application be assessed against the requirements of 21A.709 and 710? • Must a new application be made by 28 March 2008 or will the competent authority set about replacing permits on its own volition? • Should aircraft with “deemed” EASA permits be restricted to flight within the State of issue? <p>Justification: Clarification</p>	<p>Noted.</p> <p>The determination under 21A.709 and 21A.710 remains valid, but eligibility under 21A.701 needs to be established.</p> <p>An application will be necessary.</p> <p>The restrictions as specified on the grandfathered PtF will continue to be applicable. This can include territory restrictions.</p>	
53.	Regulation 1702/2003 New paragraph 15 to Article 2 of Regulation 1702/2003	CAA-UK	<p>Suggest that the abbreviation “PtF” is spelled out in full as “Permit to Fly” in the Regulation. Additionally that this new paragraph is inserted below the current paragraph 11 and that subsequent paragraphs are relabelled 13 to 15. This would then group all permit related paragraphs in Article 2 together.</p> <p>Justification: Consistency</p>	<p>Partially accepted</p> <p>The numbering is not changed because that would be against the Commission guide for amending regulations.</p>	Replace PtF by permit to fly in the entire proposal.
54.	Regulation 1702/2003 The new paragraph	Experimental Aircraft Association	<p>In new paragraph 15 to article 2 add a third sentence: All aircraft for which application for approval was made</p>	<p>Not accepted. Eligibility for a Part 21 PtF under 21A701(a)15 will be assessed when an application for a PtF is made.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	15 to article 2 Part 21, 21A.701(15)	Sweden	<p>before 28 September 2003 under the rules of a member state relating to historic aircraft at that time are eligible for a permanent Permit to fly under this regulation.</p> <p>Justification: EAA Sweden has since many years a delegation from the Swedish CAA to handle the amateur build sector of aviation. In 1998 this delegation was extended to include also the issuance of the Permit to fly for these aircraft.</p> <p>The Swedish Civil Aviation Regulations for amateur built aircraft (BCL-M5.2) valid before the EASA regulations came into force has a provision for classifying also certain old (historic) aircraft as “amateur built” to make it possible to keep them flying and maintained by the owner at a lower cost compared to if they had to be maintained by approved organisations.</p> <p>Some of these aircraft are meeting the exemption criteria in Annex II (a) for historic aircraft, others do not. There is today a great uncertainty what aircraft will be deemed by the Agency to be types that should have Permit to fly issued under the new Subpart P of Part 21.</p> <p>There should not be any reason for the Agency to determine if these aircraft are eligible for a Permit to fly under Subpart P since there is already a proven safe environment experienced in many countries as stated in the Regulatory Impact Assessment.</p>	<p>However, if the authority to issue PtF was formally delegated to the Experimental Aircraft Association Sweden in accordance with Swedish law, they are considered to have been issued by the competent authority and they would be grandfathered by the new article 2.15.</p>	
55.	Regulation 1702/2003 Article 2, para 15	de Havilland Support Ltd	<p>It is proposed that the following additional sentence be added to Article 2, para 15:</p> <p>“In the case where an aircraft has been authorized by the Member States for the issue of a Permit to Fly or has previously held a Permit to Fly in a Member State, and where that Permit to Fly was not current and valid on 28th March 2007, such aircraft are deemed to be acceptable for the future issue of a Permit to Fly in accordance with this Regulation until</p>	See response to comment No. 51	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>further notice.”</p> <p>Justification: This para 15 of Article 2 seems to make provision for the ‘grandfathering’ of aircraft already on a PtF on 28th March 2007. However, as explained in the descriptive text, no account is taken of aircraft which have been accepted as eligible for a PtF or have previously held a PtF, where the PtF is not valid on the specific date of 28th March 2007. There will be many of these aircraft which are in the course of long-term rebuild or repair and given the nature of some of these aircraft as old or ‘vintage’ in nature, these maintenance activities can take may years to complete. Therefore, allowance must be made for these aircraft not having a valid PtF on 28th March 2007. Moreover, the cut-off date for full transition to an EASA PtF on 28th March 2008 places an unreasonable burden on aircraft owners to complete the rebuild and have a PtF issued. This date should be removed and an indefinite time allowed for those aircraft on long term rebuild to be brought to fitness for flight</p>		
56.	Regulation 1702/2003	Europe Air Sports	<p>The grandfather clause is welcome, but does not cover the following circumstances:</p> <ul style="list-style-type: none"> • An aircraft on long term restoration that would qualified for a PtF under existing arrangements on completion • An aircraft currently on C of A that, in consequence of changing circumstances (eg an orphan that the NAA is no longer able to support) has to revert to a PtF after the new system has been introduced <p>Justification: Both the above circumstances do occur, and will continue to occur after the change to EASA PtF, so provision needs to be made to accommodate aircraft that fall into</p>	<p>Noted.</p> <p>- If the flight conditions were already approved, then these are grandfathered, otherwise the flight conditions need approval by the Agency or a DOA in accordance with 21A.710.</p> <p>- Such cases are not covered by the grandfathering provision. However, a PtF can be issued using the new Subpart P.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			those circumstances		
57.	Regulation 1702/2003 The new paragraph 15 to article 2. Part 21, 21A.701(15)	CAA-Sweden	<p>It should be possible to issue a Permit to fly under this new Part 21 subpart P for aircraft not exactly meeting the “51% rule” in regulation 1592/2003 Annex II (c) for which application of approval was made before 28 September 2003 under the rules of a member state relating to amateur built aircraft.</p> <p>Justification: According to the Swedish Civil Aviation Regulations for amateur built aircraft it is possible to classify certain old/historic aircraft as “amateur built”. The reason for this is to keep them flying and maintained by the owner at a lower cost compared to if they had to be maintained by approved organisations. Some of these aircraft meets the criteria in Annex II (a), some do not.</p> <p>According to the Regulatory Impact Assessment there is already a proven safe environment experienced in many countries, therefore, it should not be any reason for the Agency to determine if these aircraft are eligible for a Permit to fly under subpart P.</p>	<p>Noted. If the aircraft meets the eligibility criteria of 21A.701 the issuance of a PtF is possible.</p>	
58.	Regulation 1702/2003 New paragraph 15 to article 2	Eurocopter Deutschland	<p>“15. The conditions determined before 28 March 2007 by the Member States for permits to fly, or equivalent documents issued established for the same purpose by Member States before 28 March 2007, are deemed to be determined in accordance with this Regulation.</p> <p>The permits to fly, or equivalent documents issued established for the same purpose, issued by Member States before 28 March 2007; are deemed to be issued in accordance with this Regulation until 28 March 2008.”</p> <p>Justification: The date 28 March 2007 should actually refer to both permits to fly and equivalent documents established for the same purpose. The current draft opinion is likely to be</p>	<p>Partially accepted.. See response to comment No. 51</p>	

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			understood that this date does only refer to equivalent documents established for the same purpose as it is written within the same phrase between commas.		
59.	Regulation 1702/2003 New paragraph 15 to article 2	DGAC France	<p>Modify new paragraph 15 to article 2 as follows:</p> <p>“15. The conditions determined by the Member States for PtF; (editorial: delete that comma) or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be determined in accordance with this Regulation <u>unless the agency determines that such conditions do not provide for a level of safety equivalent to that required by the basic Regulation or this regulation.</u></p> <p>The PtF, or equivalent documents issued for the same purpose by Member States before 28 March 2007, are deemed to be issued in accordance with this Regulation until 28 March 2008.”</p> <p>Justification: Similarly to ‘deemed determination’ of airworthiness codes within 2.3.(a).(i),4th bullet of this regulation, there shall be here a provision to mitigate an automatic approval by possible evaluation of achieved safety.</p> <p>Also, the comma after PtF is leading to ambiguous understanding: It could be understood that the “equivalent documents” refers to an alternative to “conditions”. It is proposed to delete the comma so it reads “PtF or equivalent documents...”</p>	Partially accepted.	See new article 2.15
60.	Regulation 1702/2003 paragraph 11 of article 2 Draft Opinion Regulation 1702/2003 Part 21	DGAC France	<p>1) Modify 1702/2003 paragraph 11 of article 2 as follows:</p> <p style="padding-left: 40px;">11. Until 28 March 2007, Member States.....</p> <p style="padding-left: 40px;">Until 28 March 2007, an aircraft...</p> <p>2) Delete within 21.A.701 the case 15. Rename case</p>	<p>1) Not accepted. It has been agreed that from 28-03-07 the design aspects of the PtF are Agency competence</p> <p>2) through 6) Not accepted. Currently the R-C of A option is already available for the</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	<p>paragraph 21A.701</p> <p>paragraph 21A.719</p> <p>paragraph 21A.703</p> <p>form 20</p> <p>Draft Decision AMC/GM to Part 21</p> <p>paragraph GM 21A.179</p>		<p>“16” into case “15”.</p> <p>3) Delete paragraph 21.A.719 (b) and delete the numbering “(a)”. The paragraph becomes “A permit to fly is not transferable”.</p> <p>4) Modify 21A.703 as follows: Any natural or legal person shall be eligible as an applicant for a permit to fly except for a permit to fly requested for the purpose of 21A.701(a)(15) where the applicant shall be the owner.</p> <p>5) Modify form 20, bullet 5. to read simply “Holder” by deleting in case of a permit to fly issued for the purpose of 21A.701(a)(15) this should state: “the registered owner”}</p> <p>6) Modify GM 21A.179 the beginning of the sentence “Except for permits...without TC holder,”. Except for permits to fly issued under 21A.701(a)(15), like aircraft without TC holder, a A permit to fly is issued...</p> <p>Justification: The article 5 paragraph 3 subparagraphs a) and b) of the regulation EC 1592/2002 states clearly that permanent flight authorisations for an aircraft not conform to the essential requirements are Restricted Certificates of Airworthiness.</p> <p>The proposed case 15) defined in 21A.701 for a permit to fly is not a case for a permit to fly but for a restricted Certificate of Airworthiness. Moreover this is confirmed by the fact that the NPA proposes that the name of the permit to fly responsible does not appear on the permit to fly.</p> <p>Form 20 wording states that this permit to fly allows flying within the Member States. It seems to be in</p>	<p>same category of aircraft. The reason for this option to be currently not appropriate for all aircraft concerned is the absence of an alternative maintenance regime commensurate to the use and safety level of the aircraft. In addition it is not appropriate to catch up aircraft which have been operating under a national PtF to a standard which would allow the issuance of a (R-) C of A.</p>	

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			<p>contradiction with the basic regulation as explained below:</p> <ul style="list-style-type: none"> - The essential requirements 1.(d) of the CE 1592/2002 asks for the implementation of « continuing airworthiness ». - EASA has adopted regulation CE 2042/2003 to implement continuing airworthiness of aircraft. - Regulation 2042/2003, article 3, paragraph 3 states that “ <i>the continuing airworthiness of aircraft holding a permit to fly shall, without prejudice to Community law, be ensured on the basis of the national regulations of the State of registry.</i> » - Common rules for continuing airworthiness of those aircraft under permit to fly, uniform for all member states are not yet defined. (It could be specific or to apply CE2042/2003 to those aircraft.) - It is reminded that the objective of regulation 1592/2002, article 2, paragraph 2(d) are to provide <i>a basis for a common interpretation and uniform implementation of its provisions, and by ensuring that its provisions are duly taken into account in this Regulation and in the rules drawn up for its implementation.</i> In that case, for aircraft under such a permit to fly, that objective is not yet achieved. - EASA is proposing in this NPA the rules for the implementation of « permit to fly » according to article 5, paragraph 4(e) of CE 1592/2002. - As those implementing rules are incomplete and to not cover continuing airworthiness, they cannot be considered to be delivered in accordance with this regulation. - Article 8 paragraph 1 of CE 1592/2002 is the automatic recognition of certificates issued in accordance with this regulation. It implies that permit 		

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			<p>to fly which are issued without a common continuing airworthiness requirement cannot be recognized by other member states automatically, but only on a case by case basis after further investigation. Such a flight permit cannot be recognized valid to fly over member states other the aircraft registration one.</p> <p>- Article 8 paragraph 2 of CE 1592/2002, still allows taking care of certificates which cannot be issued in accordance with this regulation and that may be issued on the basis of the applicable national regulations.</p> <p>This is why DGAC is proposing an alternative to deal with this issue as follows:</p> <p>The proposal for the modification of article 2 of the 1702 would leave the necessary time to the EASA to prepare an adequate set of rules for the aircraft concerned. For example, as this kind of Restricted Certificate of Airworthiness could not be of an ICAO level, a modification of 2042 would be necessary to exempt those not ICAO Level Restricted Certificate of Airworthiness.</p> <p>The current 21.A.701 case 16 renumbered 15 would allow the EASA to grant a permit to fly in case of a necessity.</p>		
61.	Regulation 1702/2003 Article 2, para 15	European Council of General Aviation Support (ECOGAS)	<p>It is proposed that the following additional sentence be added to Article 2, para 15:</p> <p>“In the case where an aircraft has been authorized by the Member States for the issue of a Permit to Fly or has previously held a Permit to Fly in a Member State, and where that Permit to Fly was not current and valid on 28th March 2007, such aircraft are deemed to be acceptable for the future issue of a Permit to Fly in accordance with this Regulation until further notice.”</p>	See response to comment No. 51	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Justification: This para 15 of Article 2 seems to make provision for the ‘grandfathering’ of aircraft already on a PtF on 28th March 2007. However, as explained in the descriptive text, no account is taken of aircraft which have been accepted as eligible for a PtF or have previously held a PtF, where the PtF is not valid on the specific date of 28th March 2007. There will be many of these aircraft which are in the course of long-term rebuild or repair and given the nature of some of these aircraft as old or ‘vintage’ in nature, these maintenance activities can take many years to complete. Therefore, allowance must be made for these aircraft not having a valid PtF on 28th March 2007. Moreover, the cut-off date for full transition to an EASA PtF on 28th March 2008 places an unreasonable burden on aircraft owners to complete the rebuild and have a PtF issued. This date should be removed and an indefinite time allowed for those aircraft on long term rebuild to be brought to fitness for flight.</p>		
62.	21A.139	CAA-UK	<p>Paragraph 21A.139 vi (Sub-part G) – The component of the quality system “Inspection and testing, including production flight tests” should be split into two components: “inspection and testing” and “production flight testing”.</p> <p>Suggested text: 21A.139 (b)1: (vi) Inspection and testing, including production flight tests. (xvi) Production flight tests.</p> <p>Justification: Production flight testing will have its own unique set of procedures totally different from those required for routine inspection and testing procedures. Furthermore only a limited number of POAs will need the production flight test procedures whereas all POAs will need procedures for inspection and test. The term “production flight test “ currently used here only leads to confusion in</p>	<p>Not accepted. The comment is on a paragraph which is not part of the NPA and the comment provider has not made clear what the link is with the issuance of PtF.</p>	

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			a standard POA.		
63.	SECTION B - SUBPART A ?	Dassault Falcon Service	<p>Question : Does the PtF allow to overfly all EASA members countries or is it necessary to request an overflight clearance to each country concerned by flight</p> <p>Justification: Currently, when a PtF is issued by an EASA member country on an EASA aircraft, we must request an overflight clearance to each country concerned by the flight.</p> <p>In order to obtain a standard in all EASA member countries, the PtF will be able to be valid in all EASA member countries without any additionnal procedure or clearance.</p>	<p>Noted. See response to comment No. 2.2 The need for a request for overflight will depend on the applicable national operational rules.</p>	
64.	Subpart G, J and P.	Airbus SAS	<p>SUBPART G — PRODUCTION ORGANISATION APPROVAL 21A.163 Privileges In proposed paragraph 21A.163 (e), change reference to 21A.711 (b) into 21A.711 (c).</p> <p>21A.165 Obligations of the holder In proposed paragraph 21A.165 (j), change reference to 21A.711 (b) and 21A.711 (c) into 21A.711 (c) and 21A.711 (d) respectively..</p> <p>SUBPART J — DESIGN ORGANISATION APPROVAL 21A.263 Privileges Change proposed paragraph 21A.263 (c) (6) as follows: ... (6) to approve the conditions under which a permit to fly can be issued, except: - for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, if the holder of the design organisation</p>	<p>a) Not accepted. It is not necessary to limit the DOA privilege to approve the flight conditions to the TC holder or TC-applicant. This privilege is limited by the terms of the approval which will be based on the specific design capabilities of the organisation concerned. This could also be STC designers.</p> <p>b) Accepted. See response to comment nr 1.</p>	

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			<p>approval is or acts on behalf of the holder of or the applicant for the type certificate of the aircraft concerned, and</p> <ul style="list-style-type: none"> - as prescribed by the Agency or the Competent Authority , if the holder of the design organisation approval is not and does not act on behalf of the holder of or applicant for the type certificate of the aircraft concerned. <p>Add new paragraph 21A.263 (c) (7) as follows: (7) if also being or acting on behalf of the holder of or the applicant for the relevant type certificate, to issue a permit to fly in accordance with 21A.711(b) for an aircraft it has designed and amend it in accordance with 21A.717(b).</p> <p>21A.265 Obligations of the holder Add new paragraph 21A.265 (g) as follows: g) Establish compliance with 21A.711(b) and (c) before issuing or amending a permit to fly (EASA under the privilege of 21A.263(c)(6), where applicable</p> <p>SUBPART P – PERMIT TO FLY 21A.711 Issue of a permit to fly Add a new paragraph 21A.711 (b) as follows: (b) An appropriately approved design organisation may issue a permit to fly (EASA Form 20A, see Appendix) for an aircraft it has designed and is or acts on behalf of the holder of, or applicant for the type certificate, when the aircraft is in conformity with the applicable design data under which the conditions or restrictions for flight have been established and approved in accordance with 21A.710(a) for the purpose of:</p> <ul style="list-style-type: none"> (i) Development; (ii) Showing compliance with regulations or 		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>certification specifications;</p> <p>(iii) Design organisations or production organisations crew training;</p> <p>(iv) Flying the aircraft for Authority acceptance;</p> <p>(v) Market survey, including customer's crew training;</p> <p>(vi) Exhibition and airshow;</p> <p>(vii) Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage;</p> <p>(viii) Flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available;</p> <p>(ix) Air racing or record breaking;</p> <p>(x) Flying aircraft meeting the applicable airworthiness requirements before conformity to the environmental requirements is shown;</p> <p>(xi) For recreational flying activity on individual aircraft or types for which the Agency agrees that a certificate of airworthiness or restricted certificate of airworthiness is not appropriate.</p> <p>(xii) Any other purpose agreed by the Agency.</p> <p>Re-number proposed paragraphs 21A.711 (b) and 21A.711 (c) into 21A.711 (c) and 21A.711 (d).</p> <p>21A.717 Amendment Change paragraph 21A.717 (b) as follows: (b) by the holder of a design or production organisation approval, within its terms of approval and under the</p>		

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			<p>relevant procedures of its quality system.</p> <p>Justification:</p> <p>a) Although the Agency clearly expresses in Explanatory Note Sect.IV/17 its intention to distinguish between DOA holders who also are TC holders/applicants for the aircraft concerned and those DOA holders who have no design capability for that aircraft type, Part21.A263(C) (6) as written in the NPA does not specify different privileges.</p> <p>Airbus considers it necessary to grant to TC holders/applicants (or design organizations acting on their behalf under the general provision of 21A.2) the approval of flight conditions for all situations except “for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified”, as proposed with the NPA.</p> <p>For other DOA holders Airbus sees the need to limit privileges as they may not necessarily have the detailed knowledge of the aircraft and its overall characteristics. Therefore Airbus proposes to directly involve the Agency/ Competent Authority for approval of P-t-F flight conditions in these cases.</p> <p>b) Airbus considers that DOA holders that are also holding, or have applied for the relevant product TC, or are acting on behalf of the TC holder or applicant under the general provision of 21A.2, should have the privilege of issuing a permit to fly (in addition to defining and approving associated conditions/limitations).</p> <p>This would remove an inconsistency for TC holder/applicant having both a DOA and POA organisation approvals in that their POA organisation can only issue PtF for the purpose of production flight testing while their DOA organisation is entitled to define and approve P-t-F flight conditions for all situations except</p>		

