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Delegations will find attached document D030320/02.

Encl.: D030320/02



Brussels, **XXX**
[...] (2013) **XXX** draft

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

of **XXX**

**on the continuing airworthiness of aircraft and aeronautical products, parts and
appliances, and on the approval of organisations and personnel involved in these tasks**

**(Recast)
(Text with EEA relevance)**

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

of **XXX**

on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the approval of organisations and personnel involved in these tasks

(Recast)
(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 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 Agency¹~~ 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/EC², ~~(hereinafter referred to as the ‘basic Regulation’)~~ and in particular Article 5(5) and 6(3) thereof,

Whereas:

↓ new

- (1) 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 tasks³ has been substantially amended several times⁴. Since further amendments are to be made, it should be recast in the interests of clarity.

↓ 2042/2003 recital 1 (adapted)

- (2) ~~The basic~~ Regulation ~~(EC)~~ (EC) No 216/2008 ~~establishes~~ common essential requirements to provide for a high uniform level of civil aviation safety and environmental protection; it requires the Commission to adopt the necessary implementation rules to ensure their uniform application; it establishes the European Aviation Safety Agency (hereinafter referred to as the ‘Agency’) to assist the Commission in the development of such implementing rules.

¹ ~~OJ L 240, 7.9.2002, p. 1; Regulation as last amended by Commission Regulation (EC) No 1701/2003 (OJ L 243, 27.9.2003, p. 5)~~

² OJ L 79, 19.3.2008, p. 1.

³ OJ L 315, 28.11.2003, p. 1.

⁴ See Annex V.

↓ 2042/2003 recital 2 (adapted)

~~Existing aviation requirements in the field of maintenance as listed in Annex II to Council Regulation (EEC) No 3922/91⁵ will be repealed as from 28 September 2003.~~

↓ 2042/2003 recital 3 (adapted)

- (3) It is necessary to ~~adopt~~ lay down common technical requirements and administrative procedures to ensure the continuing airworthiness of aeronautical products, parts and appliances subject to ~~the basic~~ Regulation (EC) No 216/2008 .
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↓ 2042/2003 recital 4 (adapted)

- (4) Organisations and personnel involved in the maintenance of products, parts and appliances should be required to comply with certain technical requirements in order to demonstrate their capability and means of discharging their obligations and associated privileges; the Commission is required to ~~adopt~~ lay down measures to specify conditions of issuing, maintaining, amending, suspending or revoking certificates attesting such compliance.
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↓ 2042/2003 recital 5

- (5) The need to ensure uniformity in the application of common technical requirements in the field of continuing airworthiness of aeronautical parts and appliances requires that common procedures be followed by competent authorities to assess compliance with these requirements; the Agency should develop certification specifications to facilitate the necessary regulatory uniformity.
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↓ 2042/2003 recital 6 (adapted)

- (6) It is necessary to ~~provide sufficient time for the aeronautical industry and Member State administrations to adapt to the new regulatory framework;~~ it is also necessary to recognise the continuing validity of certificates issued before entry into force of ~~this~~ Regulation (EC) No 2042/2003 , in accordance with Article ~~57~~ 69 of ~~the basic~~ Regulation (EC) No 216/2008 .
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↓ 2042/2003 recital 7 (adapted)

~~The measures provided by this Regulation are based on the opinion issued by the Agency⁶ in accordance with Articles 12(2)(b) and 14(1) of the basic Regulation.~~

⁵ ~~OJL 373, 31.12.1991, p. 4; Regulation as last amended by Commission Regulation (EC) No 2871/2000 (OJL 333, 29.12.2000, p. 47).~~

⁶ ~~Opinion of the European Aviation Safety Agency 1/2003, 1 September 2003.~~

↓ new

- (7) Article 5 of Regulation (EC) No 216/2008 dealing with airworthiness was extended to include the elements of operational suitability evaluation into the implementing rules for type-certification.
- (8) The European Aviation Safety Agency (the ‘Agency’) found that it was necessary to amend Commission Regulation (EU) No 748/2012⁷ in order to allow the Agency to approve operational suitability data as part of the type-certification process.
- (9) The operational suitability data should include mandatory training elements for type rating training of maintenance certifying staff. Those elements should be the basis for developing type training courses.
- (10) The requirements related to the establishment of maintenance certifying staff type rating training courses need to be amended to refer to the operational suitability data.
- (11) The Agency prepared draft implementing rules on the concept of operational suitability data and submitted them as an opinion⁸ to the Commission in accordance with Article 19(1) of Regulation (EC) No 216/2008.

