



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, XXX

Draft

COMMISSION REGULATION (EU) No .../2010

of [...]

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

(Text with EEA relevance)

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COMMISSION REGULATION (EU) No .../...

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

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC¹,

Whereas:

- (1) In order to maintain a high uniform level of aviation safety in Europe, it is necessary to introduce changes to requirements and procedures for the certification of aircraft and related products, parts and appliances and of design and production organisations, in particular to elaborate the rules related to the demonstration of compliance with the type-certification basis and environmental protection requirements and to introduce the possibility to extend DOA privileges to approve minor revisions to flight manuals.
- (2) Regulation (EC) No 1702/2003² should therefore be amended accordingly.
- (3) The measures provided for in this Regulation are based on the opinion³ issued by the European Aviation Safety Agency (hereinafter ‘the Agency’) in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 65 of the Regulation (EC) No 216/2008,

¹ OJ L 79, 19.3.2008, p.1. Regulation as last amended by Regulation (EC) No 1108/2009 of 21 October 2009 (OJ L 309, 24.11.2009, p. 51).

² OJ L 243, 27.9.2003, p. 6. Regulation as last amended by Regulation (EC) No 1194/2009 of 30 November 2009 (OJ L 321, 8.12.2009, p. 5).

³ Opinion 01/2010 on ‘Subpart J DOA’.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex Part 21 of Regulation (EC) No 1702/2003 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, ...

For the Commission
The President

ANNEX

The Annex Part 21 to Regulation (EC) No 1702/2003 is amended as follows:

1. Point 21A.20 is replaced by the following:

‘21A.20 Compliance with the type-certification basis and environmental protection requirements

- (a) The applicant for a type-certificate or a restricted type-certificate shall demonstrate compliance with the applicable type-certification basis and environmental protection requirements and shall provide to the Agency the means by which such compliance has been demonstrated.
- (b) The applicant shall provide the Agency with a certification programme detailing the means for compliance demonstration. This document shall be updated as necessary during the certification process.
- (c) The applicant shall record justification of compliance within compliance documents according to the certification programme established under paragraph (b).
- (d) The applicant shall declare that it has demonstrated compliance with the applicable type-certification basis and environmental protection requirements, according to the certification programme established under paragraph (b).
- (e) Where the applicant holds an appropriate design organisation approval, the declaration of paragraph (d) shall be made according to the provisions of Subpart J.’

2. In point 21A.21, point (b) is replaced by the following:

‘(b) submitting the declaration referred to in 21A.20(d); and’.

3. Point 21A.33 is amended as follows:

(a) the title is replaced by ‘**21A.33 Inspections and Tests**’;

(b) point (a) is replaced as follows:

‘(a) The applicant shall perform all inspections and tests necessary to demonstrate compliance with the applicable type-certification basis and environmental protection requirements.’;

(c) point (d) is replaced as follows:

‘(d) The applicant shall allow the Agency to review any report and make any inspection and to perform or witness any flight and ground test necessary to check the validity of the declaration of compliance submitted by the applicant under 21A.20(d) and to determine that no feature or characteristic makes the product unsafe for the uses for which certification is requested.’

4. In point 21A.97, points (a) 2, 3, and 4 are replaced by the following:

‘2. demonstrate that the changed product complies with the applicable certification specifications and environmental protection requirements, as specified in 21A.101;

3. comply with 21A.20(b), (c) and (d); and
4. where the applicant holds an appropriate design organisation approval, make the declaration of 21A.20(d) according to the provisions of Subpart J;

5. In point 21A.103, points (a)1 and 2 are replaced with the following:

- ‘1. submitting the declaration referred to in 21A.20(d); and
2. it is demonstrated that:
 - (i) the changed product meets the applicable certification specifications and environmental protection requirements, as specified in 21A.101;
 - (ii) any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety; and
 - (iii) no feature or characteristic makes the product unsafe for the uses for which certification is requested.’

6. Point 21A.115 is replaced by the following:

‘21A.115 Issue of a supplemental type-certificate

The applicant shall be entitled to have a supplemental type-certificate issued by the Agency after:

- (a) submitting the declaration referred to in 21A.20(d); and
- (b) it is demonstrated that:
 - 1 the changed product meets the applicable certification specifications and environmental protection requirements, as specified in 21A.101;
 - 2 any airworthiness provisions not complied with are compensated for by factors that provide an equivalent level of safety; and
 - 3 no feature or characteristic makes the product unsafe for the uses for which certification is requested;
- (c) demonstrating its capability in accordance with 21A.112B;
- (d) where, under 21A.113(b), the applicant has entered into an arrangement with the type-certificate holder,
 - 1 the type-certificate holder has advised that it has no technical objection to the information submitted under 21A.93; and
 - 2 the type-certificate holder has agreed to collaborate with the supplemental type-certificate holder to ensure discharge of all obligations for continued airworthiness of the changed product through compliance with 21A.44 and 21A.118A.’

7. In point 21A.263, points (c)4 is replaced with the following:

- ‘4. to approve minor revisions to the aircraft flight manual and supplements, and issue such revisions containing the following statement: “Revision No [YY] to AFM (or

supplement) ref. [ZZ], is *approved under the authority of DOA ref. EASA. 21J. [XXXX].*”