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			<p>first flight of a new aircraft type or of an aircraft with significantly modifies flight/piloting characteristics.</p> <p>In practice this means, for example, that a DOA-/TC-holder may approve P-t-F flight conditions for flights with an installed, but not-yet approved, Major Change while its POA approved organisation would have to apply for Authority/Agency approval of the related P-t-F.</p> <p>This may be considered appropriate when the DOA-holder is not or does not act on behalf of the TC-holder, who insofar has not the detailed overall knowledge of the aircraft and its characteristics.</p> <p>But in case of DOA and POA holder also being or acting on behalf of the TC-holder/applicant, this inconsistency would go against the Agencies' expressed intention to smoothen the P-t-F approval process.</p> <p>Furthermore, the introduction of a DOA privilege to issue Permits-to-Fly would be more reflecting the actual organisation and respective responsibilities of DOA and POA organisations belonging to TC holders/applicant for complete aircraft.</p> <p>In particular , it is known that in Subpart J Design Organizations, flight test and prototype aircraft remain under DOA/Engineering/Flight Test Department responsibility for certain categories of flights eligible to be conducted under P-t-F. This is the case, in particular, for aircraft conducting flights for development or to show compliance with regulations/certification specifications. This current situation is covered in Part 21 Subpart J 21.A245, where the DOA holder is required to ensure all accommodations, facilities and equipments are available to achieve the airworthiness and other objectives. Part 21 Subpart J does not require that prototype and flight test aircraft have to be under POA responsibility. Thus, as written today, the NPA would not provide for P-t-F issuance for those aircraft, although the</p>		

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			intended flights would be covered in 21.A701 and the conditions for flight could be approved under DOA.		
65.	21A.163	Walter Geßky	<p>Pursuant to the terms of approval issued under 21A.135, the holder of a production organisation approval may:</p> <p>Add the following:</p> <p>(e) Issue a permit to fly in accordance with 21A.711(b) for production flight testing, ferry flights within production facilities or delivery flights for an aircraft it has produced and amend it in accordance with 21A.717(b) after coordination with the competent authority with regard restrictions to the airspace used for the flight and qualification of flight crew.</p> <p>Justification: This is the scope as mentioned in the NPA.</p> <p>The competent authority of the MS has to be consulted with regard to restrictions. This could also be regulated in the procedures approved by the competent authority.</p>	<p>Not accepted.</p> <p>The scope of the POA privilege is limited in the proposed 21A.711(c). Moreover the text of 21A.163(e) is simplified by only referring to 21A.711(c)</p> <p>The PtF is a certificate attesting that the aircraft can perform safely a basic flight in accordance with Regulation (EC) No 1592/2002 article 5.3(a) if operated within the conditions and restrictions as specified on the PtF. It is valid in all EU member states in accordance with article 8 of that Regulation. However, as usual, the operator will also have to comply with applicable operational rules. These will only apply as far as they are outside the scope of the conditions as mentioned in 21A.708(b)</p>	
66.	21A.165	Walter Geßky	<p>The holder of a production organisation approval shall:</p> <p>Add a new</p> <p>(f)4. Report to the competent aviation authority the issuance of a Permits to fly within 3 days.</p> <p>Justification: This is required because the competent authority has to surrender or revoke the PtF according 1A.723(c)</p> <p>Add a new</p> <p>(k) Verify that the aircraft is maintain according to the instructions for continued airworthiness or initial instructions for continued airworthiness</p>	<p>Partially Accepted</p> <p>A new requirement is introduced for all approval holders issuing PtF to submit a copy of the PtF they have issued to the Competent Authority:</p> <p>Not accepted</p> <p>The responsibility for maintaining the aircraft in</p>	See new 21A.711(f)

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			<p>issued by the DOA.</p> <p>Justification: POA is responsible that the aircraft is maintained according to the ICA's issued by the DOA.</p> <p>Add a new</p> <p>(1) Establish a system of record keeping that allows adequate traceability of the process of issuance of the PtF.</p> <p>Justification: Record keeping should be clarified.</p>	<p>accordance with the approved flight conditions is in accordance with 21A.727 the holder of the PtF. The holder of the PtF in cases where the PtF is issued by an approved organisation is that organisation.</p> <p>Partially accepted Organisation approval requirements are amended to make clear that the new privilege is also covered by the quality system or design assurance system which includes the procedures for record keeping</p>	
67.	21A.179(b)	Air France	<p>(b) Where ownership of an aircraft has changed, and the aircraft has (1) a restricted certificate of airworthiness not conforming to a restricted type-certificate, or (2) a permit to fly; such airworthiness certificate shall be transferred together with the aircraft provided the aircraft remains on the same register, or issued only with the formal agreement of the competent authority of the Member State of registry to which it is transferred.</p> <p>Justification: Typographic errors.</p>	<p>Accepted In addition the word "such" is replaced by "the"</p>	See new 21A.179
68.	21A.263	Turbomeca	<p>To add the following: " 7. To approve the installation/operating/continued Airworthiness instructions to meet for a not-certificated engine intended to be fitted on a rotorcraft which will fly under a Permit to Fly."</p> <p>Justification: The above privilege reflects current usage in France for prototype Turboshaft engine flight clearance which are approved by the engine manufacturer. This applies also</p>	See response to comment no. 3	

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			<p>for engines fitted on prototype rotorcraft made by rotorcraft manufacturer from another Member State.</p> <p>The non incorporation of this privilege will lead to significant burden to Turboshaft engine manufacturers without any benefit for safety.</p>		
69.	21A.263 AMC 21A.263 (c)	Dassault Falcon Service	<p>Add § (c) 7 as follows : (c) The holder of a design organisation approval shall be entitled, within its terms of approval and under the relevant procedures of the design assurance system:</p> <p>§7. For non-significant change and for flight tests that require non regression tests or tests for system(s) which has(ve) been already approved on other type-certificated aircraft, to issue a permit to fly if at least one pilot from the aircraft manufacturer is on board</p> <p>In AMC21A.263, add a paragraph (c)7 for procedure for the issue of a PtF by a DOA holder : The PtF is issued by Airworthiness Office as Authorised Signature (like POA holder)</p> <p>Justification: - the crew is composed of pilots from DOA holder and from manufacturer which has its own POA - the system was already evaluated and certified by Panel 1 or the system(s) has(ve) been already approved on other type-certificated aircraft - this privilege can be allowed for manufacturer (POA holder) subsidiary or representative with particular agreements</p>	<p>Partially accepted. The principle that a DOA can issue a PtF is agreed but the exact description of the privilege is different from the comment provider’s proposal.</p>	See new 21A.263(c)(7)
70.	21A.263	ENAC	6. Except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, to approve the conditions under which a permit to fly can be issued	<p>Noted. The interpretation of “initial” will develop during the use of this provision. The DOA will have to establish a procedure for the use of</p>	

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			<p>Justification: The definition of “initial flights” is not univoque and may lead to difficult and controversial interpretations. It is ENAC opinion that if the assessment made for he product under investigation results in the need for identifying it as a new model, the conditions under which a Permit to Fly can be proposed must be approved by the Authority.</p> <p>On the other hand the concept of “initial flights” may lead to controversial interpretations and the “flexibility” provided by the concept could be nullified by the need of providing an adequate oversight of the process for all those cases where the knowledge of the product and /or of the organization is limited. Therefore, it is ENAC opinion that removing the concept of “initial flights” would allocate more correctly the privileges of the DO.</p>	<p>the privilege to be accepted by the Agency.</p>	
71.	21A.263	Walter Geßky	<p>(c) The holder of a design organisation approval shall be entitled, within its terms of approval and under the relevant procedures of the design assurance system:</p> <p>Add the following:</p> <p>6. Except for initial flights of a new type of aircraft, significant major changes or STC's or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, to approve the conditions after coordination with the competent authority with regard restrictions to the airspace used for the flight and qualification of flight crew and the minimum required instructions for continued airworthiness under which a permit to fly can be issued.</p> <p>Justification: PtF for initial flights of a new type of aircraft and significant major changes or STC have to be issued by the competent authority of the MS. The flight conditions</p>	<p>Partially accepted. It is agreed that initial flights of aircraft modified by a significant major changes or significant STC should be excluded from the privilege to approve flight conditions.</p> <p>Not accepted. This issue is outside the scope of Part 21. Nevertheless the newly proposed guidance to the privileges of approved organisations to issue PtF is making the organisation aware of the need to contact the local authority for the operational etc. aspects of the flight.</p>	See new 21A.263(c)(6).

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			<p>necessary for safe operation of the aircraft requires approval of EASA. In addition the minimum required ICA's has to be provided.</p> <p>Restrictions with regard to the airspace used for the flight and qualification of flight crew are for the moment based on national law and require involvement of the NAA of the MS</p>		
72.	21A.263 & 21A.265	FR Aviation	<p>Both the section on privileges and obligations indicate that the proposed extended scope of DOA approval is limited to approving the conditions under which a Permit to Fly can be issued. Throughout the proposed new subpart P, the actual issuance of the Permit to Fly is via the Competent Authority, this is determined by the authority designated by the member state of registry.</p> <p>Section V, Regulatory Impact Assessment. Paragraph 4.2 Option 2 (page 13) states "This could be further improved by allowing other recognized bodies to evaluate and <u>issue</u> PtF under agreed procedures or privileges associated with a DOA or POA or by an NAA".</p> <p>Is it the intent to extend DOA privileges if appropriate, to allow the actual issue of a Permit to Fly based on recorded limitations within the scope of approval? If so, this would suggest that DOA privileges may be extended to limited Competent Authority status and it is assumed that this will be determined by the member state of registration. Is this interpretation correct and if not, the excerpt from section V above is possibly misleading.</p> <p>Justification: Self explanatory.</p>	<p>Accepted. See response to comment nr 1</p>	
73.	21A.263 and its AMC	DGAC France	<p>Clarify within 21.A.263 the words "within its approval" and expend the AMC to address explanation of "within its approval" used in 21.A.263.</p> <p>Justification:</p>	<p>Noted. The privilege will be granted only after a positive assessment of the relevant capabilities and procedures of the DOA and is then included in the terms of approval. In addition, in AMC 21A.263(c)6 it is made clear that</p>	

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			<p>DGAC Fr is not sure to have understood the use of “within its approval” words in the paragraph 21.A.263. There is a risk that a DOA holder has a privilege of PtF issuance “within its approval”, but has not the DOA expertise to issue a PtF for an aircraft that is modified in areas outside the scope of the DOA.</p> <p>The AMC shall be expended to clearly state when a DOA holder has sufficient expertise to issue a PtF in relation with a scope of design knowledge and flight safety assessment. For example, an STC design holder may not be able to assess the conditions on how to perform a flight for a more « significant » aircraft change than its own STC area. He may have to involve the TC holder.</p>	<p>also the justifications made under this privilege are subject to an independent verification in accordance with the general principles of DOA.</p>	
74.	21A.263(c)6	Airbus Transport International	<p>- Correct subparagraph (c)6. as follows: “(6) to issue a permit to fly (EASA Form 20b, see Appendix) for an aircraft it has designed, or following a STC to this aircraft it has designed, for the following purposes:</p> <ol style="list-style-type: none"> 1. Development; 2. Showing compliance with regulations or certification specifications; 3. Design organisations or production organisations crew training; 4. Delivering or exporting the aircraft; 5. Flying the aircraft for Authority acceptance; 6. Market survey, including customer’s crew training; 7. Exhibition and airshow; 8. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage; 9. Flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing 	<p>Partially accepted. See response to comment nr. 1</p>	

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			<p>facilities or appropriate fuel is not available;</p> <p>10. Flying aircraft meeting the applicable airworthiness requirements before conformity to the environmental requirements is shown;</p> <p>11. Any other purpose agreed by the Agency.”</p> <p>- Add a new Form 20b to be used by DOA holders for issuing Permit to fly (similar to Form 20a).</p> <p>Justification: Not giving PtF issuance privilege to DOA holders will lead to:</p> <ul style="list-style-type: none"> - heavy economical burden put on the STC holders, - heavy administrative burden on NAAs. <p>Considering the present lack of resources in specialists in the NAAs (partly due to the creation of EASA), foreseen resulting increased delays will not be compatible with our industry's time constraints.</p>		
75.	21A.263(c)6	EADS Elbe Flugzeugwerke GmbH	<p>Modify proposed text to:</p> <p>“Except for ..., to approve the conditions in accordance with 21A.709(a)(2) under which a permit to fly can be issued containing the following statement: “The technical content of this document is approved under the authority of DOA nr. [EASA].J.[xyz].”</p> <p>Justification: This modifications aims</p> <ul style="list-style-type: none"> - to clarify and to be consistent with the content of the conditions by referring to 21A.709(a)(2), - to clearly indicate the approval status of the conditions and to be consistent with the existing privileges by adding the approval statement – by this modification the wording would be in line with respective proposed new AMC 21A.263(c)(6) para. 2.4.1. 	<p>Noted A link to 21A710(a)(1) is more appropriate.</p> <p>The approval statement is covered by AMC 21A.263(c)(6) flight conditions approval form block 9.</p>	See new 21A.263(c)(6)
76.	21A.263(c)6	Virgin Atlantic	Virgin Atlantic’s understanding is that a DOA holder		

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		Airways	<p>who holds a privilege under 21A.263(c)(6) can approve, per 21A.710(a)(1)(ii), the flight conditions for a damaged aircraft to fly home from a remote location in accordance with a procedure developed from AMC 21A.263(c)(6). These approved flight conditions are then included in the permit to fly issued by the Competent Authority per 21A.711.</p> <p>Please can the Agency confirm that:</p> <p>i) This interpretation is correct YES /NO?</p> <p>ii) The TCH's involvement is not required YES / NO?</p> <p>Justification: To confirm that a DOA holder does not require TCH involvement in determining & approving flight conditions under the privilege of 21A.263(c)(6). Note TCH involvement may be helpful but is not a mandatory requirement.</p>	<p>i) Yes</p> <p>ii) TC holder involvement is not mandatory if the information on which the evaluation of the flight conditions should be done, is available from the DOA holders own resources.</p>	
77.	21A.263(c)6	Eurocopter	<p>(b) Subject to 21A.257(b), compliance documents submitted by the applicant for the purpose of obtaining:</p> <p>1. a permit to fly for initial flights of a new type of aircraft or an aircraft whose flight and/or piloting characteristics have been modified.</p> <p>2. a type certificate or approval of.....</p> <p>(c) The holder of a design organisation approval shall be entitled, within its terms of approval and under the relevant procedures of the design assurance system:</p> <p>....</p> <p>6. Except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, to approve the conditions</p>	<p>Partially accepted.</p> <p>The proposal is consistent with existing 21A.263(b) privilege, for cases where the DOA has no privilege to approve himself the flight conditions.</p>	See new 21A.263 (b)(1)

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			<p>under which a permit to fly can be issued.</p> <p>Justification: To stringent. It is a need to relay as far as possible on competencies inside recognized DOA. Research programs or prototype flight must be managed under DOA responsibility for more flexibility and time saving.</p>		
78.	21A.263(c)6	Eurocopter	<p>(c) The holder of a design organisation approval shall be entitled, within its terms of approval and under the relevant procedures of the design assurance system:</p> <p>....</p> <p>6. to approve the conditions under which a permit to fly can be issued.</p> <p>7.to issue a permit to fly</p> <p>Justification: To stringent. It is a need to relay as far as possible on competencies inside recognized DOA. Research programs or prototype flight must be managed under DOA responsibility for more flexibility and time saving.</p>	Partially accepted. A new privilege is added to issue the PtF. See also comment 1.	See new 21A.263(c)(7)
79.	21A.263(c)6	DGAC France	<p>Clarify the paragraph.</p> <p>Justification: The DOA holder can have the privilege to approve the conditions of a flight under a PtF except when “whose flight and/or piloting characteristics may have been significantly modified.” What are the criteria for this exception? Is it linked to a “significant” design change as per Part 21? There is a risk that the DOA holder underestimates the impact on the piloting characteristics and lets easily himself to approve the conditions. Usage of word “significant” shall be confirmed and guidelines should be provided.</p>	Accepted See response to comment 71	See new 21A.263(c)(6)
80.	21A.263(c)7	Diamond Aircraft	D: Adding the privilege e.g. 21A.263(c) 7.:	Partially accepted.	See new

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		Ind. GmbH	<p>“Issue a permit to fly in accordance with 21A.711(d) for an aircraft for which it holds the type certificate or has applied for and amend it in accordance with 21A.717(b).”</p> <p>Adding 21A.711(d):</p> <p>“An appropriately approved design organisation may issue a permit to fly (EASA Form 20B) for an aircraft for which it holds the type certificate or has applied for, under procedures agreed with the Agency after the conditions have been approved according to 21A.710 for the following purposes:</p> <ol style="list-style-type: none"> 1. Development; 2. Showing compliance with regulations or certification specifications; 3. Design organisations or production organisations crew training; 9. Market survey, including customer’s crew training; 10. Exhibition and airshow. <p>Except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified.</p> <p>Prior to the issue of a PtF for purpose 1 the flight test program has to be agreed with the Agency.”</p> <p>Changing: 21A.717 (b) “by the holder of a production <i>or design</i> organisation approval, ...”</p> <p>Justification: In the NPA it is planned that a DOA could hold the privilege to approve the conditions for the issue of a PtF with some restrictions. After the compliance to this conditions is shown the DOA should hold the privilege to issue the PtF for the above mentioned purposes (with the</p>	See response to comment 1	21A.263(c)(7) and 21A.711(b)

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			same restrictions) under procedures agreed with the Agency. For development purposes a flight test program should be agreed with the Agency prior to the issue of the PtF.		
81.	21A.263, GM21A.263(c)(6)	Dassault Aviation	Some guidance (examples) will be beneficial about "significant" modification of flight and/on piloting characteristics.	Noted It is agreed that guidance would be useful but it is not per se necessary since the Agency will establish the scope of the DOA approval including its privileges. The DOA holder or applicant will have to propose procedures for making this classification to be agreed by the Agency. Additional guidance may be developed at a later stage.	
82.	21A.265	Turbomeca	<p>To add the following: " (g) where applicable under the privilege of 21A.263(c)(7), determine the installation/operating/continued Airworthiness instructions to meet for a not-certificated engine intended to be fitted on a rotorcraft which will fly under a Permit to Fly."</p> <p>Justification: The above engine manufacturer privilege reflects current usage in France for prototype Turboshift engine flight clearance. This applies also for engines fitted on prototype rotorcraft made by rotorcraft manufacturer from another Member State.</p> <p>The non incorporation of this privilege will lead to significant burden to Turboshift engine manufacturers without any benefit for safety.</p>	Not accepted. However clarifications are proposed in a new AMC 21A.263(b)(1). See response to comment 3.	
83.	21A.265	ENAC	<p>Change the proposed par. (f) as follows:</p> <p><i>“ (f) Where applicable, under the privileges of 21A.263(c)(6), develop relevant internal procedures to guarantee that the activity for which the P.t.F. is required can be carry out safely and determine the associated flight conditions. “</i></p>	Not accepted. The requirement to develop procedures is included in 21A.239(a), 21A.243(a) and 21A.245, for all activities under the terms of approval.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Justification: In order to exercise the privilege granted to the DOA, the organization shall demonstrate to have the capability to carry out the activity safely.</p>		
84.	21A.265	Walter Geßky	<p>The holder of a design organisation approval shall: Add the following:</p> <p>(f) Where applicable, under the privilege of 21A.263(c) (6), determine the conditions after coordination with the competent authority with regard to the airspace used for the flight and qualification of flight crew and issue a statement that based on analysis and tests the aircraft has no features and characteristics making it unsafe for the intended operation under the defined conditions and restrictions and the aircraft configurations under which a permit to fly can be issued.</p> <p>Justification: Flights under a PtF for development flights and flights to showing compliance with the requirement can only be done when hazard assessments shows that the risk can be calculated and all calculations, assessments and tests to reduce this risks that no features exists making it unsafe for the flight are known and any unsafe condition is compensated by conditions and restrictions. This has to be verified by a statement of the DOA.</p> <p>Restrictions with regard to the airspace used for the flight and qualification of flight crew are for the moment based on national law and require involvement of the NAA of the MS.</p> <p>The DOA statement has also include information with regard to the aircraft configuration.</p>	<p>Not accepted. See response to comment 71.</p> <p>The issue of a statement is already addressed in 21A.709(b)</p>	
85.	Subpart P	Airbus SAS	<p>Various Part 21 Section A Subparts include specific record keeping requirements. Further, proposed Part 21 Section B, Subpart P, Paragraph 21.B545 also contains</p>	Accepted	See new 21A.729