↓ 2042/2003 recital 8 (adapted)

- (12) The measures provided by this Regulation are in accordance with the Opinion of the European Aviation Safety Agency Committee⁹ established by Article ~~54(3)~~ 65(1) of ~~the basic~~ Regulation ~~⊗~~ (EC) No 216/2008 ~~⊗~~,

↓ 2042/2003

HAS ADOPTED THIS REGULATION:

Article 1

Objective and scope

1. This Regulation establishes common technical requirements and administrative procedures for ensuring the continuing airworthiness of aircraft, including any component for installation thereto, which are:

- (a) registered in a Member State; or
- (b) registered in a third country and used by an operator for which a Member State ensures oversight of operations.

⁷ OJ L 224, 21.8.2012, p. 1.

⁸ Opinion No 07/2011 of the European Aviation Safety Agency of 13th December 2011, available at <http://easa.europa.eu/agency-measures/opinions.php>

⁹ Opinion of the European Aviation Safety Agency Committee, 23 September 2003.

↓ 2042/2003 (adapted)

2. Paragraph 1 shall not apply to aircraft the regulatory safety oversight of which has been transferred to a third country and which are not used by ~~a Community~~ an EU operator, or to aircraft referred to in Annex II to ~~the basic~~ Regulation (EC) No 216/2008 .

3. The provisions of this Regulation related to commercial air transport are applicable to licensed air carriers as defined by ~~Community~~ EU law.

Article 2

Definitions

Within the scope of ~~the basic~~ Regulation (EC) No 216/2008 , the following definitions shall apply:

↓ 2042/2003

- (a) ‘aircraft’ means any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;
 - (b) ‘certifying staff’ means personnel responsible for the release of an aircraft or a component after maintenance;
 - (c) ‘component’ means any engine, propeller, part or appliance;
 - (d) ‘continuing airworthiness’ means all of the processes ensuring that, at any time in its operating life, the aircraft complies with the airworthiness requirements in force and is in a condition for safe operation;
 - (e) ‘JAA’ means ‘Joint Aviation Authorities’;
 - (f) ‘JAR’ means ‘Joint Aviation Requirements’;
 - (g) ‘large aircraft’ means an aircraft, classified as an aeroplane with a maximum take-off mass of more than 5700 kg, or a multi-engined helicopter;
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↓ 2042/2003 (adapted)

- (h) ‘maintenance’ means any one or combination of the following activities: overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;
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↓ 2042/2003

- (i) ‘organisation’ means a natural person, a legal person or part of a legal person. Such an organisation may be established at more than one location whether or not within the territory of the Member States;

- (j) 'pre-flight inspection' means the inspection carried out before flight to ensure that the aircraft is fit for the intended flight;
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↓ 593/2012 Art. 1.1

- (k) 'ELA1 aircraft' means the following manned European light aircraft:
- (i) an aeroplane with a maximum take-off mass (MTOM) of 1200 kg or less that is not classified as complex motor-powered aircraft;
 - (ii) a sailplane or powered sailplane of 1200 kg MTOM or less;
 - (iii) a balloon with a maximum design lifting gas or hot air volume of not more than 3400 m³ for hot air balloons, 1050 m³ for gas balloons, 300 m³ for tethered gas balloons;
 - (iv) an airship designed for not more than four occupants and a maximum design lifting gas or hot air volume of not more than 3400 m³ for hot air airships and 1000 m³ for gas airships;
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↓ 1056/2008 Art. 1.1

- (l) 'LSA aircraft' means a light sport aeroplane which has all of the following characteristics:
- (i) a Maximum Take-off Mass (MTOM) of not more than 600 kg;
 - (ii) a maximum stalling speed in the landing configuration (VS0) of not more than 45 knots Calibrated Airspeed (CAS) at the aircraft's maximum certificated take-off mass and most critical centre of gravity;
 - (iii) a maximum seating capacity of no more than two persons, including the pilot;
 - (iv) a single, non-turbine engine fitted with a propeller;
 - (v) a non-pressurised cabin;
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↓ 127/2010 Art. 1.1

- (m) 'principal place of business' means the head office or the registered office of the undertaking within which the principal financial functions and operational control of the activities referred to in this Regulation are exercised.
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↓ 2042/2003 (adapted)

Article 3

Continuing airworthiness requirements

1. The continuing airworthiness of aircraft and components shall be ensured in accordance with the provisions of Annex I ~~(Part-M)~~ .

2. Organisations and personnel involved in the continuing airworthiness of aircraft and components, including maintenance, shall comply with the provisions of Annex I ~~(Part-M)~~ and where appropriate those specified in Articles 4 and 5.

↓ 376/2007 Art. 1

3. By derogation from paragraph 1, the continuing airworthiness of aircraft holding a permit to fly shall be ensured on the basis of the specific continuing airworthiness arrangements as defined in the permit to fly issued in accordance with ~~the Annex I (Part-21)~~ to Commission Regulation ~~(EC EU) No 1702/2003~~ 748/2012¹⁰.