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>specific record keeping requirements for Competent Authorities when dealing with P-t-F issues.</p> <p>To ensure consistency of P-t-F documentation within POA-/DOA-organizations and Competent Authorities, Airbus considers it necessary to clarify P-t-F record keeping requirements Part 21 Section A Subpart P, or to state in the Explanatory Note that recordkeeping has to be ensured under the POA Quality System (Part 21.A139) respectively the DOA Design Assurance System (Part 21.A239).</p> <p>Justification: Clarification and consistency of requirements for authorities and industry.</p>		
86.	Subpart P in general	LBA	<p>Clear description /way of conduct requirement for technical ferry flight under aspects of Part-M continued airworthiness (AOC maintenance) after structural damage to acft. See sample scenario description below</p> <p>Justification:</p> <p><u>Technical Ferry-Flights</u></p> <p>With regard to one of the more numerous fields of applications, the use of Ptof on technical ferry flights is not described in sufficient detail, as the primary description of the NPA is focused on use of EASA Form 20 prior to /within the certification process. It insufficiently reflects procedures and guidance for aspects with regard to continued airworthiness requirements under Part-M of Regulation 2042/2003. (AOC maintenance)</p> <p>The following section gives a sample for a common situation in airline operations and its implications with regard to airworthiness data for establishing conditions for a safe ferry flight:</p>	<p>Noted.</p> <p>The NPA proposes to use approved organisations as much as possible to provide an alternative to Agency involvement in every single PtF in order to address the issue in the most efficient way, taking into account the boundaries of existing regulations.</p> <p>It will not be possible for the Agency or the rule to force those organisations to cooperate with the operator.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p><u>Common scenario description for aspects of continued airworthiness with regard to operators / CAMO under Regulation (EC) 2042/2003, Part-M</u></p> <p>A common scenario in day to day airline operation would be for the aircraft to become damaged, for instance due to physical contact with airport ground vehicles, resulting in deformed primary / secondary airframe structure.</p> <p>CASE-A: Repair instructions are given within TC holder approved data (SRM, SB, MM) and appropriate Part-145 is available to conduct work. The repair on the basis of approved data results in restrictions, preventing the aircraft from going onto revenue service and thus requires a PtoF, for ferry flight to maintenance facility where final repair is to be carried out.</p> <p>CASE-B In case the accident damage to the aircraft can not be fully repaired on site (no adequate maintenance facility available) and repair is outside the scope of approved standard repair instructions, it may be required that the aircraft needs to be ferried in flight to a place where that repair work can be carried out to fully re-establish conformity with certification specifications.</p> <p>In such cases qualified data have to be established for a temporary repair for the aircraft to be considered fit to conduct safely a basic, non-revenue flight, possibly under pre-defined limitations (to altitude, speed etc.) to its ultimate place for rectification of damage.</p> <p><u>Conduct of technical ferry flights for operators / CAMO under Regulation (EC) 2042/2003, Part-M</u></p> <p>It is the CASE-B scenario that needs to be addressed to provide operators / CAMOs with guidance as to which is</p>		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>the appropriate organisation to develop repair procedures / data, release this and impose relevant conditions / restrictions on the aircraft in question for a ferry flight.</p> <p>It might seem appropriate to have approved repair data and associated restriction developed through a Part-21J Organisation, preferably TC holder, on which to base repair work or judgement to give consent on the safety to conduct a simple basic flight.</p> <p>Please note, that contact to TC Holder organisations with the ability to confirm matters on airworthiness cannot always be adequately established for any type of aircraft operated today within JAR-OPS 1/3, Regulation (EC) 2407/1992 companies. It is necessary to bear in mind that most situations of AOG (aircraft on ground) and technical ferry requirements will be under constraints of time.</p> <p>Solution for the above given CASE-B scenario should be clearly defined under Section P of Part-21 and should easily be read from the envisaged subchapter by all parties concerned with reference to Part-M, as this is an actual application within a conventional airline operating environment.</p> <p>Otherwise the conceptual way of conduct for this scenario should be a likely candidate for pre-defined EASA standard set of cases (possibly delegated for competent authority judgement) and with regard to economical implications be judged to be of utmost priority.</p>		
87.	21A.701	APAG (Association des Propriétaires et amateurs d'avions Gardan)	<p>21A.701 Scope</p> <p>(a) This Subpart establishes the procedure for issuing permit to fly for the following purposes:</p> <p>(...)</p> <p>15. For recreational flying activity on individual aircraft or types for which the Agency agrees that a certificate of airworthiness or restricted certificate of airworthiness is not</p>	<p>Partially accepted.</p> <p>It is made clear that this option can be used for aircraft without active TC holder, which is better legal description of "orphan" aircraft. The explanation that these are also termed "orphan aircraft" is included.</p>	See new GM 21A.701(a)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>appropriate (“<i>orphan aircraft</i>” are here concerned).</p> <p>Justification: All along the first part of the NPA detailing the content of the draft opinion and decision of the rulemaking group the case of the “orphan” type aircraft is clearly and precisely exposed with all its implications.</p> <p>When it comes to the proposed new sub-part P to be inserted, the word “orphan” no longer appears. Since in the future only this part of the NPA will remain in the Commission Regulation, we fear that the spirit of a major part of the work of the rulemaking group will be missing if 21A.701 – 15 is not completed as suggested. Written as it currently is, we feel that this point is not self-explanatory. Hence our short proposal.</p>		
88.	21A.701	ENAC	<p>For the scopes 11 and 12 under 21A.701 the affected aircraft have already a C.o.A issued under Subpart H.</p> <p>The Subpart P should clarify if the P.t.F. issuance implies at least the suspension of the ARC and the relevant provisions/procedures for the new issuance after the corrective actions have been implemented.</p>	<p>Not accepted. The C of A is automatically invalid by law (21A181(a)(1)). It becomes valid as soon as the airworthiness is restored.</p>	
89.	21A.701	ENAC	<p><u>Add new scope</u> Flying aircraft with non valid ARC</p> <p>Justification: This scope could address the case where the aircraft need to be flown after maintenance due to a long term storage or after repairs following an accident.</p>	<p>Noted. This case is covered by 21A.701(a)(11)</p>	
90.	21A.701	Walter Gebky	<p>Questions to the following (a) This Subpart establishes the procedure for issuing permit to fly for the following purposes: 7. Delivering or exporting the aircraft; Is this limited to new aircraft? 14. Flying aircraft meeting the applicable</p>	<p>No: This could also be for used aircraft</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>airworthiness requirements before conformity to the environmental requirements is shown; Is this not included in 2?</p> <p>Add to 15. 15. For recreational flying activity on individual aircraft or types or orphan aircraft for which the Agency agrees that a certificate of airworthiness or restricted certificate of airworthiness is not appropriate</p> <p>Justification: For orphan aircraft when not eligible for a Cofa or restricted CofA, a PtF can be issued. For this aircraft restrictions has to be carefully evaluated because a lot this aircraft are now operated under a standard CofA.</p>	<p>No: There may be other purposes to fly the aircraft before conformity with environmental requirements has been shown.</p> <p>Partially Accepted</p> <p>An orphan aircraft is one example of an aircraft where the agency may agree it is inappropriate to hold a C of A or R C of A. The GM to 21.A 701(a)(15) will be amended to explain this aspect.</p>	<p>See new GM 21A.701(a)</p>
91.	21A.701	DGAC France	<p>DGAC France is issuing a one time flight permit valid one month in order to wait for the final airworthiness certificate issuance which may take a bit of time.</p> <p>Does EASA consider this case as a possible item belonging to purpose (16) ?</p>	<p>Noted.</p> <p>The Agency will consider this case as a possible item under 21A.701(a)(16) when an application is made. For urgent operational needs the NAA can also use article 10.3 of Regulation (EC) No 1592/2002.</p>	
92.	21A.701(a)	Airbus SAS	<p>In paragraph 21A.701(a) the terms regulations, certification specification (in 21A.701(a)(2.)) and applicable airworthiness requirements (in 21A.701(a)(14.)) are used.</p> <p>It is considered necessary to clarify these terms with a Guidance Material to this paragraph in the Draft Decision AMC/GM to Part 21, or in the Explanatory Note</p> <p>Justification: For operation under P-t-F, the applicable regulations, certification specifications or applicable airworthiness</p>	<p>Noted</p> <p>The terms have been used in relevant context. Regulations and certification specifications have been used in respect of their definitions within the context of Part 21 and the basic regulation.</p> <p>The term “airworthiness requirements” is used to address compliance with the airworthiness elements of the certification basis and compliance with continuing airworthiness requirements.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>requirements may range from a proposed certification basis or an approved certification basis partially not complied with, to a complete new set of requirements/regulations defined for an aircraft or for a specific operation.</p>		
93.	21A.701(a)5., 6., 7., 10., 13	LBA	<p>Numbers 5+6+7 are almost a single group and 10+13 are closely related items.</p> <p>Sensible grouping would reduce numbers.</p> <p>Justification: Unnecessary detail has been provided in this section to the number of categories for application. The amount of detail is confusing and the differentiation difficult.</p>	<p>Not accepted</p> <p>The list of purposes has been carefully constructed to minimise ambiguity and facilitate ease of use. A small additional number of defined categories of use does not introduce any unnecessary complexity, but clarifies the intent of the rule.</p>	
94.	21A.701(a)6	Diamond Aircraft Ind. GmbH	<p>B: 21A.701(a) 6. should contain the following: “Flying the aircraft for customers acceptance <i>and customers crew training</i>”</p> <p>There is no provision in Subpart P for PtF for customers crew training on <u>type certificated</u> aircraft, which is excluded from 21A.701(a) 9. who addresses only this kind on training on <u>non type certificated</u> aircraft.</p> <p>Justification: Later in the production process the customer or his representative is visiting our facility for the customer acceptance flight and he receives briefing and training on his aircraft. Therefore our POA has to issue a PtF acc. 21A.701(a) 6 for this purpose, because the initial PtF for the purpose “production test flight” is no longer suitable.</p>	<p>Noted</p> <p>This is already included in 21A.701(a)(9)</p>	
95.	21A.701(a)8.	CAA-UK	<p>“Authority acceptance” should read “competent authority acceptance”</p> <p>Justification: Clarification</p>	<p>Not accepted</p> <p>It can also include acceptance by other authorities such as the importing authority.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
96.	21A.701(a)11	de Havilland Support Ltd	<p>This subpara states that it is a requirement to issue a Permit to Fly (PtF) for: Flying an aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage. The effect of this requirement is to impose on maintenance organizations significant bureaucracy and documentation in making the application in compliance with the requirements. As a result, significant cost will be incurred in terms of fees to the NAA and fees to EASA. This is a significant restriction on flexibility and aircraft operation in the UK where previous acceptance of the BCAR “Flight Under ‘A Conditions” has been used successfully for years without any difficulty. Under A Conditions the Licenced Engineer has been able to inspect the aircraft and provided certain conditions are met, he could issue a Certificate of Fitness for Flight without any reference to the NAA or now EASA.</p> <p>It is recommended that for simple aircraft under 2730 kg MTOM, the requirement for application of the full PtF process for the ferrying of aircraft for maintenance or storage is deleted. In these circumstances, Instead of the requirement for the full PtF, issued by the NAA, it should be possible for the Part M Subpart G to issue a PtF based on the recommendation of the Subpart F following an inspection of the aircraft (controlled environment). Alternatively, the Part 66 licenced engineer should be allowed to issue PtF after inspection of the aircraft (uncontrolled environment).</p> <p>Accordingly, it is recommended that 21A.701 (a) 11. be amended to read as follows [additional text in bold]:</p> <p>“11. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage. In the case of simple aircraft below 2730 kg MTWA, the Part M Subpart G may issue a PtF based on the recommendation of the Subpart F following an inspection of the aircraft</p>	<p>Partially Accepted</p> <p>New privileges are introduced for continuing airworthiness management organisations to issue PtF in certain cases.</p>	<p>See new paragraphs in Part M</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>(controlled environment); alternatively, a Part 66 licenced engineer may issue PtF after inspection of the aircraft (uncontrolled environment).”</p> <p>Justification: Adopting the above proposals would restore the flexibility which was previously allowed in the UK. To the best of my knowledge there were no accidents caused as a result of the use of the UK BCAR ‘A’ Conditions. Moreover, adoption of this suggested process for simple aircraft below 2730 kg would reduce the bureaucratic burden on the NAA and on EASA, thereby reducing the need for staffing and the costs of what is no more than a bureaucratic paper-pushing process. The result of following the proposed PtF procedure will have no physical effect on what is done to the aircraft concerned before it flies on its ferry flight and therefore will have no beneficial effect on safety. It is far better that well tried and tested pre-EASA procedures be retained and supported by the engineering community than some heavy-handed bureaucratic process by rote.</p> <p>Moreover, MDM-032 is seeking to reduce the regulatory burden on simple aircraft. The proposals for PtF as currently presented increase significantly the bureaucratic burden on this sector of aviation. By adopting the proposal above, the work of this Working Group will be seen to be in harmony with the work of MDM-032 and EASA will be seen to be working in an holistic manner. At present it looks like one committee is doing one thing, another committee is going in the opposite direction.</p>		
97.	21A.701(a)11	Association of European Airlines	<p>11. Ferry flights in cases where certain equipment outside the minimum equipment list (MEL) is unserviceable or when the aircraft has sustained damage beyond the applicable limits.</p> <p>Justification:</p>	See response to comment no. 7.1 and 10.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>A permit to fly should not be required for the operation of an aircraft outside the limits of the maintenance programme, including obviously MRBR tasks, but also AD's, CMR's or ALI. The NAA authorization should take the form of a so called "one time exemption", based upon the Operators own justifications for MRBR tasks or, in the case of AD's, CMR's or ALI, the TC Holder's concurrence. This practice has proved safe so far. The use of a PtF would imply heavy and costly additional administrative layers (validation of the PtF by all overflown countries on top of well proven lengthy EASA approval or DOA approval process).</p>		
98.	21A.701(a)11	Airbus SAS	<p>Revise 21A.701(a)(11.) to read (changes in bold): "11. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage, to a point of storage, for maintenance flight purposes, or when the aircraft does not comply with applicable airworthiness requirements."</p> <p>Justification: Addition needed for consistency with Airbus comment on Explanatory Note Section IV, Subsection 18, Scope, Item 11.</p>	See response to comment Number 42	
99.	21A.701(a)11	LBA	<p>minor change to wording: (a) 11: technical ferry flight, flying the aircraft where maintenance, REPAIR or AR is to be carried, flying FROM a place of storage</p> <p>Justification: A standard procedure is a technical ferry after temporary repair for final defect rectification at a base maintenance station.</p> <p>An aircraft is likely to deviate from std maintenance when taken out of storage and being reactivated, i.e. flying FROM a place of storage</p>	<p>Not accepted</p> <p>The case as indicated by the comment provider is covered by 21A.701(a)(11) on the basis that the flight from the place of storage will be to a place where maintenance or airworthiness review can be performed or to another place of storage.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
100.	21A.701(a)11	European Council of General Aviation Support (ECOGAS)	<p>This subpara states that it is a requirement to issue a Permit to Fly (PtF) for: Flying an aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage. The effect of this requirement is to impose on maintenance organizations significant bureaucracy and documentation in making the application in compliance with the requirements. As a result, significant cost will be incurred in terms of fees to the NAA and fees to EASA. This is a significant restriction on flexibility and aircraft operation in the UK where previous acceptance of the BCAR “Flight Under ‘A Conditions” has been used successfully for years without any difficulty. Under A Conditions the Licenced Engineer has been able to inspect the aircraft and provided certain conditions are met, he could issue a Certificate of Fitness for Flight without any reference to the NAA or now EASA.</p> <p>It is recommended that for simple aircraft under 2730 kg MTOM, the requirement for application of the full PtF process for the ferrying of aircraft for maintenance or storage is deleted. In these circumstances, Instead of the requirement for the full PtF, issued by the NAA, it should be possible for the Part M Subpart G to issue a PtF based on the recommendation of the Subpart F following an inspection of the aircraft (controlled environment). Alternatively, the Part 66 licenced engineer should be allowed to issue PtF after inspection of the aircraft (uncontrolled environment).</p> <p>Accordingly, it is recommended that 21A.701 (a) 11. be amended to read as follows [additional text in bold]:</p> <p>“11. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage. In the case of simple aircraft below 2730 kg MTWA, the Part M Subpart G may issue a PtF based on the recommendation of the Subpart F following an inspection of the aircraft</p>	<p>Partially Accepted</p> <p>New privileges are introduced for continuing airworthiness management organisations to issue PtF in certain cases.</p>	<p>See new paragraphs in Part M</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>(controlled environment); alternatively, a Part 66 licenced engineer may issue PtF after inspection of the aircraft (uncontrolled environment).”</p> <p>Justification: Adopting the above proposals would restore the flexibility which was previously allowed in the UK. To the best of my knowledge there were no accidents caused as a result of the use of the UK BCAR ‘A’ Conditions. Moreover, adoption of this suggested process for simple aircraft below 2730 kg would reduce the bureaucratic burden on the NAA and on EASA, thereby reducing the need for staffing and the costs of what is no more than a bureaucratic paper-pushing process. The result of following the proposed PtF procedure will have no physical effect on what is done to the aircraft concerned before it flies on its ferry flight and therefore will have no beneficial effect on safety. It is far better that well tried and tested pre-EASA procedures be retained and supported by the engineering community than some heavy-handed bureaucratic process by rote.</p> <p>Moreover, MDM-032 is seeking to reduce the regulatory burden on simple aircraft. The proposals for PtF as currently presented increase significantly the bureaucratic burden on this sector of aviation. By adopting the proposal above, the work of this Working Group will be seen to be in harmony with the work of MDM-032 and EASA will be seen to be working in an holistic manner.</p>		
101.	21A.701(a)13. Explanatory Note 18. New Part 21 Subpart P dedicated to PtF (13) Air racing or record breaking	British Aerobatic Association	<p>In both instances, re-draft to read:</p> <p>(13) Air racing, record breaking, or competition aerobatics.</p> <p>Justification: Competition aerobatic flying at the International level, in both Advanced and Unlimited Categories can only</p>	Partially accepted Other competition flying is also included	See new 21A.701(a)(13)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>flourish as a sport by the continued evolution of designs and the manufacture of new aeroplanes. Production numbers are always limited and the costs of certification cannot be justified by smaller, artisan constructors. Aircraft designed for this purpose should be eligible for consideration for a PtF, just as racing or record-breaking aircraft.</p> <p>This will enable a class of permit aircraft similar to the FAA's Experimental, Exhibition category.</p>		
102.	21A.701(a)15	Europe Air Sports	<p>As written, this gives the Agency carte blanche to refuse a PtF to a type without explanation. The criteria by which the Agency will make its decision need to be published</p> <p>Justification: Fairness, transparency and open government</p>	<p>Noted</p> <p>GM 21.A701(a)(15) provides some advice on what this means and offers the "orphan" aircraft as the most often anticipated candidate for this criteria.</p> <p>Other circumstances could arise, but it is not considered prudent to define limited criteria which would then limit the ability of the Agency to only those aircraft which fall therein. The Agency will necessarily confirm reasons for rejection (normally that the aircraft is eligible for a C of A or Restricted C of A)</p>	See new GM 21A.701(a)
103.	21A.701(a)15	LBA	<p>Delete No 15</p> <p>Justification: A PtF issued under 21A.701 (a) 15 would allow the operation of <u>all</u> aircraft which may not be flown under regular conditions.</p>	<p>Not Accepted</p> <p>This is limited by the general criterion in the new introductory sentence of 21A.701(a) See also response to comment 102</p>	See new 21A.701(a)
104.	21A.701(a)15.	CAA-UK	<p>1) Will aircraft with "deemed" EASA permits be restricted to one of the specified purposes? If so, how?</p> <p>2) Does recreational flying activity include commercial flying training which allows pilots to be taught to fly the specific aircraft?</p>	<p>Noted</p> <p>1) The grandfathered PtF will specify the purpose for which it was issued. This may not necessarily be one of the purposes listed in 21A701(a) At the latest 28 March 2008, or at the renewal of the PtF. the purpose must be as stated in Part 21</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Justification: Clarification	2) This will be specified in the flight conditions as approved for the specific case..	
105.	21A.701(a)15.	Europe Air Sports	Change text of each to read: “For recreational <i>and display</i> flying activity.....” Justification: The primary or in some cases only, use of many aircraft on PtF is display flying. The safety record is good, as already observed in the NPA. Unless display flying is added there is a risk that, if it were deemed other than recreational, the very reason for retaining in excess of 100 aircraft on flying status would be forfeit	Not Accepted Display flying is covered under 21A.701 (a)(10). In addition, there is no reason why a Permit to Fly may not be for more than one purpose.	
106.	21A.701(a)16	CAA-UK	What is the process by which the Agency will agree that an aircraft not falling within the criteria of (a)1 through (a)16 can be eligible for a Permit to fly? With whom will it agree – the competent authority or the applicant or both? How will that agreement be documented and promulgated? Justification: Clarification	Noted The Agency will agree with the applicant as the Agency has the executive decision to make. Agreement or refusal will be notified to the applicant using conventional communication methods.	
107.	21A.701(b)	DGAC France	Modify the text to address third countries aircraft and to have common rules to validate a permit to fly issued by a foreign authority. Justification: The paragraph specifies that aircraft registered outside the member states are not concerned by this part. The only exception is for aircraft for which safety oversight is delegated to a Member state. This position does not take into account the need to cover aircraft registered outside the member states but operated	Noted. It is recognised that there are currently no implementing rules covering the case of an aircraft registered in a third country and operated by an EU operator (case referred to in paragraph 1(c) of article 4 of Regulation (EC) No 1592/2002). For consistency therefore the Agency considers that until the above implementing rules are adopted, the issuance of airworthiness certificates (including PtF) by European Authorities should be limited to EU registered aircraft.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>on a regular basis par Member state citizens. When those aircraft need to be maintained in a Member state, it shall have a permit to fly validated by the concerned state.</p> <p>A permit to fly in its definition in article 5, paragraph 3(a) of CE 1592/2002 shall be issued with proper limitations to protect third parties safety. EASA shall define common rules as to harmonize the safety achieved to protect each European countries citizen. It is not enough to address aircraft registered in its member states only.</p> <p>If EASA does not take care of that issue, it also leads to the problem of competence and resources for the NAA. The NAA shall not need any longer personnel to assess permit to fly for aircraft registered in its member states, but would have to deal anyway with third countries permit to fly.</p> <p>It may be of a particular burden when an aircraft will fly over several members countries and land in one of them to be maintained. If those countries cannot easily coordinate a common position for the permit to fly, it may eventually lead the customer to go outside the EU to look for an other approved maintenance organization, removing work for European bodies.</p>	<p>Aircraft registered in a third country and not operated by an EU operator are currently outside the scope of Regulation (EC) No 1592/2002.</p>	
108.	21A.703	EADS Elbe Flugzeugwerke GmbH	<p>The issuance of a Permit to Fly requires an applicant under 21A.703 and after issuance respective holder, but it is unsettled who is applicant/holder if a Permit to fly is issued under 21A.711(b).</p> <p>Following GM 21A.703 it seems that respective Design Organisation Approval Holder has to be relevant applicant/holder.</p> <p>Justification: The new regulations should be unambiguous to assure correct implementation and safe flights under a permit to fly.</p>	<p>Noted.</p> <p>In case the PtF is issued by an approved organisation there is no need for an application to the competent authority. In those cases the issuing organisation will be the holder of the PtF.</p> <p>In all other cases the applicant should normally (but not necessarily) be the person or organisation responsible for carrying out the flight(s) under the PtF, except for the case of 21A.701(a)(15) where the applicant is the owner. See new proposal</p>	See revised text

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
109.	21A.703	ENAC	<p>modify to the proposed paragraph as following:</p> <p><i>“ Any natural or legal person entitled to carry out the activity for which the P.t.F. is required ”</i></p> <p>Justification: The text as proposed appears to be generic and not correct.</p>	<p>Not accepted The intent was to be generic</p>	
110.	21A.705	CAA-UK	<p>“the authority designated by the Member State where the flight will take place” is not always the best placed authority to issue a permit to fly in these instances. For example hot and high flight-tests in a country (even outside the EU) different from that of the state of manufacture.</p> <p>Justification: Amendment</p>	<p>Accepted</p>	<p>See new 21A.705(b)</p>
111.	21A.705	Walter Gebky	<p>Notwithstanding 21.1, for the purpose of this Subpart, the ‘Competent Authority’ shall be:</p> <p>(a) The authority designated by the Member State of registry; or</p> <p>(b) For unregistered aircraft, the authority designated by the Member State where the flight will take place.</p> <p>Comment: The conditions under which a PtF can be issued for unregistered aircraft should be defined.</p>	<p>Noted</p> <p>The conditions are the same for all PtF</p>	
112.	21A.705(b)	CAA-UK	<p>This allows for permits to be issued to aircraft that are not registered. The circumstances where it is expedient to do this are understood, but does there need to be some guidance on how such an aircraft will be identified for the issue of a permit?</p> <p>Justification:</p>	<p>Noted.</p>	<p>See new 21A.705(b)</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Clarification		
113.	21A.705(b)	DGAC France	<p>Clarify the paragraph.</p> <p>Justification: DGAC is not sure to understand when there is a case of « unregistered aircraft ». There can be a temporary registration for a new not yet sold aircraft under POA responsibility. Please clarify the need and reword accordingly.</p>	<p>Noted Registration means that the aircraft is included in the official national aircraft register. The “temporary registration” the comment provider is referring to is not a registration but the permission to use nationality and identification marking without being registered</p>	See new 21A.705(b)
114.	21A.705(b)	Airbus SAS	<p>Revise 21A.705 (b) to read (Changes in bold): “(b) For provisionally registered aircraft, the Authority designated by the Member State where the flight will depart.”</p> <p>Justification: The term “unregistered aircraft” needs clarification. Even an aircraft bearing provisional registration marks of the State where the final assembly line (“ICAO Annex 13, State of Manufacture”), or the facility for aircraft conversion/modification is located, has to be considered registered. Further, as the EASA P-t-F is valid in all Member States, operation under P-t-F may take place in or over several States. It considered necessary to define one Competent Authority.</p>	<p>Partially accepted. See response to comment No. 113. It is recognised that the aircraft may cross borders and therefore new text of 21A.705 is proposed.</p>	See new 21A.705(b)
115.	21A.707	Airbus Transport International	<p>COMMENTS To keep a shared European standard in Part 21 application throughout the member states, the Agency should provide a form "Application for a PtF" and not let each NAA develop and require its own form.</p> <p>PROPOSED TEXT: - Correct subparagraph (a) as follows: Replace “shall be made in a form and manner established by the Competent Authority to that</p>	<p>Partially Accepted (see below)</p> <p>Partially accepted. The revised GM 21A.707(b) refers to AMC 21B.520</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>authority” by “shall be made to the Competent Authority in a form and manner established by the Agency”.</p> <p>- Delete subparagraph (b)</p> <p>Justification: EASA provides already a form for the Permit to Fly (Form 20 / 20a). This procedure would allow a better standardization. It would also be in line with other paragraphs of Part 21, for which an EASA form exists and is required for applications (ex: Form 33 for application for STC).</p>	<p>which includes an application form.</p> <p>Not Accepted The rule provides the minimum contents of the application</p>	
116.	21A.707	ATR	<p>21A.707 does not apply to the application for permit to fly that can be issued by the holder of a POA under the privilege 21A.163. We suggest to modify § (a) and (b) as per following proposal :</p> <p>“(a) Pursuant to 21A.703, an application for a permit to fly shall be made in a form and manner established by the Competent Authority to that authority except for permit to fly that can be issued by the holder of a POA under the privilege 21A.163. ...”</p> <p>“(b) Each application for a permit to fly, except those that can be issued by the holder of a POA under the privilege 21A.163, shall include : ...”</p> <p>Justification: For permit to fly that can be issued by the holder of a POA, there is no need for an application to the Competent Authority. In this case, the form and manner in which the application shall be established would be specified in the procedures that the holder of a POA will have to set up in order to get the privilege 21A.163.</p>	<p>Partially accepted</p> <p>Revised 21A.707(a) addresses the case where an application to the Competent Authority is not required (this is not limited to POA under the revised proposals).</p>	See new 21A.707(a)
117.	21A.707	de Havilland Support Ltd	<p>The subject paragraph makes provision for the issue of a PtF for aircraft engaged in recreational flying activity. However, despite the simple nature of these aircraft, this</p>	<p>Noted</p> <p>Currently Part 21 is applicable to all aircraft in the scope</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>proposed PtF regulations make very complex the process of applying for the PtF, involving both the Competent Authority and EASA. The effect of this requirement is to impose on aircraft owners significant bureaucracy and documentation in making the application in compliance with the requirements. As a result, significant cost will be incurred in terms of fees to the NAA and fees to EASA.</p> <p>Moreover, in the case of even minor repairs or modifications, the full services of a Part 21 DOA are likely to be needed. This effort is not required under national rules at present and the safety record of recreational aircraft, especially simple aircraft below 2730 kg MTWA, shows no history of technical defect attributable to the former 'light touch' regulation. A similar situation applies to orphan aircraft.</p> <p>Accordingly, it is recommended that 21A.707 have the following sub-para added as follows [additional text in bold]:</p> <p>(c) "In the case of simple aircraft below 2730 kg MTWA and orphan aircraft, the evaluation of applications for PtF and the issue of PtF may be carried out wholly by the Competent Authority without further referral to EASA"</p> <p>Justification: Adopting the above proposal would restore the flexibility which was previously allowed in the UK. Moreover, adoption of this suggested process for simple aircraft below 2730 kg would reduce the bureaucratic burden on EASA, thereby reducing the need for staffing and the costs of what is no more than a bureaucratic paper-pushing process. It is far better that well tried and tested pre-EASA procedures be retained and supported by the engineering community than some heavy-handed bureaucratic process which must be followed by rote.</p>	<p>of the Basic Regulation. In the current split of responsibilities between the Agency and NAA's the Agency is responsible for all design related issues, regardless of the size or status of the aircraft. However, in order to increase efficiency and proximity, in the new text a possibility is created for accredited NAA's to make design determinations.</p> <p>Furthermore MDM 032 is an independent working group which is currently underway and has yet to make concrete proposals. The output of the MDM 032 group may well affect this area of the regulation in due course, but this is outside the current scope of the group.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Moreover, Working Group MDM-032 is seeking to reduce the regulatory burden on simple aircraft. The proposals for PtF as currently presented increase significantly the bureaucratic burden on this sector of aviation. By adopting the proposal above, the work of this Working Group will be seen to be in harmony with the work of MDM-032 and EASA will be seen to be working in an holistic manner. At present it looks like one committee is doing one thing, another committee is going in the opposite direction.</p>		
118.	21A.707	Walter Gebky	<p>Add a new (b) Each application for a permit to fly shall include: (5) the documents showing that the aircraft is adequately insured.</p> <p>Justification: This is specially important in the case of an aircraft not registered in a MS.</p>	<p>Not Accepted</p> <p>Insurance is outside the scope of the Basic Regulation.</p>	
119.	21A.707	European Council of General Aviation Support (ECOGAS)	<p>The subject paragraph makes provision for the issue of a PtF for aircraft engaged in recreational flying activity. However, despite the simple nature of these aircraft, this proposed PtF regulations make very complex the process of applying for the PtF, involving both the Competent Authority and EASA. The effect of this requirement is to impose on aircraft owners significant bureaucracy and documentation in making the application in compliance with the requirements. As a result, significant cost will be incurred in terms of fees to the NAA and fees to EASA.</p> <p>Moreover, in the case of even minor repairs or modifications, the full services of a Part 21 DOA are likely to be needed. This effort is not required under national rules at present and the safety record of recreational aircraft, especially simple aircraft below 2730 kg MTWA, shows no history of technical defect attributable to the former ‘light touch’ regulation. A</p>	<p>Noted</p> <p>See Response to Comment Number 117.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>similar situation applies to orphan aircraft.</p> <p>Accordingly, it is recommended that 21A.707 have the following sub-para added as follows [additional text in bold]:</p> <p>(c) “In the case of simple aircraft below 2730 kg MTWA and orphan aircraft, the evaluation of applications for PtF and the issue of PtF may be carried out wholly by the Competent Authority without further referral to EASA”</p> <p>Justification: Adopting the above proposal would restore the flexibility which was previously allowed in the UK. Moreover, adoption of this suggested process for simple aircraft below 2730 kg would reduce the bureaucratic burden on EASA, thereby reducing the need for staffing and the costs of what is no more than a bureaucratic paper-pushing process. It is far better that well tried and tested pre-EASA procedures be retained and supported by the engineering community than some heavy-handed bureaucratic process which must be followed by rote.</p> <p>Moreover, Working Group MDM-032 is seeking to reduce the regulatory burden on simple aircraft. The proposals for PtF as currently presented increase significantly the bureaucratic burden on this sector of aviation. By adopting the proposal above, the work of this Working Group will be seen to be in harmony with the work of MDM-032 and EASA will be seen to be working in an holistic manner. At present it looks like one committee is doing one thing, another committee is going in the opposite direction.</p>		
120.	21A.707(a) Explanatory Note IV, Subsection 18,	Airbus SAS	Revise Draft Opinion Regulation 1702/2003 Part 21.A707(a), to read: 21A.707 Application	Partially accepted. See response to comment no 115	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	Application		<p>(a) Pursuant to 21A.703, an application for a permit to fly shall be made in a form and manner established by acceptable to the Competent Authority to that authority. The application to the Competent Authority constitutes an application to the Agency when approval of the flight conditions by the Agency is required.</p> <p>Justification: While the current explanatory note proposal says “The application is made as simple as possible...”, current proposed Part 21.A707(a) requires “...an application for a permit to fly shall be made in a form and manner established by the Competent Authority...”</p> <p>This is a clear requirement for each Member State Competent Authority to establish its own format, potentially leading to inconsistent applications and interference with the intentions expressed in the Explanatory Note. Even though the Airbus proposal above does not preclude different formats for application, it provides for simple but acceptable application formats, possibly depending on the case.</p> <p>With a comment in parallel, Airbus proposes a corresponding revision to Explanatory Note Section IV, Subsection 18, Application.</p>		
121.	21A.707(a)	LBA	<p>... an application for a permit to fly shall be made in a form and manner established by the competent authority as proposed in annex</p> <p>Justification: For equal treatment of the applicants it is vital that the agency provides one application form valid for all member states</p>	Partially accepted. See response to comment no 115	
122.	21A.707(b)	CAA-UK	It is proposed that (b)4 be amended as follows - <i>4 – as soon as available, the conditions under which</i>	Partially accepted The text of the previous 21A.707(b)(4) is simplified and a new subparagraph (c) to 21A.707(b) id added to deal with	See revised 21A.707

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p><i>flight is requested, as defined in 21A.709</i></p> <p>to make clear that the conditions will have to be submitted before the permit is issued but not necessarily at the time of application.</p> <p>Justification: Clarification</p>	<p>the case as indicated by the comment provider. When the flight conditions are approved after the initial application was done, the application can be supplemented by submitting the missing document.</p>	
123.	21A.707(b)	DGAC France	<p>Add the following items: (2) the description of the aircraft configuration:</p> <ul style="list-style-type: none"> - <u>type</u> - <u>registration</u> - <u>serial number</u> - <u>configuration</u> - <u>situation towards maintenance schedule</u> <p>...</p> <p><u>5. expected target dates for the flight (s)</u></p> <p>Justification: The application must include also the piece of information requested here to process efficiently the flight permit request.</p>	<p>Partially accepted. A form is proposed.</p>	<p>See GM 21A.707 and AMC 21B.520(b)</p>
124.	21A.707(b)4	CAA-UK	<p>Suggest “under which flight is requested, as...” is changed to “under which the flight is to be conducted, ...”</p> <p>Justification: Clarity</p>	<p>Noted New 21.707(b) no longer contains subject text.</p>	
125.	21A.709	Walter Geßky	<p>Add the following: (a) The applicant shall establish and document:</p> <ul style="list-style-type: none"> 2. Any conditions or restrictions necessary for safe operation of the aircraft, including: <ul style="list-style-type: none"> (i) the conditions or restrictions put on itineraries or airspace, or both, required for the flight(s) 	<p>(1st Part) Not Accepted</p> <p>Whilst the applicant may see a benefit in consulting the competent authority in advance, this is not a pre-requisite for an application. The applicant along with the organisation controlling the activity can propose the</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>in coordination with the competent authority of the MS;</p> <p>(ii) the conditions and restrictions put on the flight crew and its qualification, to fly the aircraft in coordination with the competent authority of the MS;</p> <p>(iii) the restrictions regarding carriage of persons other than flight crew in coordination with the competent authority of the MS;</p> <p>(vi) the specific continuing airworthiness arrangements including maintenance instructions and regime under which they will be performed in coordination with the competent authority of the MS;</p> <p>(vii) the minimum equipment required for safe operation</p> <p>Justification: This is specially important when the PtF will be issued by a POA. Part M does not apply therefore minimum standards for maintenance are based on national requirements, therefore this standards has to be coordinated with the competent authority of the MS. Minimum required equipment required for safe operation has to be established based on national requirements until EU regulations are effective.</p> <p>Add the following:</p> <p>(b) The applicant shall submit the documentation supporting the conditions of subparagraph (a), together with a declaration that the aircraft is capable of safe flight under the conditions or restrictions of paragraph (a)(2) to the responsible party notified under 21B.515, except:</p> <p>1. when established by an approved design organisation under the privilege of 21A.263©(6);</p>	<p>relevant conditions and limitations that they deem correct for the flights requested in respect of assuring safety and this can be approved by the Agency (or DOA etc).</p> <p>There may be rules on a National basis that may need to be complied with before flight but these can only outside the scope of the conditions as mentioned in 21A.708(b) and these are therefore outside this NPA.</p> <p>The minimum equipment required for safe operation is addressed by 21A.708(b)(4)</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>or 2. when covered by a general approval by the Agency. Comment: The minimum documentation should be regulated like</p> <p>a. statement that based on analysis and tests the aircraft has no features and characteristics making it unsafe for the intended operation under the defined conditions and restrictions</p> <p>b. the aircraft configurations including information with regard to the minimum standard for maintenance.</p>	<p>(2nd part) Partially Accepted</p> <p>The Form for the Approval of Flight conditions has this statement.</p> <p>The maintenance regime is part of the application for the permit as defined under 21A.708(b)(6)</p>	
126.	21A.709 & 21A.710	Virgin Atlantic Airways	<p>What happens in the scenario where an operator's aircraft (on the EU registry) has an FAA STC embodied on it for the first time requiring a Flight test before the FAA issue the STC. EASA determines that their validation of this FAA STC will be automatic, i.e. require no additional EASA investigation.</p> <p>Please can the Agency confirm that:</p> <p>i) The flight conditions approved by the FAA for its STC flight test will require no further approval by the Agency YES / NO? And, ii) These approved flight conditions are then included in the permit to fly issued by the Competent Authority per 21A.711 YES / NO? iii) Or can a DOA under 21A.263(c)(6) approve the flight conditions for under</p> <p>Justification: VAA does not want to be in the position where the Agency, due to their STC validation being Basic, will not get involved and so will not approve the flight conditions and a DOA cannot do this because it is an EASA STC project. But Competent Authority will not get involved</p>	<p>Noted</p> <p>Responses as follows:</p> <p>i) Approval under EU Part 21 is needed ii) and iii) The Agency is responsible for establishing the conditions defining safe flight for an EU registered aircraft. An application will need to be made to the Agency for approval, unless the conditions are established by a DOA having the relevant privilege and the relevant scope in their terms of approval.</p>	