↓ 1056/2008 Art. 1.2 (adapted)

~~4. For aircraft not used in commercial air transport, any airworthiness review certificate or equivalent document issued in accordance with the Member State requirements and valid on 28 September 2008 shall be valid until its expiration date or until 28 September 2009, whichever comes first. After the expiration of its validity, the competent authority may further re-issue or extend one time the airworthiness review certificate or equivalent document for one year, if allowed by the Member State requirements. Upon further expiration, the competent authority may further re-issue or extend one more time the airworthiness review certificate or equivalent document for one year, if allowed by the Member State requirements. No further re-issuance or extension is allowed. If the provisions of this point have been used, when transferring the registration of the aircraft within the EU, a new airworthiness review certificate shall be issued in accordance with M.A.904.~~

↓ 2042/2003 (adapted)

Article 4

Maintenance organisation approvals

1. Organisations involved in the maintenance of large aircraft or of aircraft used for commercial air transport, and components intended for fitment thereto, shall be approved in accordance with the provisions of Annex II ~~(Part-145)~~ .

2. Maintenance approvals issued or recognised by a Member State in accordance with the JAA requirements and procedures and valid before the entry into force of ~~this~~ Regulation ~~(EC) No 2042/2003~~ shall be deemed to have been issued in accordance with this Regulation. ~~For this purpose, by derogation from the provisions of 145.B.50(2) under Annex II, level 2 findings associated with the differences between JAR 145 and Annex II may be closed within one year. Certificates of release to service and authorised release certificates issued by an organisation approved under JAA requirements during that one year period shall be deemed to have been issued under this Regulation.~~

¹⁰ OJ L 224, 21.8.2012, p. 1.

3. Personnel qualified to carry out and/or control a continued airworthiness non-destructive test of aircraft structures and/or components, on the basis of any standard recognised by a Member State prior to the entry into force of ~~this~~ Regulation (EC) No 2042/2003 as providing an equivalent level of qualification, may continue to carry out and/or control such tests.

↓ 1056/2008 Art. 1.3 (adapted)

4. Certificates of release to service and authorised release certificates issued before the date of entry into force of ~~this~~ Regulation (EC) No 2042/2003 by a maintenance organisation approved under the Member State requirements shall be deemed equivalent to those required under points M.A.801 and M.A.802 of Annex I (Part-M) respectively.

↓ 2042/2003

Article 5

Certifying staff

↓ 1056/2008 Art. 1.4 (adapted)

1. Certifying staff shall be qualified in accordance with the provisions of Annex III (Part-66) , except as provided for in points M.A.606(h), M.A.607(b), M.A.801(d) and M.A.803 of Annex I (Part-M) and in point 145.A.30(j) of ~~Annex II (Part-145)~~ and Appendix IV to Annex II (Part-145).

↓ 2042/2003 (adapted)

2. Any aircraft maintenance licence and, if any, the technical limitations associated with that licence, issued or recognised by a Member State in accordance with the JAA requirements and procedures and valid at the time of entry into force of ~~this~~ Regulation (EC) No 2042/2003 , shall be deemed to have been issued in accordance with this Regulation.

↓ 1149/2011 Art. 1.1 (adapted)

3. Certifying staff holding a licence issued in accordance with Annex III (Part-66) in a given category/sub-category are deemed to have the privileges described in point 66.A.20(a) of ~~this~~ the same Annex corresponding to such a category/sub-category. The basic knowledge requirements corresponding to these new privileges shall be deemed as met for the purpose of extending such licence to a new category/sub-category.

4. Certifying staff holding a licence including aircraft which do not require an individual type rating may continue to exercise his/her privileges until the first renewal or change, where the licence shall be converted following the procedure described in point 66.B.125 of Annex III (Part-66) to the ratings defined in point 66.A.45 of ~~this~~ the same Annex.

5. Conversion reports and Examination credit reports complying with the requirements applicable before ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~ shall be deemed to be in compliance with this Regulation.

↓ 1149/2011 Art. 1.1

6. Until such time as this Regulation specifies requirements for certifying staff:

- (i) for aircraft other than aeroplanes and helicopters;
- (ii) for components;

the requirements in force in the relevant Member State shall continue to apply, except for maintenance organisations located outside the European Union where the requirements shall be approved by the Agency.