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			either because it is an STC being handled by the Agency?		
127.	21A.709(a)	CAA-UK	<p>It is suggested that for airworthiness/continuing airworthiness purposes a standard condition should include “The aircraft shall be inspected and certified that it is considered to be fit for flight provided it is properly loaded”. (UK CAA utilise a standard format for this that is published in Appendix No. 1 to Airworthiness Notice No. 9.) The regulation should also define who could certify this inspection. This could be as follows:</p> <p>“The document certifying fitness for flight shall be issued only by the following:</p> <ul style="list-style-type: none"> (a) The holder of a valid and appropriately type rated Part-66 licence appropriately endorsed for the aircraft type. (b) The holder of a valid and appropriate authorisation issued by an organisation approved under Part 145 and in accordance with the terms of that authorisation. (c) The holder of a valid and appropriate authorisation issued by an organisation approved under Part 21 and in accordance with the terms of that authorisation. (d) A person authorised/approved by the competent authority as being competent to issue such certification in a particular case. <p>Justification: Augmentation</p>	<p>Noted. The Competent Authority can determine the method by which it will be satisfied that conformity is established. See 21A.711(a)(3) For PtF issued under a privilege a procedure should be developed by the approved organisation (See e.g. AMC 21A.163(e) paragraph 2.2)</p>	
128.	21A.709(a)	CAA-UK	<p>This refers to “the configuration for which the permit to fly is requested”. 21A.707(b)2 refers to “the description of the aircraft configuration”. Suggest adopting consistent wording.</p> <p>Justification:</p>	<p>Noted Previous 21A.707(b)(2) is now deleted for other reasons</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Clarification		
129.	21A.709(a)2	Malta Department of Civil Aviation	(1) 21A.709 Establishment of flight conditions (a) 2 (vii) the restriction regarding carriage of cargo. Justification: Safety considerations.	Not Accepted New 21A708(b)(4) references <u>operating limitations</u> , specific procedures or <u>technical conditions</u> to be met. Restrictions on cargo would fall under this point.	
130.	21A.709(a)2(iii)	Airbus SAS	In paragraph 21.A709(a)(2)(iii) the terms “person other than flight crew” is used. It is considered necessary to clarify this term with a Guidance Material to this paragraph in the Draft Decision AMC/GM to Part 21, or in the Explanatory Note. Proposed text: “Flights operated under P-t-F inherently represent an increased risk to occupants. It is necessary to limit risk exposure to a minimum number of occupants. In the context of paragraph 21.A709(a)(2)(iii), persons other than flight crew means any occupant having a defined function necessary for the purpose of that flight, including, but not limited to, flight test engineers, engineering or maintenance personnel, replacement or customer crews, other customer representatives or Authority personnel.” Justification: For a wide scope of operations eligible to be conducted under P-t-F, additional personnel onboard may be needed to fulfill the purpose of the specific flight. In any case, the number of additional person should be limited to the minimum for safety reasons.	Not accepted The proposed guidance is too restrictive. The limitations to carry those persons depend on the risks associated with the flight.	
131.	21A.709(a)2(vi)	DGAC France	An AMC is needed to cover this item. Justification:	Noted Guidance is provided in new GM 21A.708(b)(6)	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>This item is wide in scope and consequences over the airworthiness of an aircraft. It is necessary to have a harmonization of this requirement in order to allow member states recognize the permit to fly issued by an other authority.</p>		
132.	21A.709(a)2(vi), 21A.709(4) and 21A.721	Experimental Aircraft Association Sweden	<p>In case of a permanent Permit to fly in accordance with 21A.701 (a)(15) the proposed regulation contains in 21A.709(a)2(vi) a requirement that the applicant shall establish and document the specific continuing airworthiness arrangements including maintenance instructions and regime under which they will be performed and in 21A.709(4) the method used for the control of the aircraft configuration in order to remain within the established conditions. Paragraph 21A.721 provides for the possibility for the Competent Authority to inspect the aircraft.</p> <p>However, there is no requirement for a Airworthiness Review Certificate or the renewal of such document. Part M is not applicable, national regulations apply. (Regulation 2042/2003 Article 3 (3))</p> <p>EAA Sweden is of the opinion that some form of declaration that the aircraft has been maintained in a proper way should be required from the owner on a yearly basis.</p> <p>This declaration should contain the principal elements of Part M, M.A.710(a)</p> <p>Justification: EAA Sweden has since many years a delegation from the Swedish CAA to handle the amateur build sector of aviation. In1998 this delegation was extended to include also the issuance of the Permit to fly for these aircraft. The EAA procedures are basically the same procedures as applicable to aircraft with Standard Airworthiness Certificates issued by the Swedish CAA. Based on a</p>	<p>Noted.</p> <p>The proposed maintenance regime under 21A.708(b)(6) should include the means to control the validity of the PtF. This can include an annual airworthiness review. The proposed regime will have to be approved.</p>	See new article 3.3 of Regulation 2042/2003.

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>yearly “maintenance report” from the owner, the Permit to fly is renewed. In case of standard airworthiness the declaration is required from a maintenance organisation that could be a licensed engineer for private aircraft. A certain percentage of the fleet is inspected by the CAA each year. The procedure is very similar in scope to the procedures in Part M, the Airworthiness Review Certificate.</p> <p>EAA Sweden experience is that this yearly review of the airworthiness status is very important and serves as a reminder to the owner that he has to check the status for his/her aircraft.</p>		
133.	21A.709(a)2(vi), 21A.709(4) and 21A.721	CAA-Sweden	<p>For issuing a permanent Permit to fly in accordance with 21A.701 (a)(15) this new regulation propose a requirement in 21A.709(a)(2)(vi) that the applicant shall establish and document the specific continuing airworthiness arrangements including maintenance instructions and regime under which they will be performed. In 21A.709(4) it is required by the applicant to establish and document the method used for the control of the aircraft configuration in order to remain within the established conditions. Paragraph 21A.721 require the holder of a Permit to fly to provide access to the concerned aircraft upon request by the Competent Authority.</p> <p>However, there is no requirement for a Airworthiness Review Certificate or the renewal of such document since Part M is not applicable according to 2042/2003 Article 3(3).</p> <p>Luftfartsstyrelsen, the Swedish Civil Aviation Authority (SCAA) suggest that some form of declaration, from the holder of a Permit to fly, that the aircraft has been maintained in a proper way should be required on a yearly basis. SCAA propose that this declaration contain the principal elements of Part M, M.A.710(a).</p>	See response to comment No. 132 above.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Justification: In Sweden the issuing of a Permit to fly for amateur build aircraft is delegated to Experimental Aircraft Association (EAA) Sweden. EAA Sweden uses basically the same procedures as applicable to aircraft with Standard Airworthiness Certificate issued by the SCAA. Based on a maintenance report from the owner, the Permit to fly is renewed on a yearly basis. In the procedures for standard airworthiness the declaration from a maintenance organization is required, in this case the declaration can be done by a licensed engineer. Inspections is performed yearly on a certain percentage of the fleet.</p>		
134.	21A.709(b)	CAA-UK	<p>This requires a declaration by the applicant that the aircraft is capable of safe flight under the conditions or restrictions of paragraph (a)(2) “except when covered by a general approval by the Agency”.</p> <ul style="list-style-type: none"> • What is meant by a “general approval”? Why should the existence of any such approval mean that the applicant need not declare that the aircraft is capable of safe flight? <p>Justification: Clarification</p>	<p>Noted The concept of “general approval” has been deleted.</p>	
135.	21A.709(b)	Air France	<p>(b) The applicant shall submit the documentation supporting the conditions of subparagraph (a), together with a declaration that the aircraft is capable of safe flight under the conditions</p> <p>Justification: Incomplete information. It is requested that an example of such declaration be inserted in GM or AMC.</p>	<p>Accepted A statement appears in box 10 on the Approval of Flight Conditions form which has been included in AMC 21A.263(c)(6) and AMC 21A.709(b)</p>	
136.	21A.709(b)	LBA	<p>.... together with a declaration that the aircraft is capable of safe flight.....</p>	<p>Noted The declaration is a statement that the aircraft under the</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Justification: We miss a requirement stating the basis on which the declaration is given and what, for example, an inspector should check, or which kind of proof is needed before such declaration can be accepted.	design conditions (the aircraft configuration and the proposed limitations/conditions) defined in the application is deemed to be safe to fly. It is the basis that the applicant takes responsibility. The considerations whether a flight is safe are made when establishing the flight conditions. Some basic guidance is provided in GM No.1 to 21A.708(c)	
137.	21A.709(b)	LBA together with a declaration that the aircraft is capable of safe flight..... Justification: We miss a requirement stating the basis on which the declaration is given and what, for example, an inspector should check, or which kind of proof is needed before such declaration can be accepted.	Duplication of comment 136	
138.	21A.710	Walter Geßky	(a) The conditions of 21A.709(a) shall be approved: 1. in case the Agency is the responsible party notified under 21B.515: (ii) by an appropriately approved design organisation, under the privilege of 21A.263© after coordination with the competent authority with regard restrictions to the airspace used for the flight and qualification of flight crew and the minimum required maintenance standards. Justification: See above	Noted In order to define possible airspace restrictions it may be necessary to coordinate with the local authority. It is not necessary to include this in the approval requirements. This should be included in the procedures of the DOA on the basis of which the privilege will be granted.	
139.	21A.710	LBA	21A.710 Approval of flight conditions (b) Before approving the flight conditions, the Agency or the Competent Authority may make or require the applicant to make appropriate inspections or tests necessary to assure safety	Noted The possibility to subcontract this task is implicit. Accepting the proposed text would set an unwanted precedence for the writing convention of Part 21. By <i>a-contrario</i> reasoning it would mean that if the	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Change to: ...the Competent Authority may make or require the applicant to make or have appropriate inspections made</p> <p>Justification: The applicant will not necessarily be competent to conduct appropriate inspection on his own, but rather have inspections made.</p>	<p>proposed addition is not there, subcontracting would not be possible.</p>	
140.	21A.710(a)	CAA-UK	<p>This stipulates who approves the flight conditions but does not suggest the basis on which such an approval should be given or withheld.</p> <ul style="list-style-type: none"> • Would not a repetition of the wording of 709(b) be appropriate ie, the conditions shall be approved when the relevant authority is satisfied that the aircraft is capable of safe flight under the specified conditions and restrictions. • If that is the appropriate test, the same wording should be used in 710(b) rather than “to assure safety” to provide consistency of terminology and minimise interpretation. <p>Justification: Clarification</p>	<p>Partially Accepted</p> <p>Consistency of the text is accepted and the wording in 21A.709(b) is considered appropriate. It is considered however that the need to be satisfied need only be stated once in 21.A710(b) as this provides for who will approve and when they will approve it in a logical sequence.</p>	<p>See revised 21A.710(b)</p>
141.	21A.710(a)1	CAA-UK	<p>It is suggested that the wording be amended to: “1. In <u>the case where</u> the Agency is the responsible party notified under 21B.515”</p> <p>Justification: Clarity</p>	<p>Noted</p> <p>Text has already been amended for other reasons which eliminates this comment</p>	<p>See revised 21A.710(a)</p>
142.	21A.711	Airbus Transport International	<p>- Add a new subparagraph between b) & c) dealing with DOA holders, similar to proposed subparagraph b) for POA holders: “(b) An appropriately approved design organisation may</p>	<p>See response to comment No. 1</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>issue a permit to fly (EASA Form 20b, see Appendix) for an aircraft it has designed, or following a STC to this aircraft it has designed, under procedures agreed with its competent authority for the following purposes:</p> <ol style="list-style-type: none"> 1. Development; 2. Showing compliance with regulations or certification specifications; 3. Design organisations or production organisations crew training; 4. Delivering or exporting the aircraft; 5. Flying the aircraft for Authority acceptance; 6. Market survey, including customer's crew training; 7. Exhibition and airshow; 8. Flying the aircraft to a location where maintenance or airworthiness review are to be performed, or to a point of storage; 9. Flying an aircraft at a weight in excess of its maximum certificated takeoff weight for flight beyond the normal range over water, or over land areas where adequate landing facilities or appropriate fuel is not available; 10. Flying aircraft meeting the applicable airworthiness requirements before conformity to the environmental requirements is shown; 11. Any other purpose agreed by the Agency. <p>- Add a new Form 20b to be used by DOA holders for issuing Permit to fly (similar to Form 20a).</p> <p>Justification: Not allowing DOA holders to issue Permits to fly will lead to:</p> <ul style="list-style-type: none"> - heavy economical burden put on the STC holders, - heavy administrative burden on NAAs. 		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Considering the present lack of resources in specialists in the NAAs (partly due to the creation of EASA), increased delays will not be compatible with the industry's time constraints.</p> <p>This is especially true in the frame of STCs developed by DOA organisations which are not the aircraft TC/RTC holders.</p>		
143.	21A.711	ATR	<p>The purposes of permit to fly that could be issued by the holder of a POA under privilege 21A.163 are too restrictive. We suggest to add following subparagraph to § (b)2 :</p> <p>“...for the purpose of :</p> <ul style="list-style-type: none"> (i)... (ii)... (iii) development flight testing on new production aircraft, except for initial flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, or (iv) showing compliance with regulations or certification specifications on new production aircraft, except when flying outside the flight envelope, or (v) design organization or production organization crew training on new production aircraft, or (vi) flying the new production aircraft for customer acceptance, or (vii) flying the new production aircraft for authority acceptance, or (viii) technical demonstration on new production aircraft, market survey, including customer’s crew training, or (ix) flying a new production aircraft to an exhibition, and 	<p>Partially accepted</p> <p>See new privileges for approved organisations</p>	<p>See revised 21A.711</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>airshow presentation”</p> <p>Justification: Today, when an application is made to the Competent Authority for the issuance of a permit to fly for a new production aircraft, it aims at cover all categories of flight listed in proposed § 21A.701 (a) point 1 to 10 as it is an industrial necessity to be able to perform all those kind of flight (development, compliance demonstration, acceptance, training ...) on new production aircraft, before delivery.</p> <p>If the privilege 21A.163 is limited to point 4, 5 and 7, then it would mean that for the same aircraft, the POA holder would be able to issue a permit to fly for the first production flights of the aircraft and for the delivery flight. But for all activity performed between first production flights and delivery, it would be necessary to request another permit to fly to the Competent Authority.</p> <p>The POA holder should have the privilege to issue a permit to fly for a new production aircraft that covers all categories of flight.</p>		
144.	21A.711	Experimental Aircraft Association Sweden	<p>In case of permanent Permit to fly to be issued under Part P, 701(a)(15) using the “grandfathering clause” in new paragraph 15 to article 2, it is proposed that organisations approved by the Competent Authority to perform airworthiness supervision also may issue the permit.</p> <p>Justification: EAA Sweden has since many years a delegation from the Swedish CAA to handle the amateurbuild sector of aviation. In1998 this delegation was extended to include also the issuance of the Permit to fly for these aircraft.</p> <p>The Swedish Civil Aviation Regulations for amateur built aircraft (BCL-M5.2) valid before the EASA regulations came into force has a provision for classifying also</p>	<p>Accepted</p> <p>It is emphasised that the NPA is applicable only to EASA aircraft types and not amateur built aircraft which remain under Annex II.</p> <p>If national rules allow the allocation of these responsibilities to organisations such as the EAAS, this would not be in conflict with European rules. In such a case, the body (the EAAS) acts as a qualified entity of the NAA under its control and is subject to EASA standardisation inspections.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>certain old (historic) aircraft as “amateur built” to make it possible to keep them flying and maintained by the owner at a lower cost compared to if they had to be maintained by approved organisations.</p> <p>Some of these aircraft are meeting the exemption criteria in Annex II (a) for historic aircraft, others do not. There is today a great uncertainty what aircraft will be deemed by the Agency to be types that should have Permit to fly issued under the new Subpart P of Part 21.</p> <p>The re-issuance by the Swedish Civil Aviation Authority of the permit to fly for aircraft that are already transferred to EAA Sweden will create an unnecessary administrative work with no safety value.</p>		
145.	21A.711	CAA-Sweden	<p>It is proposed that organisations which has delegations from their NAA to perform airworthiness supervision also may issue the Permit to fly, in case it will be issued under 21A.701 (a)(15).</p> <p>Justification: In Sweden the issuing of a Permit to fly for amateur build aircraft is delegated from SCAA to the Experimental Aircraft Association (EAA) Sweden.</p> <p>The re-issuance by SCAA of permit to fly for aircraft already transferred to EAA Sweden will create an unnecessary administrative burden on SCAA with no safety value.</p>	<p>Accepted</p> <p>See response to comment No.144 above.</p>	
146.	21A.711(a)	CAA-UK	<p>It needs to be clear that <u>all</u> of the criteria must be satisfied. 3(i) and 3(ii) can be combined to allow either means to verify that the condition of the aircraft is satisfactory before flight.</p> <p>It is suggested that the wording be amended as follows: “(a) The Competent Authority shall issue a permit to fly when:</p>	<p>Accepted</p>	<p>See revised 21.A.711 (a)</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>1. the data required by 21A.707 has been presented to an acceptable standard; and</p> <p>2. the conditions of 21A.709(a) have been approved in accordance with 21A.710(a); and</p> <p>3. the Competent Authority, through its own investigations (which may include inspections), or through procedures agreed with the applicant, is satisfied that the aircraft conforms to the design defined under 21A.709(a) before flight.”</p> <p>Justification: Clarity</p>		
147.	21A.711(a)	Airbus SAS	<p>Revise 21A.711(a) to read (changes in bold):</p> <p>(a) The Competent Authority shall issue a permit to fly (EASA Form 20, see Appendix):</p> <p>....</p> <p>Justification: Consistency with Subparagraph (b)</p>	<p>Not Accepted</p> <p>The reference to the Form 20 when issued by the authority is already in 21B525</p>	
148.	21A.711(a)3	Malta Department of Civil Aviation	<p>21A.711 Issue of a Permit to Fly</p> <p>(a) 3</p> <p>(iii) where applicable a statement/declaration/ certificate that the aircraft is fit to fly by appropriately approved organisation or authorised personnel.</p> <p>Justification: Although Subpart P refers to inspections by the Competent Authority in 21A.721, it is not clear who takes the responsibility for the release of the aircraft to fly. It is not clear whether such scenarios are covered by Regulation EC No 2042/2003 or whether Subpart P shall cover this issue</p> <p>The proposed Subpart P does not include any reference to the request for the release of the aircraft for flight.</p>	<p>See response to comment No. 127</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Therefore this could be included as a condition of issue of Permit to Fly. Alternatively this requirement could be a condition in the permit to fly itself.		
149.	21A.711(b)	CAA-UK	<p>Why does this paragraph specify only new production aircraft? What about aircraft that are returned to the manufacturer for upgrade or re-fitting to the latest production standard, etc?</p> <p>Specifying the applicability as aircraft produced by the production organisation seems too restrictive and will cause problems when a company fails and is replaced or taken over by another. Why not simply refer to the terms of approval of the organisation (where the aircraft types are specified)?</p> <p>Also, it is believed that the intent of (b)(2) is to cover unfinished aircraft to be flown <u>between facilities</u> for completion.</p> <p>It is suggested that the wording be amended as follows:</p> <p>“(b) The holder of a production organisation approval shall be entitled, for aircraft specified within its terms of approval, to issue a permit to fly under procedures agreed with the Competent Authority, when:</p> <ol style="list-style-type: none"> 1. the conditions or restrictions for flight have been established and approved in accordance with 21A.710(a); and 2. the production organisation is satisfied that the aircraft conforms to the design defined under 21A.709(a) before flight; and 3. the purpose of the flight is: <ol style="list-style-type: none"> (i) to verify that the operating characteristics of the aircraft and its systems are in conformity with the approved standard; or (ii) to move the aircraft to place at which 	<p>Partially accepted</p> <p>The POA privilege is broadened due to other comments.</p>	<p>See new 21A.711(c) and 21A.163(e)</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>any inspection, repair, modification, installation, completion activity or test is to take place; or</p> <p>(iii) to deliver an aircraft, when the aircraft conforms to a design approved by the Agency or by the importing State and when a statement of conformity has been issued under 21A.163(b).”</p> <p>Justification: Amendment</p>		
150.	21A.711(b)	Eurocopter	<p>(b) An appropriately approved design organisation may issue a permit to fly (EASA Form 20A, see Appendix) for an aircraft it has produced, under procedures agreed with its competent authority for design:</p> <ol style="list-style-type: none"> 1. when the aircraft is produced under the applicable design data for the purpose of initial flights of a new type of aircraft or an aircraft whose flight and/or piloting characteristics have been modified; 2. when the aircraft is produced under the applicable design data under which the conditions or restrictions for flight have been established and approved in accordance with 21A.710(a) for the purpose of initial flights of a new type of aircraft or an aircraft whose flight and/or piloting characteristics have been modified <p>(c) An appropriately approved production organisation may issue a permit to fly (EASA Form 20A, see Appendix) for an aircraft it has produced, under procedures agreed with its competent authority for production:</p> <ol style="list-style-type: none"> 1. when the aircraft is..... <p>Justification:</p>	<p>Partially accepted</p> <p>The principle of DOA having a privilege to issue Permits to Fly within the scope of the approval is accepted. Revised paragraphs throughout the NPA provide this option.</p>	<p>See revised 21A.263 and 21A.711</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>It is a need to relay as far as possible on competencies inside recognized DOA. Research programs or prototype flight must be managed under DOA responsibility for more flexibility and time saving.</p>		
151.	21A.711(b)	DGAC France	<p>In this paragraph, a paragraph 4 could be added to copy the requirement from 21.A.701 (a) 6 case similarly to the (a) 4, 5, 7 that are already traced in this paragraph.</p> <p style="padding-left: 40px;"><u>4. for the purpose to fly the aircraft for customer acceptance.</u></p> <p>Justification: Completion and consistency with 21.A.701 : item (a) 6</p>	<p>Partially accepted</p> <p>The POA privilege is now described in a more generic way</p>	<p>See revised 21A711(c) and 21A163(e)</p>
152.	21A.711(b)2.	Diamond Aircraft Ind. GmbH	<p>C: 21A.711(b) 2. should contain the following: “(i) production flight testing of new production aircraft and flight testing of production cut in of minor changes (first article flight proofing) (iii) Flying the aircraft for customers acceptance and customers crew training”</p> <p>In the Explanatory Note there is the purpose “flight testing of production cut in of minor changes (first article flight proofing)” mentioned but not contained in the draft opinion regulation.</p> <p>The POA privilege including the purpose for productions flight testing but not the above mentioned customer acceptance, would result in the situation, that the competent authority would be involved every day for the PtF for customers acceptance flight.</p> <p>Justification: Later in the production process the customer or his representative is visiting our facility for the customer acceptance flight and he receives briefing and training on his aircraft. Therefore our POA has to issue a PtF acc. 21A.701(a) 6 for this purpose (see our other comments),</p>	<p>Partially accepted See response to comment No. 151</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>because the initial PtF for the purpose “production test flight” is no longer suitable.</p> <p>In other words after completion of the production process and the issue of EASA Form 52 the aircraft would be grounded until the competent authority has issued a PtF for the customers acceptance flight.</p>		
153.	21A.711(c)	CAA-UK	<p>This provides that the permit to fly “shall include the purpose”. But 21A.707(b)1 seems to recognise that a permit may specify more than one purpose.</p> <p>It is suggested that the first sentence be amended to: “The permit to fly shall <u>specify</u> the purpose(s) of the flight and any conditions and restrictions resulting from 21A.709(a) or 21A.711(b).”</p> <p>Justification: Consistency</p>	<p>Accepted</p> <p>Note that this paragraph is 21A.711(e) in the revised text.</p>	See revised 21A.711(e)
154.	21A.711(c)	LBA	<p>Who lays down the conditions and restrictions the PtF shall include?</p> <p>Does this also include duration limitations?</p>	<p>Noted</p> <p>The conditions and restrictions for the safety of the flight(s) and it’s intended purpose are defined by the applicant, but ultimately approved by the Agency, competent authority or approved organisation. This should include duration limitations. (see also 21A.723)</p>	
155.	21A.713	Walter Gebky	<p>Delete (d) Notwithstanding subparagraph ©, changes not affecting the content of the permit to fly may be approved by a Design Organisation Approval holder without an application.</p> <p>Justification: This item is not clear and give rise to uncontrolled changes to the PtF. When the content basis to issue a PtF is not changed, than no change of the PtF is required and</p>	Accepted	See revised 21A.713

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			the PtF remains valid.		
156.	21A.713	Airbus SAS	<p>Delete subparagraph (d), re-number (e) into (d).</p> <p>Justification: Subpart P is related only to permits to fly. Consequently, any change that would neither affect those parts of the aircraft which status caused the need for a P-t-F, nor the approved flight condition for operation under P-t-F, would have to be approved under Part 21 Subparts D and J.</p> <p>Further, Subpart D, 21A.92 says “Any legal or natural person may apply for approval for a minor change...”.</p> <p>This way to apply for an independent minor change to be approved by the Authority would be precluded with the current wording.</p>	Accepted.	See revised 21A.713.
157.	21A.713(d)	Dassault Aviation	<p>Some guidance is needed about the content of the permit to fly to prevent inconsistent application of the rule.</p> <p>The intent of the regulator appears to allow a DOA to approve revisions to flight conditions without applying for a revised permit to fly. The introduction on the subject aircraft of a new un-approved design change, even minor, will affect the content of the permit to fly as defined in 21A.707 (b) or 21A.709.</p>	Noted The text has been clarified	See revised 21A.713
158.	21A.713(d)	EADS Elbe Flugzeugwerke GmbH	<p>This paragraph seems to allow DOA holder to issue certain changes to a Permit to Fly, but neither 21A.711 nor EASA Form 20a account for such approvals.</p> <p>Justification: The new regulations should be unambiguous to assure correct implementation and safe flights under a permit to fly.</p>	Noted. It is now made clear that changes are approved in the same way as the initial PtF. The DOA privilege is equally applicable Paragraph 21A.713 is simplified and no longer contains a subparagraph (d).	See revised 21A.713
159.	21A.713(d)	Air France	(d) Notwithstanding subparagraph (c), changes not affecting the substance of the permit to fly, may be	Noted. A new 21A.713 has been proposed, to better identify	See revised 21A.713.

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>approved by a Design Organisation Approval holder without an application.</p> <p>Justification: Providing more sense, changes to PtF is not a problem of form but of substance.</p>	<p>what qualifies for change and what needs to be approved.</p>	
160.	21A.715	Walter Gefky	<p>Add the following: The manuals, placards, listings, and instrument markings and other necessary information required by applicable certification specifications shall be presented in one or more of the official language(s) of the European Community acceptable to the Competent Authority. For a certain category of aircraft national legislation can required that manuals and placards are available in the language of the state of register.</p> <p>Justification: National requirements might require that specific manuals or placards are available in the national language.</p>	<p>Not Accepted</p> <p>Is already covered by the existing text: “acceptable to the Competent Authority”</p>	
161.	21A.715	Airbus SAS	<p>Revise paragraph 21A.715 to read (changes in bold) :</p> <p>(a) Any information in addition to those required by applicable certification specifications or being essential for safe operation under P-t-F (manuals, placards, listings, instrument markings, etc.) shall be presented in one or more of the official language(s) of the European Community acceptable to the Competent Authority.</p> <p>(b) For products being operated under P-t-F in more than one Member State, any additional information as mentioned in (a) shall be presented in English language.</p> <p>Justification: As currently written, this paragraph could be understood</p>	<p>Not accepted</p> <p>This paragraph is in Subpart P and therefore only applicable to PtF. Only Subpart A contains general provisions applicable to the entire Part 21.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>as a generally applicable regulation. Then it would also be applicable to other Part 21 subparts and should be placed into Part 21 Subpart A.</p> <p>If it shall be understood as applicable for all additional manuals, placards, listings, instrument markings and other necessary information needed for safe operation under P-t-F conditions according to Subpart P, a more precise wording is necessary. It would not be reasonable to require translation of aircraft documentation that does not affect the P-t-F purposes and/or the approved flight condition.</p> <p>Further, working language in international aviation is English. Even in the EU Member States it is the most common language in aviation. To ensure proper understanding of any information necessary for safe P-t-F operation, and for operational oversight of products operated in more than one Member State or outside the EU, any P-t-F information should be in English, plus one or more of the official language(s).</p>		
162.	21A.717	Airbus Transport International	<p>COMMENTS: Add a subparagraph c) dealing with DOA holders and similar to subparagraph b) for POA holders.</p> <p>PROPOSED TEXT: Proposed additional subparagraph would be: “(c) by the holder of a design organisation approval, within its terms of approval and under the relevant procedures of its quality system”.</p> <p>Justification: Not allowing DOA holders to issue Permits to fly will lead to:</p> <ul style="list-style-type: none"> - heavy economical burden put on the STC holders, - heavy administrative burden on NAAs. <p>Considering the present lack of resources in specialists in</p>	<p>Noted. See response to comment No. 1 for the principle of the DOA privilege. Please note that 21A.717 is deleted due to other comments.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>the NAAs (partly due to the creation of EASA), increased delays will not be compatible with the industry's time constraints.</p> <p>This is especially true in the frame of STCs developed by DOA organisations which are not the aircraft TC/RTC holders.</p> <p>A DOA holder should be allowed to amend a PtF it has issued.</p>		
163.	21A.721	CAA-UK	<p>It is suggested that the sentence be amended to - "The holder of, or the applicant <u>for</u>, a permit to fly shall provide access to the <u>aircraft concerned</u> at the request of the Competent Authority</p> <p>Justification: Clarity</p>	Accepted	See revised 21A.721
164.	21A.723	Dassault Aviation	<p>This paragraph may be the right place to make clear that permits to fly issued under Part 21 are valid amongst all member states and associated EASA members (some information is given in the explanatory note § 21, but does not appear clearly in the rule).</p>	<p>Noted</p> <p>This is already included on the EASA Form 20 and 20a.</p>	
165.	21A.723	Walter Geßky	<p>Delete (b): (b) Notwithstanding subparagraph (a) a permit to fly issued for the purpose of 21A.701(a)(15) may be issued for unlimited duration.</p> <p>Justification: Since Part M is not effective for aircraft operated under a PtF, the PtF should be remain valid for 12 month. After this time an airworthiness review according or in line with Part M is required.</p>	See response to comment No. 132	
166.	21A.723	DGAC France	<p>add a paragraph that could be numbered (b) that could state:</p>	<p>Not Accepted</p> <p>Flight Cycles or hours can be included in the PtF as a</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p><u>(b) A permit to fly shall be limited in duration, flight cycles, flight hours as appropriate in order to allow the applicant to resolve the purpose leading him to ask for a permit to fly.</u></p> <p><u>Renumber (b) to (c) into (c) to (d).</u></p> <p>Justification: Duration and controlled validity should be expressed in terms of duration (days or months) but also in terms of flights (5 landings max for example). In the case an applicant has missed a maintenance inspection, limit, ..., he shall not be entitled to have a permit to fly to continue for one month, but just to have a permit to fly to allow him to ferry flight to its maintenance organisation in order to get back to an airworthy situation and get back his airworthiness certificate valid.</p>	<p>limitation. (21A708(b)(4))</p>	
167.	21A.725	Walter Geßky	<p>Renewal of the permit to fly shall be processed as a change in accordance with 21A.713 and it is shown that the required maintenance was carried out by an approved maintenance organisation and the aircraft was inspected an airworthiness review was carried out according Part m of EC 2042/2003.</p> <p>Justification: Renewal of a PtF should only be done when in addition to 21A.713 an airworthiness review according Part M was carried out and it was verified that the required maintenance was done by an approved organisation.</p>	<p>Noted. In case of issuance of a new PtF the issuing entity will have to be satisfied with the airworthiness status of the aircraft.</p>	
168.	21B.330(b)	Eurocopter Deutschland	<p>21B.330 (b) Upon issuance of the notice of suspension and revocation of a certificate of airworthiness or restricted certificate of airworthiness the competent authority of the Member State of registry shall state the reasons for the suspension or revocation and inform the holder of the certificate or permit on its right to appeal.</p>	<p>Accepted In addition the title of Subpart H in Section B is amended consistently with Subpart H of Section A</p>	<p>See revised 21B.330</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Justification: Permit to fly has been removed from subpart H. The word “permit” in the paragraph 21B.330 (b) shall then be deleted.</p>		
169.	21B.510	Airbus Transport International	<p><u>COMMENTS:</u> To keep a shared European standard in Part 21 application throughout the member states, the Agency should provide a form "Application for a PtF" and not let each NAA develop and require its own form.</p> <p><u>PROPOSED TEXT:</u> - Replace text of §21B.510 by the following : “An application for a permit to fly shall be made in a form and manner established by the Agency.” - Add a new Form in appendices: “Application for a permit to fly”</p> <p>Justification: EASA provides already a form for the issuance of a Permit to Fly (Form 20 / 20a). This procedure would also be in line with other paragraphs of Part 21, for which an EASA form exists and is required for applications (ex: Form 33 for application for STC).</p>	<p>Partially accepted</p> <p>An application form has been introduced in guidance to 21B.520(b).</p> <p>As a consequence 21B510 is deleted</p>	See revised 21B.520(b) and AMC 21B.520(b)
170.	21B.515	Popular Flying Association (PFA)	<p>Explanatory Note: 11.The agency is clearly responsible for all design related airworthiness issues where member states are responsible for finding conformity of the individual aircraft with the design as approved by the Agency.</p> <p>18. <i>New Part 21 Subpart P dedicated to permit to fly</i></p> <p>Changes Changes to the aircraft or the flight conditions require approval. To keep it simple the process for approval of these changes follows the route for initial approval,</p>	<p>Not Accepted</p> <p>21B.515 has been deleted because the approach has been changed in accordance with other comments. .</p> <p>Nevertheless the design conditions for the issue of a PtF under 21A.701(a)(15) will be approved by the Agency. There is already a grandfather clause for existing aircraft to ease transition.</p>	

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			<p>except that only the documents related to the change need to be furnished. If necessary the PtF can be amended by the same entity that issued it.</p> <p>Draft Opinion Regulation 1702/2003 Part 21: 21A.710 Approval of flight conditions (a) The conditions of 21A.709(a) shall be approved:</p> <ol style="list-style-type: none"> 1. in case the Agency is the responsible party notified under 21B.515: <ol style="list-style-type: none"> (i) by the Agency, in accordance with its administrative procedures, or (ii) by an appropriately approved design organisation, under the privilege of 21A.263(c)(6) 2. in all other cases by the Competent Authority. <p>21A.713 Changes</p> <p>(a) A change to the purpose requires an application for a new permit to fly.</p> <p>(b) Any change that invalidates the conditions or associated justifications established for the permit to fly shall be approved in accordance with 21A.710.</p> <p>(c) Application for approval of the change shall be made in accordance with 21A.707, where the information provided can be limited to that necessary to identify and justify the change.</p> <p>(d) Notwithstanding subparagraph (c), changes not affecting the content of the permit to fly may be approved by a Design Organisation Approval holder without an application.</p> <p>(e) Following approval of the change, the permit to fly shall be amended in accordance with 21A.717.</p>		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>21B.515 Determination of responsible party for approval of the flight conditions Upon receipt of the application the Competent Authority shall notify to the applicant the responsible party for approval of the flight conditions, in accordance with the following:</p> <p>(a) The Agency, when</p> <ol style="list-style-type: none"> 1. the aircraft does not conform to an approved design or 2. an Airworthiness Limitation, a Certification Maintenance Requirement or an Airworthiness Directive have not been complied with, or 3. the intended flight(s) is/are unusual. <p>(b) The Competent Authority in all other cases.</p> <p><u>PROPOSED TEXT/ COMMENT:</u></p> <p>Re-draft 21B515 to read :</p> <p>21B.515 Determination of responsible party for approval of the flight conditions Upon receipt of the application the Competent Authority shall notify to the applicant the responsible party for approval of the flight conditions, in accordance with the following:</p> <p>(a) The Agency, when</p> <ol style="list-style-type: none"> 1. the aircraft does not conform to an approved design or 2. an Airworthiness Limitation, a Certification Maintenance Requirement or an Airworthiness Directive have not been complied with, or 3. the intended flight(s) is/are unusual. <p>(b) The Competent Authority in all other cases.</p> <p>(c) Notwithstanding subparagraph (a), for a permit to fly issued for the purpose of 21A.701(a)(15), the</p>		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Competent Authority.</p> <p>Justification: At present there are some 400 aircraft, which are outside Annex II, operating in the UK with permanent PtF. These aircraft are operating under control of the UK CAA with the continued airworthiness administration carried out by the Popular Flying Association (PFA). The responsibility for design evaluation of modifications and repair schemes for these aircraft is presently carried out by PFA. If all design matters are to be administered by EASA under the new rules in Part 21, this will impose a considerable work-load on EASA, evaluating relatively minor modifications and repair schemes.</p>		
171.	21B.515 and GM 21B.515(a)3	CAA-UK	<p>This paragraph attempts to define the division of responsibility between NAAs and EASA for authorising a permit to be issued. The proposed paragraph (a)(3) is likely to be very difficult to use - what is unusual for one kind of aircraft may be entirely routine for another. The guidance material GM 21B.515(a)(3) suggests that zero-g manoeuvres are unusual, which is true for transport aeroplanes, but not for aerobatic and training aircraft. Also, the term “flight envelope” means different things to different people. Designers often refer to the design envelope as the flight envelope, but pilots usually mean the operating limitations when they use this term.</p> <p>Also 21B.515(a)(2) would be difficult to apply in practice. This is because, when an aircraft has been in long-term storage, or requires maintenance, there will very often be a non-compliance with an AD, CMR or airworthiness limitation. In those circumstances the competent authority, acting locally, is in the best position to determine whether a flight under a permit to fly would be acceptable when reviewing the justification with the applicant.</p> <p>It is suggested that it would be much easier and better to</p>	<p>Partially accepted</p> <p>This paragraph is deleted. Another approach is taken, with first the approval of flight conditions (see new 21A.709 and 710) and second the issue of the PtF. The split of responsibilities is now addressed in revised paragraph 21A.710(a). Non-compliance with AD’s, CMR’s or ALI’s are design related and need to be agreed by the Agency or DOA.</p>	See revised 21A.710(a)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>write this whole paragraph with the opposite sense; i.e. by defining the more limited circumstances when the NAA can authorise a permit and then under “(b)” to specify “the Agency” for all other purposes.</p> <p>As part of the consultation for the proposed change to Regulation 1592/2002, the CAA has already suggested some text that would meet this objective. A version of that text, adapted to the form of this paragraph follows:</p> <p><i>Upon receipt of the application the Competent Authority shall notify to the applicant the responsible party for the approval of the flight conditions, in accordance with the following:</i></p> <p><i>(a) The Competent Authority where the application for the permit is made solely to enable an aircraft to fly for the purpose of:</i></p> <p><i>(i) demonstrating continuing conformity with the standard previously accepted by the Agency for the aircraft or type of aircraft to qualify or re-qualify for an airworthiness certificate; or</i></p> <p><i>(ii) proceeding to a place at which any inspection, repair, modification, test or maintenance action is to be carried out in order to establish conformity with the standard previously accepted by the Agency for the aircraft or type of aircraft and thereby qualify or re-qualify for an airworthiness certificate.</i></p> <p><i>(iii) to proceed to or from a place at which the aircraft is to be or has been stored.”</i></p> <p><i>(b) The Agency in all other cases.</i></p> <p>If this text is used, GM 21B.515(a)(3) can be deleted.</p>		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
172.	21B.515	Association of European Airlines	<p>Justification: Amendment</p> <p>Upon receipt of the application the Competent Authority shall notify to the applicant the responsible party for approval of the flight conditions, in accordance with the following:</p> <ol style="list-style-type: none"> 1. <i>When the aircraft does not conform to an approved design: the Agency, a DOA or the Competent Authority if the TC Holder's concurrence is granted;</i> 2. <i>When the intended flight(s) is/are unusual: the Agency.</i> 3. <i>In all other cases :</i> the Competent Authority. <p>Justification: As said in previous comment: Extend the cases where the NAA may approve the flight condition + recognize the TC Holder's competence + take AD's, CMR's and ALI outside the scope of the PtF (use instead "one time extensions")</p>	<p>Not Accepted</p> <p>21B.515 has been deleted due to other comments. A revised 21A.710 addresses these issues. See also response to comment No. 171</p>	See revised 21A.710
173.	21B.515	Walter Gebky	<p>(a) 3. the intended flight(s) is/are unusual.</p> <p>Comment: What is unusual has to be clarified in Section AI and not in Section B.</p>	<p>Partially Accepted</p> <p>The revised text has changed the approach to eliminate the term "unusual flights". 21B.515 has subsequently been deleted. The explanation when the approval of flight conditions is design related or not is in GM 21A.710(a)(3). It no longer includes the term "unusual flights".</p>	See new GM 21A.710(a)(3)
174.	21B.515	LBA	<p>Part-21B.515 Determination of responsible party for approval of flight conditions</p> <p>(a) 2. and Explanatory Note, Section IV, subchapter 18. Subpara: "Approval of flight Conditions:" 1st sentence: ...deviations from the maintenance programme not being part of airworthiness limitations</p>	See response to comment No. 97	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>An exceptionally short term extension of a CMR (AWL) would not normally be seen to fall under jurisdiction for application / use of an PtF</p> <p>Justification: Some AWL documents allow for exceptionally short term extension of AWL / ALI / CMR after consent of national authority as a deviation from standard maintenance schedule. (reference Airbus A320 family SMD: Sched. Maint. Data, issue 23 CMR-EASA-Version and Bombardier Challenger AWL-section of TL/MC CMR).</p>		
175.	21B.520(a) 21B.530(b) 21B.545(b)3	Eurocopter Deutschland	<p>“SUBPART H — CERTIFICATES OF AIRWORTHINESS AND RESTRICTED CERTIFICATES OF AIRWORTHINESS”</p> <p>21B.520 (a) The Competent Authority shall perform sufficient investigation activities for an applicant for, or holder of, a permit to fly to justify the issuance, amendment, or revocation of the permit to fly.</p> <p>21B.530 (b) Upon issuance of the notice of revocation of a permit to fly the Competent Authority shall state the reasons for the revocation and inform the holder of the permit to fly on its right to appeal.</p> <p>21B.545 (b) 3. a copy of the permit to fly, including amendments</p> <p>Justification: Editorial change to adopt the same changed title of subpart H in section A.</p> <p>Consistent use of the fixed term “permit to fly” shall be exercised through the document. The word “permit” in the new paragraphs 21B.520 (a), 21B.530 (b), 21B.545 (b) 3 shall therefore be amended to state “permit to fly”. Consistent use of this fixed term shall also be implemented in the draft GM to Part 21 (GM 21A.703).</p>	Accepted	Editorial additions made to the text of the NPA as defined in the comment.

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
176.	21B.520(a)	DGAC France	<p>Reword as follows:</p> <p><u>In order to justify the issuance, amendment, or revocation of the permit, the</u> The Competent Authority shall perform sufficient investigation activities for <u>to address a permit to fly request by an applicant for, or a permit to fly modification request by its holder of, a permit to fly to justify the issuance, amendment, or revocation of the permit.</u></p> <p>Justification: This sentence is not understandable. If properly understood, an alternative is proposed.</p>	<p>Partially Accepted</p> <p>The text of the requirement is simplified for clarification of the intent, but in a different way than proposed by the comment provider. (see revised text)</p>	See revised 21B.520(a)
177.	21B.520(b)	CAA-UK	<p>Suggested improvements to the flow of the text:</p> <ol style="list-style-type: none"> 1. evaluation of <u>the</u> eligibility of the applicant 5. inspection of <u>the</u> aircraft when considered necessary. 6. determination of <u>the</u> necessary conditions or restrictions <u>for</u> the permit to fly <p>Justification: Clarity</p>	Accepted	See revised 21B.520(b)
178.	21B.525	DGAC France	<p>Clarify what is “undue delay”.</p> <p>Justification: The term “undue” is subject to an interpretative judgment.</p>	<p>Noted</p> <p>The term undue delay is deleted.</p>	See revised 21B.525
179.	21B.530	CAA-UK	<p>Suggested improvements to the flow of the text:</p> <ol style="list-style-type: none"> (a)..... 21A.723(a) <u>are</u> not met, (b).....permit on <u>the</u> right to appeal <p>Justification:</p>	Accepted	See revised 21B.530

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Clarity		
180.	21B.530	Walter Geßky	Comment: The competent authority can only revoke a PtF when informed by a POA that a PTF was issued and under what condition this PtF was issued.	Accepted Approved organisations issuing permits to fly must send a copy to the competent authority	See new 21A.711(f)
181.	21B.530(b) and 21B.545(b)(3)	Air France	(b) ...the holder of the permit to fly on its right... 3. a copy of the permit to fly, including amendments. Justification: Typographic errors.	Accepted	
182.	21B.545	CAA-UK	Suggested improvements to the flow and clarity of the text: (a) The Competent Authority shall operate a system of record keeping that provides adequate traceability of the process for the issue, amendment and revocation of each individual permit to fly. (c) The records shall be kept for a minimum of six years after the permit ceases to be valid. Justification: Clarity	Accepted	See revised 21B.545
183.	Appendices EASA Forms	CAA-UK	Appendix III and Appendix IV should not have the same title. Appendix IV should be renamed "POAH - Permit to Fly" Justification: Correction	Accepted	Appendix IV renamed to add "(issued by approved organisation)
184.	Appendices	Dassault Aviation	The proposed forms present boxes for "signature". The rule shall present some provision to allow for both digital	Not Accepted The permit to fly is a formal document to be carried on	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
	Form 20, 20a		signature/stamps and handwritten signatures/rubber stamps.	board an aircraft to prove that the airworthiness status is approved in accordance with applicable law. Therefore a handwritten signature is required.	
185.	Appendices Appendix IV and Appendix V to Part 21 (EASA Form 20 and EASA Form 20a, Permits to Fly)	CAA-CZ	<p>The CAA CZ is of an opinion that duration (validity period) should be stated on EASA form 20 and EASA Form 20A and therefore proposes to add a new block for this purpose.</p> <p>Justification: Although the general conditions for duration and continued validity of the PtF are covered in the proposed 21A.723, stating the validity period clearly on the forms would allow for quick control of the PtF validity.</p>	<p>Accepted</p> <p>The revised EASA Form 20 and 20a includes box 7 entitled "Validity period". The intention is to put time limitation (i.e. defining expiry) on the PtF.</p>	See revised Form 20 and 20a
186.	Appendices EASA Form 20 EASA Form 20A (Upper left block) GM21A.705	Niels Erik Høiberg	<p>1. The statement/permit in upper left block should state more clearly if the PtF is valid for flight in ALL EASA member states without separate approvals from member states to be overflown, or if the PtF only is valid for flight within the issuing member state's airspace (unless approved by the states to be overflown).</p> <p>2. GM21A.705 should also be more specific, clarifying the same issue regarding "member states" / "states"</p> <p>Justification: I don't find the text clear and unambiguous. Reading GM21A.705 does not help much, as it is talking about member state and other states (member states or all other states?)</p> <p>The text on the Form 20/20A should be clear and unambiguous as crew in situ don't have the EASA requirement available for reference.</p>	<p>1. Partially accepted Revised Form 20 and 20a clarified the cross-EU member state applicability.</p> <p>2. Noted. The intent of the GM is clear in that it confirms that the Competent authority of the issuing member state is responsible for the PtF and the continuing airworthiness of the aircraft. Within the EU the PtF is a valid certificate attesting that the flight is safe. In that case the operator should comply with applicable national airspace and operational rules if they are outside the scope of the conditions as mentioned in 21A.708(b). Outside the EU the PtF must be validated by the State overflown.</p>	See new text in Form 20 and 20a
187.	Appendices EASA Forms	ENAC	EASA Forms 20s should be modified to include a box "expiration data" and a printed list of limitations to be imposed at all times (non-commercial flight only, minimum flight crew, avoid areas having heavy traffic,	<p>Partially Accepted</p> <p>The revised EASA Form 20 and 20a has a validity period in a new box 7.</p>	See revised Form 20 and 20a

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>etc.)</p> <p>Justification: The above comment was raised by ICAO during the SOAP audit in Italy.</p>	<p>Reference the conditions on the PtF, any conditions necessary for the airworthiness of the aircraft will be included as part of the investigation leading to the issue of the PtF. They do not necessarily need to be “standard limitations” even if they are incorporated on the vast majority of Permits to Fly.</p>	
188.	<p>Appendices EASA Forms 20 and 20a</p>	DGAC France	<p>Delete the word “operational” to read: “... provided applicable national operational rules are complied with...”</p> <p>Justification: The holder of a permit to fly must follow the airspace rules and the operational rules at least. Deleting the word “operational” would cover all the cases. For example, in France, we have some rules on the flight tests that include pilot licence requirements, airspace rules....</p>	<p>Not accepted</p> <p>Only rules or conditions outside the scope of the conditions as mentioned in 21A.708(b) can apply in addition to the PtF restrictions.</p>	See revised Form 20 and 20a
189.	<p>Appendices Form 20 and form 20a</p>	DGAC France	Add a “ <u>validity end date</u> ” feature in the form.	<p>Accepted</p> <p>See Response to Comment 185</p>	See revised Form 20 and 20a
190.	<p>Appendices Appendix IV, EASA Form 20 Permit to Fly Appendix V, EASA Form 20A Permit to Fly</p>	Airbus SAS	<p>On both forms, add boxes to present reference to documents of non-EU States, stating acceptance of EASA P-t-F and permission to operate over their territories.</p> <p>Justification: As said in the current explanatory note, the EASA permit to fly is valid in EU member States only. As it may be the case that an aircraft has to operate under EASA P-t-F over or into countries outside the EU, it is assumed that – keeping in mind the different legal status of EASA compared to that of National Authorities of ICAO Member States – in some cases a pre-flight acceptance of those over-flown or destination countries has to be obtained. Further having in mind that these may not be</p>	<p>Not Accepted</p> <p>An EASA Form 20 is a permission to Fly within EU Member states and operation outside these states requires permissions to be granted under the systems of the accepting states. Many will validate the EASA Form 20, and some will issue their own, but it is their choice as to the option and how they go about it. Accommodation of the requirements of states outside EU member states is outside the scope of this NPA.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>very frequent cases with regard to a specific country, reference to that country's acceptance document may help to ease operation under local Authorities' oversight.</p>		
191.	<p>Appendices – EASA forms</p>	ATR	<p>With regards to current permit to fly, the information of validity of the permit to fly and the possibility to transport passengers are missing in EASA form 20 and EASA form 20a.</p>	<p>Partially accepted</p> <p>See response to comment 185 in respect of the validity being included on the PtF.</p> <p>Restriction on the carriage of passengers, would be a condition of the PtF as defined in accordance with 21A.708(b)(3) and listed in block 6.</p>	
192.	<p>Appendices “EASA Forms”</p>	European Sailplane Manufacturers	<p>In the text of the NPA 9-2006 it is been stated, that “The EASA Form 20, Permit to Fly , is changed to reflect that the PtF is valid in all Member States, provided the operational rules are complied with, which for the time being are still national”.</p> <p>According wording is found on the new proposed EASA Forms 20 and 20a.</p> <p>It is noted from the side of the sailplane manufacturers that EASA cannot decide which national rules are used by the Member States. But free transfer of goods and free travel by use of a PtF will only be possible after these operational rules will become identical for all Member States.</p> <p>Therefore the sailplane manufacturers would appreciate a collection of these operating rules would be made y EASA. Especially the differences in those rules should be listed and then a minimum common standard should be distilled from this list.</p> <p>The logical next step would be to put this minimum standard into the flight conditions of the PtF to facilitate immediate permission of flight within all member states without further action by the PtF holder / aircraft owner.</p> <p>Parallel EASA / the EC commission should approach the</p>	<p>Noted</p> <p>The PtF is a certificate attesting that the aircraft can perform safely a basic flight in accordance with Regulation (EC) No 1592/2002 article 5.3(a) if operated within the conditions and restrictions as specified on the PtF. It is valid in all EU member states in accordance with article 8 of that Regulation. However, as usual, the operator will also have to comply with applicable operational rules. These will only apply as far as they are outside the scope of the conditions as mentioned in 21A.708(b)</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Member States to further harmonise these operating rules.</p> <p>Justification: Only stating that different operating rules in different Member States might preclude operation of this particular PtF aircraft still leaves the effort to find out about these rules with the operator.</p> <p>Practically this means often a lengthy process of applying for permission, sending forms, etc..</p> <p>This is exactly the bureaucratic burden which makes cross-border operation of a PtF aircraft as costly and non-practically within the EASA Member States today.</p>		
193.	AMC No.1 and No. 2 to 21A.133(b) and (c)	EADS Elbe Flugzeugwerke GmbH	<p>The text arrangement between design and production organisations should arrange for the necessary co-operation to issue Permits to Fly by appropriate approved Production organisations.</p> <p>Justification: To achieve satisfactory coordination the documented arrangements must at least define the new aspects of the new privileges for Production Organisations in accordance with new Subpart H.</p>	<p>Not accepted. Already covered in AMC No 1 to 21A.133(b) and (c), 7th bullet point.</p>	
194.	AMC 21A.133(b) and (c) , n°1	DGAC France	<p>The responsibilities of a design organisation which assure correct and timely transfer of up to-date airworthiness data (e.g., drawings, material specifications, dimensional data, processes, surface treatments, shipping conditions, quality requirements, <u>conditions or restriction for permit to flight issuance</u>, etc.);</p> <p>Justification: It is proposed to add in the referenced AMC paragraph a reference to the conditions for flight permit, so there is a good exchange between DOA and POA holder.</p>	<p>Not accepted. See response to comment No. 193.</p>	
195.	AMC 21A.139(b)(1)	DGAC France	<p>Add a new bullet that could read: - <u>procedures to issue a permit to fly in accordance</u></p>	<p>Partially accepted. A new bullet point is added in 21A.139(b) itself.</p>	See new 21A.139(b)(1)(xvi)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p><u>with privilege 21.A.163 (e)</u></p> <p>Justification: It is proposed to add in the referenced AMC paragraph a new bullet to make sure the quality systems covers the “agreed procedures” identified in 21.A.711 (b) in order to issue a flight permit.</p> <p>It is considered that it would detail the item 21.A139 (b) 1, (vi) item. Otherwise, it might be necessary to expand also the 21.A.139 (b) 1 paragraph with a new item for flight permit.</p>		i)
196.	AMC 21A.145(d)(1)	DGAC France	<p>add a new bullet numbered (10) that could read: 10 For issuance of permit to fly, the responsibilities are allocated to the certifying staff identified in 21A.145 (d)(2).</p> <p>add a within bullet (1) a reference to flight permit: 1 Certifying Staff are nominated by the production organisation to ensure that products, parts, appliances and/or materials qualify for Statements of Conformity, <u>permit to fly issuance</u> or Release Certificates....</p> <p>Justification: It is proposed to add in the referenced AMC paragraph a new bullet similar to current bullet (8) to cover flight permit issuance responsibilities allocated to the certifying staff. Add a reference in bullet n°1.</p>	Accepted.	See new text for AMC 21A.145(d)(1), bullets 1 and 8.
197.	AMC 21A.263	Turbomeca	<p>Insert new AMC 21a.263(c)(7) as follows: " AMC 21A.263(c)(7) Procedure for the approval of the installation/operating/continued Airworthiness instructions for a not-certificated engine .</p> <p>Each engine manufacturer, DOA applicant or holder, must develop its own internal procedure in order to obtain</p>	Partially accepted. See response to comment 3.	See new AMC 21A.263(b)(1)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>the privilege to make the determination of the installation/operating/continued Airworthiness instructions to meet for a not-certificated turboshaft engine intended to be fitted on a rotorcraft which will fly under a Permit to Fly and approve them without Agency involvement under 21A.263(c)(7).</p> <p>These approved installation/operating/continued Airworthiness instructions will be provided to the Rotorcraft manufacturer. They will be used by the Rotorcraft manufacturer for the establishment of the rotorcraft flight conditions for issue of a permit to fly.</p> <p>Justification: To clarify that the engine manufacturer must have an appropriate internal procedure to apply for the privilege of 21A.236(c)(7)</p>		
198.	AMC 21A.263(c)(6) § 2.4.1	Air France	<p>The procedure must specify a form for the approval under the DOA privilege.</p> <p>Justification: Could Form 20 be used or could EASA make a proposal?</p>	Accepted	See form in AMC 21A.263(c)(6)
199.	AMC 21A.263(c)(6)	ENAC	<p>AMC 21A.263(c)(6) Procedure for the approval of the conditions for issue of a permit to fly</p> <p>1 INTENT</p> <p>This AMC provides means to develop a procedure to determine that an aircraft can fly, under the appropriate restrictions compensating for non compliance with the certification specifications applicable to the aircraft category.</p> <p>Each DOA applicant or holder must develop its own internal procedure following this AMC, in order to obtain the privilege to make this determination and approve associated conditions without Agency involvement, under</p>	<p>Partially accepted.</p> <p>Change of title in 2.2 is accepted. Introduction of risk management is a good idea, but should deserve a more general review. It could also be seen as a part of 21A.239 design assurance system.</p>	See new AMC 21A.263(c)(6)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>21A.263(c)(6). This privilege does not apply for a permit to fly to be granted for flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified,. However, in this case, the DOA holder will prepare all necessary data required for the determination in accordance with the same procedure required for the privilege, and will apply for Agency approval.</p> <p>2 PROCEDURE FOR THE APPROVAL OF THE CONDITIONS FOR ISSUE OF A PERMIT TO FLY</p> <p>2.1 Content</p> <p>The procedure must address the following points:</p> <ul style="list-style-type: none"> - management of the aircraft configuration - determination of the conditions to perform a flight - Risk management- approval under the DOA privilege, in accordance with 21A.263(c)(6) and 21A.265(f), <ul style="list-style-type: none"> - authorised signatories. - <p>2.2 Management of the aircraft configuration</p> <p>The procedure must indicate:</p> <ul style="list-style-type: none"> - how the aircraft, for which an application for permit to fly is made, is identified <p>how changes will be managed.</p> <p>2.3 Determination of the conditions to perform safely a flight</p> <p>The procedure must describe the process used by the DOA holder to justify that an aircraft can perform safely a flight. This process should include:</p> <ul style="list-style-type: none"> - identification of deviations from applicable certification 		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>specifications or non compliance with Part 21 conditions for the issue of a certificate of airworthiness</p> <ul style="list-style-type: none"> - analysis, calculations, tests or other means used to determine under which conditions or restrictions the aircraft can perform safely a flight - statement by the office of airworthiness (or equivalent), that the determination has been done according to the procedure <ul style="list-style-type: none"> - approval by an authorised signatory. - <p>2.4 Approval under the DOA privilege</p> <p>2.4.1 Initial approval</p> <p>The procedure must specify a form for the approval under the DOA privilege. This form must include at least:</p> <ul style="list-style-type: none"> - identification of the aircraft configuration covered by the approval - reference to the document(s) showing that the aircraft conforming to such configuration(s) can perform safely a flight under defined conditions or restrictions - conditions or restrictions for the flight - a statement “Approved under the authority of DOA EASA.21J.xxx.”, signed by an authorised signatory. - date of the approval. <p>For flights of a new type of aircraft or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, the same form should be used and presented by the office of airworthiness (or equivalent) to the Agency for approval.</p> <p>2.4.2 Approval of changes</p> <p>Except for changes that do not affect the conditions</p>		

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>approved for the issue of the permit to fly, the procedure must specify how changes will be internally approved and how the form mentioned in paragraph 2.4.1 will be updated.</p> <p>2.4.3 Flight and/or piloting characteristics significantly modified</p> <p>TBD (This concept should be developed).</p> <p>2.5 Authorised signatories</p> <p>The person(s) authorised to sign for the approval under the privilege of 21A.263(c)(6) must be identified (name, signature and scope of authority) in the procedure, or in an appropriate document linked to the DOA handbook.</p> <p>2.6 Risk management</p> <p>Appropriate procedures should be established by the DO to identify the risk associated to the flight test activity and the relevant mitigating factors.</p>		
200.	AMC 21A.263(c)(6)	Walter Gebky	<p>AMC 21A.263(c)(6)</p> <p>Procedure for the approval of the conditions for issue of a permit to fly</p> <p>a. 1 INTENT</p> <p>Add the following:</p> <p>This privilege does not apply for a permit to fly to be granted to initial flights of a new type of aircraft, significant major changes or STC's or of an aircraft whose flight and/or piloting characteristics may have been significantly modified,. ..</p> <p>Justification: see above</p> <p>Add the following after the last sentence:</p>	<p>Partially accepted.</p> <p>See response to comment No. 71 and revised text of AMC 21A.263(c)(6)</p>	<p>See revised AMC 21A.263(c)(6)</p>

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>However, in this case, the DOA holder will prepare all necessary data required for the determination in accordance with the same procedure required for the privilege, and will apply for Agency approval.</p> <p>The procedures has to include guidelines for the coordination with the competent authority of the MS with regard to restrictions to the airspace used for the flight and qualification of flight crew and the minimum requirement for maintenance and minimum required equipment for the safe operation of the aircraft.</p> <p>Justification: Coordination is required to take into consideration national requirements effective until EC is in force.</p>		
201.	AMC 21A.263(c)(6) 2.1 Content	Walter Gebky	<p>Add the following:</p> <p>approval under the DOA privilege, except for initial flights of a new type of aircraft significant major changes or STC's or of an aircraft whose flight and/or piloting characteristics may have been significantly modified,</p>	See response to comment 71.	See revised AMC 21A.263(c)(6)
202.	AMC 21A.263(c)(6) 2.2 Identification of the aircraft configuration	Walter Gebky	<p>Add the following:</p> <p>minimum required equipment for the safe operation of the aircraft</p> <p>Justification: See above</p>	Not accepted. This is covered by the aircraft configuration and the restrictions/limitations. See also new GM21A.711(e)	
203.	AMC 21A.263(c)(6) 2.3 Determination of the conditions to perform safely a flight	Walter Gebky	<p>Add the following:</p> <p>statement by the office of airworthiness (or equivalent), that the determination has been done according to the procedure and that the aircraft has no features and characteristics making it unsafe for the intended operation under the identified conditions and restrictions</p> <p>Justification:</p>	Accepted.	See revised AMC 21A.263(c)(6)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			The safety statement should also include that the aircraft is safe for the intended operation when operated under the identified conditions and restrictions.		
204.	AMC 21A.263(c)(6) 2.4 Approval under the DOA privilege	Walter Geßky	<p>2.4.1 Initial approval</p> <p>Add the following: identification of the aircraft configuration including the minimum required equipment covered by the approval</p> <p>Justification. See above</p> <p>Add the following. For initial flights of a new type of aircraft significant major changes or STC's or of an aircraft whose flight and/or piloting characteristics may have been significantly modified, the same form should be used and presented by the office of airworthiness (or equivalent) to the Agency for approval.</p> <p>Justification: See above</p>	Partially accepted. See responses to comments 71 and 202.	
205.	AMC 21A.263(c)6	CAA-UK	<p>Suggested improvements to the flow and clarity of the text:</p> <p>2.1 Content - determination of the conditions that must be complied with to perform a flight</p> <p>2.2 Identification of the aircraft configuration - how the build standard of the aircraft is identified. - how changes to the build standard or configuration will be controlled.</p>	Partially accepted The text of the AMC is revised for clarification, taking into account the suggestions by the comment provider.	See revised AMC 21A.263(c)(6).

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>2.3..... The procedure must define the process used by the DOA holder to justify that an aircraft can perform the intended flight(s) safely. - a statement by the airworthiness office (or equivalent) that the determination has been made in accordance with the procedure.</p> <p>2.4.1..... - reference to the document(s) justifying that an aircraft conforming to such configuration(s) can perform the intended flight(s) safely under the defined conditions and restrictions.</p> <p>2.4.2, the procedure must specify how changes will be approved by the DOA holder and how the form mentioned in paragraph 2.4.1 will be amended to include such changes.</p> <p>Justification: Clarity</p>		
206.	AMC 21A.701 to be added	Dassault Falcon Service	<p>1 Add § AMC 21A.701 to present the definitions of each item listed in Subpart P / 21A.701, as described in page 7 of 31 of the NPA</p> <p>2 If comment 1 is adopted, correct items as follows :</p> <p>(7) Delivering or exporting the a/c : <i>before the a/c is registered in the State where the first CoA will be issued</i></p> <p>(9) Market survey, including customer's crew training: <i>Flights for the purpose of conducting market</i></p>	<p>Accepted</p> <p>GM21A.701 has been amended to include the definitions provided in the explanatory note to the NPA, and amended as proposed.</p>	See revised GM 21A701(a)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p><i>survey, sales demonstrations and customer crew training with non type certificated aircraft or aircraft for which conformity has not yet been established or for non-registered a/c and before CoA is issued</i></p> <p>Justification:</p> <p>1 Refer to § 18 on pages 6 and 7 of NPA</p> <p>2 A PtF can be requested and issued also for used a/c when there are transfers and sales in different countries (import / export) A PtF can be requested and issued also for used a/c for ferry flights (see item 11 on page 7 of NPA)</p>		
207.	GM 21A.701	ATR	GM 21A.701 should detail the 16 categories of flight for which a permit to fly has to be issued. The text should be similar to what is proposed in the Explanatory note of this NPA, point 18. “ <i>New Part 21 Subpart P dedicated to PtF</i> ” paragraph Scope.	Accepted See response to comment Number 206	See revised GM 21A701(a)
208.	GM 21A.701(a)	Dassault Aviation	In the explanatory note, § 18, some guidance is announced about the cases for permit to fly issuance and useful information is given there, but the information is not presented in a GM21A.701(a) which is missing.	Accepted See response to comment Number 206	See revised GM 21A701(a)
209.	GM 21A.701(a)(11)	Virgin Atlantic Airways	<p>As an operator VAA would like to see the following added:</p> <p>Permit to fly for Ferry Flights</p> <p>Ferry flights in cases where certain equipment outside the minimum equipment list (MEL) is unserviceable or when the aircraft has sustained damage beyond the applicable limits.</p> <p>Justification: To provide guidance on when permits to fly are required</p>	Accepted See response to comment Number 206	See revised GM 21A701(a)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			for maintenance ferry flights.		
210.	GM 21A.701(a)(15)	Walter Geßky	<p>Permit to fly when certificate of airworthiness or restricted certificate of airworthiness is not appropriate A certificate of airworthiness or restricted category certificate of airworthiness may not be appropriate for an individual aircraft or aircraft type when the Agency agrees that it is not practicable to comply with the normal continued airworthiness requirements and that the aircraft is to a design standard that is demonstrated to be capable of safe flight under defined conditions.</p> <p>Comment: GM should include orphan aircraft.</p>	<p>Accepted</p> <p>See response to comment Number 206</p>	See revised GM 21A701(a)
211.	GM 21A.701(a)(15), GM 21A.711 (c)	Eurocopter Deutschland	<p>GM 21A.701 (a)(15) Permit to fly when certificate of airworthiness or restricted certificate of airworthiness is not appropriate</p> <p>A certificate of airworthiness or restricted category certificate of airworthiness may not be appropriate for an individual aircraft or aircraft type when the Agency agrees that it is not practicable to comply with the normal continued airworthiness requirements and that the aircraft is to a design standard that is demonstrated to be capable of safe flight under defined conditions.</p> <p>Justification: The fixed term “restricted certificate of airworthiness” (RCoA) shall be consistently used. The word “category” within this fixed term in GM 21A.701 (a)(15) shall therefore be deleted.</p> <p>GM 21A.711(c) calls for flight crew qualification Annex 1 to 21A.709 which is not available in the NPA 09-2006.</p>	<p>Accepted</p> <p>GM21.A701 has been significantly revised and the word category no longer appears.</p> <p>Former GM 21A711(c) has been amended to include the flight crew qualifications as a generic operational issue and is now GM 21A.711(e)</p>	See revised GM 21A701(a) and GM 21A.711(e)
212.	GM 21A.701(a)(16)	Virgin Atlantic Airways	As an operator VAA would like to see the following added:	Noted.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>Any other purpose agreed by the Agency</p> <p>A permit to fly is not required for a ferry flight which is operated in accordance with TCH's approved data / approved flight conditions (For example, a 3 Engine Ferry flight on a 4 engine aircraft or with Gear Down or Unpressurised etc ...).</p> <p>Justification:</p> <ol style="list-style-type: none"> 1. To provide guidance to operators and competent Authorities to improve standardization of the use of permits to fly throughout Europe 2. The flight conditions / maintenance actions are already fully defined in relevant manuals approve by the TCH and competent Authorities so a permit to fly is not required and is an unnecessary burden. 	<p>Subpart P does not stipulate when a PtF is required but identifies the cases when it may be applied for. A PtF is only necessary for flights when the C of A is invalid.</p> <p>Where the TC Holder has submitted and had approved a configuration, together with a set of limitations and conditions to assure safe flight as part of the TC activity, that in itself implies that provided the aircraft is operated in accordance with the approved data, the C of A remains valid. A PtF should not be required. No change is therefore required to the text or guidance in this respect.</p>	
213.	GM 21A.701(b)	CAA-UK	<p>For improved clarity it is suggested that the last sentence is replaced by:</p> <p>“Responsibility for the authorisation to fly rests with the authority of the Member State where the flight will take place. Such authorisation will be subject to the national regulations of the Member State</p> <p>Justification: Clarity</p>	Accepted	See revised GM 21A.701(b)
214.	GM 21A.703	CAA-UK	<p>For improved clarity the following changes are suggested:</p> <p>The applicant for a permit to fly may be a person other than the registered owner of the aircraft.....the applicant for the permit should be a person or organisation suitable for assuming these responsibilities. ...</p>	Accepted	See revised GM 21A.703

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			...the holder of the associated permits to fly. Justification: Clarity		
215.	GM 21A.703	Air France	The applicant ... assuming these responsibilities. In particular, the organisations designing, operating, modifying or maintaining the aircraft should be the applicant and holder of associated permits to fly. Justification: Operators also need to apply for PtF	Noted Operators can apply for a PtF under the existing text. Issue of a PtF will occur on the basis of the relevant design assessment by the Agency or an approved organisation.	
216.	GM 21A.703	Airbus SAS	Revise GM 21A.703 to read (changes in bold): Applicant for a permit to fly The applicant for a permit to fly may not necessarily be the registered owner of the aircraft. As the holder of this permit will be responsible for ensuring that all the conditions and limitations associated with the permit to fly are continuously satisfied, the applicant for the permit should be the most suitable person or organization for assuming these responsibilities. In particular, the organizations designing, modifying or maintaining the aircraft may be the applicant and holder of associated permits to fly. Justification: As understood, the last 2 sentences are linked: the second last sentence gives the recommendation (“...the applicant for the permit should be the most suitable person.”), while the last sentence shall present options (“...may be the applicant...”).	Partially accepted The applicant can clearly be any person identified in the regulation. Based on other comments GM 21A.703 has been amended to clarify that the <u>holder</u> of the permit <u>should normally</u> be the organisation controlling the activity.	See revised GM 21A.703
217.	GM 21A.705	CAA-UK	It is suggested that the last sentence is not necessary and should be deleted. Justification:	Not accepted The subject text is included specifically to remind the applicants of obligations that may not be directly evident.	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Text is superfluous	Text will be left unchanged.	
218.	GM 21A.709	CAA-UK	<p>This definition of “safe flight” could be interpreted as allowing a test pilot, equipped with a parachute and operating over a sparsely populated area, to set out on a test flight in the full knowledge that there is a high probability of losing the aircraft. It is assumed that what the rule 21A.709 is actually about is requiring the applicant to take all reasonable care to minimise safety risks and to be satisfied that there is a high probability that the aircraft will carry out the flight without damage or injury to the aircraft and its occupants or to other property or persons whether in the air or on the ground.</p> <p>The ICAO Airworthiness Manual has a definition of safe flight, which reads as follows:</p> <p><i>“Continued safe flight and landing. The capability for continued controlled flight and landing, possibly using emergency procedures, but without requiring exceptional pilot skill or strength. Some aircraft damage may be associated with a failure condition during flight or upon landing.”</i></p> <p>It is suggested that, based upon the ICAO text, the text under GM 21A.709 should be changed to:</p> <p>“In the context of 21A.709, “safe flight” means that, on the basis of current aeronautical knowledge and the available data pertaining to the aircraft, it can reasonably be concluded that the aircraft is capable of controlled flight and landing without requiring exceptional pilot skill or strength. It is accepted that in some limited cases (including higher risk test flying) continued safe flight and landing may require the use of emergency procedures and that damage to the aircraft, associated with a failure condition or the inadvertent exceedence of an operating limitation, may occur during flight or upon landing”.</p> <p>Justification:</p>	<p>Partially accepted</p> <p>The gist of the comment is accepted but not with the exact wording as suggested by the comment provider.</p>	See revised GM 21A.708(c)

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Amendment		
219.	GM 21A.709(a)(3)	Walter Gebky	<p>The justifications should include hazard assessments, analysis, calculations, tests or other means used to determine under which conditions or restrictions the aircraft can perform a flight.</p> <p>Justification: A hazard or safety analysis is required to be available .</p>	<p>Noted</p> <p>21A.709 requires that the safety of a design and/or aircraft configuration that is being presented for the issue of a PtF be fully justified on a technical basis <u>and documented</u>. What specific documents (test reports, analysis or calculations) are necessary for that purpose will be agreed by the Agency or DOA on a case by case basis during the investigation.</p>	
220.	GM 21A.709(a)4	CAA-UK	<p>This guidance seems to be unnecessary. 21A.709(a)(1) requires the applicant to document the aircraft configuration; and 21A.709(a)(4) requires him to document the method of control of the configuration.</p> <p>If the purpose of the guidance is to try to ensure that all changes are traceable, even if they do not affect the permit conditions, then it is suggested that it would be better to amend 21A.709(a)(4) to read simply:</p> <p>“4. The method used for the control of the aircraft configuration.”</p> <p>Justification: Consistency</p>	<p>Not Accepted</p> <p>This text is to ensure that the scope of changes that can be made without the need for a new approval of the flight conditions are recognised and controlled. It provides emphasis that all configurations covered under the permit must be known and controlled.</p>	
221.	GM 21A.709(b)	Turbomeca	<p>Add a new GM 21.709(b) as follows:</p> <p>"GM 21A.709(b) Submission of justifications When the installation/operating/continued Airworthiness instructions established at engine level by the engine manufacturer for a not-certificated turboshaft engine intended to be fitted on a rotorcraft have already been approved by the engine manufacturer under 21A.263(c)(7) or by the agency, the justification of these</p>	<p>Partially accepted</p> <p>See response to comment Number 3.</p> <p>A new AMC 21A263(b)(1) has been developed to put the credibility of data from the engine manufacturer in context of the issue of a PtF for an aircraft.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>engine instructions have not to be submitted under 21A.709(b).</p> <p>Justification: to clarify that the already approved engine instructions established at engine level by the engine manufacturer have not to be submitted again under 21A.709(b).</p> <p>This reflects the current practice in France for turboshaft engines fitted on rotorcraft.</p>		
222.	GM 21A.710	CAA-UK	<p>For improved clarity the following changes are suggested:</p> <p>“Conditions approved by the Agency include “Standard Conditions” that will be published by the Agency. Where they are applicable in the context of the planned flight(s), these conditions may be used as a means of compliance with 21A.711(a)(2) and may be specified on a permit to fly issued by the Competent Authority or by an appropriately approved production organisation”.</p> <p>Justification: Clarity</p>	<p>Noted. The concept of general published standard conditions is deleted.</p>	
223.	AMC 21A.711	Airbus Transport International	<p>Section B gives only guidance to "competent authorities". For other organizations allowed to issue PtF, Part 21 should describe acceptable procedures for issuance, revocation and record keeping.</p> <p>An AMC to §21A.711 should be added to detail the requirements for organizations allowed to issue PtF but which are not “competent authorities”, with the same content as Section B: issuance, revocation, record keeping.</p> <p>Justification: Every organization allowed to issue PtF should be provided with appropriate guidance in order to follow the same rules and fulfill the same requirements.</p>	<p>Noted</p> <p>New guidance provides procedures for issue of a PtF by approved organisations having the relevant privileges. A new paragraph is added for record keeping requirements.</p>	See new 21A.729

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
224.	AMC 21A.711 to be added	Dassault Falcon Service	<p>1 Add § (d) to 21A.711 as follows : (d) An appropriately approved DOA organisation may issue a permit to fly (EASA Form 20B or 20x, see Appendix [TBD]) for a used aircraft, under procedures agreed with its competent authority for DOA and under the relevant procedures of the design assurance system for the purposes (6), (7), (8) , (9) and (11) of flights, defined in 21A.701</p> <p>2 In AMC 21A.711[to be added], add a paragraph for procedure for the issue of a PtF by a DOA holder</p> <p>3 Add in § 21A.710 (a) 2 as follows : 2. in other cases by the Competent Authority or by an appropriately approved DOA for the purposes (6), (7), (8) , (9) and (11) of flights, defined in 21A.701</p> <p>Justification: Refer to Comment no. Error! Reference source not found. from DFS</p> <p>1 - A PtF can be requested and issued also for used a/c when there are transfers and sales in different countries (import / export) - A PtF can be requested and issued also for used a/c for ferry flights (see item 11 on page 7 of NPA) - this privilege can be allowed for manufacturer (POA holder) subsidiary or representative with particular agreements</p> <p>2 The PtF is issued by the Airworthiness Office as Authorised Signature (like POA holder)</p>	<p>Partially Accepted</p> <p>The principle of a DOA issuing a PtF under the terms of a specific privilege is accepted and has been included.</p> <p>The procedures for the issue of a PtF by a POA and a DOA are defined in the AMC to 21A.163 and 21A.263 respectively.</p>	
225.	GM 21A.711(c)	Air France	... and flight crew qualifications covered by Annex 1 to 21A.709.	Accepted See response to Comment number 211	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			Justification: Annex 1 to 21A.709 does not exist.		
226.	GM 21A.711(c)	Walter Geßky	<p>Add the following: The operational conditions and restrictions prescribed by the Competent Authority may include airspace restrictions, radio station license, insurance, minimum equipment requirements, maintenance standards etc. but should not address airworthiness issues which are covered by Part 21 and flight crew qualifications covered by Annex 1 to 21A.709.</p> <p>Justification: See above as long as no EC regulation exists and Part M is not effective.</p>	Partially accepted Maintenance standards are part of the basis for approval and issue of a PtF [reference 21A.708 (b)(6)] GM 21A.711(e) has been revised to include reference to minimum equipment requirements. See response to comment No. 211.	
227.	AMC/GM to Part 21	Dassault Aviation	The conditions under which a TCH-POA can issue a permit to fly are very restrictive, they do not allow alleviate the current administrative workload, they do not match the day to day operations of a Type certificate holder. The rule should not be so restrictive: it should allow a TCH-POA to demonstrate its capability to issue permit to fly for purposes (1) development to (9) market survey and customer crew training (list according to proposed 21A.701(a)).	Accepted	See revised 21A.163(e) and 21A.711(c)
228.	AMC/GM to Part 21	Virgin Atlantic Airways	A flow Diagram of the overall process would be extremely useful in the Guidance Material. For example, like Figure 1 in GM No1 to 21A.239(a). Justification: To provide clarity to the process	Accepted	Flow chart has been included in GM to Subpart P.
229.	GM 21B.515(a)(2)	Virgin Atlantic Airways	VAA would like to propose the following text An Airworthiness Limitation, a Certification Maintenance Requirement or an Airworthiness Directive have not been complied with.	See response to comment No. 97	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>On a case by case basis the Competent Authority may issue an exemption under Article 10(3) of EC Regulation 1592/2002 for an Airworthiness Limitation, a Certification Maintenance Requirement or an Airworthiness Directive which have not been complied with where it can be demonstrated satisfactorily that safety is not reduced. In these limited cases a permit to fly would not be required.</p> <p>Note if Article10(3) is not the right legal vehicle then an alternative means should be found..</p> <p>Justification: An Operator may on occasion find they are out of compliance with an Airworthiness Directive by an omission, incorrect maintenance action and only discover this after the event. The aircraft is now at a remote location. Currently the operator puts together a justification to the competent authority to allow continued normal revenue flights until an agreed time. This process does not then require over flight permissions from non EU countries.</p> <p>The new proposed rule will put an unnecessary burden on industry if it is applied as written.</p>		
230.	GM 21B.515(a)(3)	Walter Geßky	<p>Add the following: Introduction of new technologies with an effect on handling and flight characteristics</p> <p>Justification: Flight under these conditions could also considered as unusual flights.</p>	<p>Noted</p> <p>This GM has been deleted due to a restructuring of 21A.709 based on previous comments and the comment is therefore not applicable in relation to the revised proposal.</p>	
231.	Form 20 and 20a	FAA	<p>Why does the POA holder and the form used by the national authorities differ? It seems that using two forms for the PTF would lead to confusion. EASA Form 20 and 20A are identical except for who issues the form. The same form can be used with a box for each discipline</p>	<p>Not accepted</p> <p>Making the form applicable for all cases will unnecessarily complicate the form.</p>	

No.	Para	Comment provider	Comment/Justification	Response	Resulting text
			<p>denoting who issued the form.</p> <p>justification: Reduction in forms used</p>		
232.	Regulation 1702/2003, paragraph 15 of article 2	FAA	Very confusing wording.	<p>Noted</p> <p>Text is amended following comment No. 51</p> <p>The text follows typical structure for regulations.</p> <p>For clarity it is intended to mean that the conditions for safe flight are permanently accepted (grandfathered) but that the documents (permits or equivalent) will need to be replaced with proper EASA form 20 or 20a documents within a year.</p>	
233.	21A.717	FAA	<p>A permit to fly shall only be amended by “the organization that issued the original”</p> <p>JUSTIFICATION: Will prevent someone not familiar with the PtF to issue an amendment.</p>	<p>Noted</p> <p>21A.717 is deleted. When an amendment is needed a new PtF should be issued</p>	
234.	GM 21A.703	FAA	The application for a permit to fly should also involve the registered owner to prevent a stolen aircraft from being ferried out of the member state.	<p>Not accepted</p> <p>The Agency responsibility is solely to determine safety of flight of an aircraft in specified conditions.</p>	
235.	Form 20 and 20a	Review group	<p>Delete “This permit shall be carried on board during all flights”</p> <p>Justification: This is an operational requirement</p>	Accepted	See revised form 20 and 20a