↓ 2042/2003

Article 6

Training organisation requirements

↓ 2042/2003 (adapted)

1. Organisations involved in the training of personnel referred to in Article 5 shall be approved in accordance with Annex IV (Part-147) to be entitled:

↓ 2042/2003

- (a) to conduct recognised basic training courses; and/or
 - (b) to conduct recognised type training courses; and
 - (c) to conduct examinations; and
 - (d) to issue training certificates.
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↓ 2042/2003 (adapted)

2. Any maintenance training organisation approval issued or recognised by a Member State in accordance with the JAA requirements and procedures and valid at the time of entry into force of ~~this~~ Regulation (EC) No 2042/2003 shall be deemed to have been issued in accordance with this Regulation. ~~For this purpose, by derogation from the provisions of 147.B.130(b) under Annex IV, level 2 findings associated with the differences between JAR 147 and Annex IV may be closed within one year.~~

↓ 1149/2011 Art. 1.2 (adapted)

3. Basic training courses complying with the requirements applicable before ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~ may be started until 1 year after date by which ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~. Basic knowledge examinations conducted as part of these courses may comply with the requirements applicable before ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~.

4. Basic knowledge examinations complying with the requirements applicable before ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~ and conducted by the competent authority or conducted by a maintenance training organisation approved in accordance with Annex IV (Part-147) while not being part of a basic training course, may be conducted until 1 year after the date by which ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~.

5. Type training courses and type examinations complying with the requirements applicable before ~~this~~ Regulation ~~applies~~ (EC) No 2042/2003 applied shall be started and finished not later than 1 year after the date by which ~~this~~ Regulation (EC) No 2042/2003 applied ~~applies~~.

↓ new

6. Type training courses approved before the approval of the minimum syllabus of maintenance certifying staff type rating training in the operational suitability data for the relevant type in accordance with Regulation (EU) No 748/2012 shall include the relevant elements defined in the mandatory part of that operational suitability data not later than 18 December 2017 or within two years after the operational suitability data was approved, whichever is the latest.

↓

Article 7

Regulation (EC) No 2042/2003 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI.

↓ 2042/2003 (adapted)

Article ~~7~~8

Entry into force

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

↓ 1056/2008 Art. 1.5(a) (adapted)

~~2. By way of derogation from paragraph 1:~~

~~(a) the provisions of Annex I, except for points M.A.201(h)(2) and M.A.708(e), shall apply from 28 September 2005;~~

~~(b) point M.A.201(f) of Annex I shall apply to aircraft not involved in commercial air transport operated by third country carriers as from 28 September 2009.~~

↓ 2042/2003 (adapted)

~~32. By way of derogation from paragraph 1 and 2, Member States may elect not to apply:~~

↓ 1056/2008 Art. 1.5(b) (adapted)

~~(a) the provisions of Annex I to aircraft not involved in commercial air transport, until 28 September 2009;~~

↓ 2042/2003 (adapted)

~~(b) the provisions of Annex I(I) to aircraft involved in commercial air transport, until 28 September 2008;~~

~~(c) the following provisions of Annex II, until 28 September 2006:~~

- ~~– 145.A.30(c), human factors elements;~~
- ~~– 145.A.30(g) as applicable to large aircraft with a maximum take-off mass of more than 5700 kg;~~
- ~~– 145.A.30(h)(1) as applicable to aircraft with a maximum take-off mass of more than 5700 kg;~~
- ~~– 145.A.30(j)(1), Appendix IV;~~
- ~~– 145.A.30(j)(2), Appendix IV;~~

~~(d) the following provisions of Annex II, until 28 September 2008:~~

- ~~– 145.A.30(g) as applicable to aircraft with a maximum take-off mass of 5700 kg or below;~~
- ~~– 145.A.30(h)(1) as applicable to aircraft with a maximum take-off mass of 5700 kg or below;~~
- ~~– 145.A.30(h)(2);~~

~~(e) the provisions of Annex III, as applicable to aircraft with a maximum take-off mass above 5700 kg until 28 September 2005;~~

~~(f) the provisions of Annex III, as applicable to aircraft with a maximum take-off mass of 5700 kg or below until 28 September 2006;~~

↓ 962/2010 Art. 1 (adapted)

~~(g) for aircraft not involved in commercial air transport other than large aircraft, the need to comply with Annex III (Part 66) in the following provisions, until 28 September 2011:~~

- ~~– M.A.606(g) and M.A.801(b)2 of Annex I (Part M);~~

– ~~145.A.30(g) and (h) of Annex II (Part-145);~~

↓ 1149/2011 Art. 1.3(i)

~~(ha)~~ for the maintenance of piston-engine non-pressurised aeroplanes of 2000 kg MTOM and below not involved in commercial air transport,~~±~~

↓ 1149/2011 Art. 1.3(i) (adapted)

~~(i) until 28 September 2012, the requirement for the competent authority to issue aircraft maintenance licences in accordance with Annex III (Part-66), as new or as converted pursuant to point 66.A.70 of this Annex;~~

↓ 1149/2011 Art. 1.3(i)

~~(ii)~~ until 28 September 2014, the requirement to have certifying staff qualified in accordance with Annex III (Part-66) contained in the following provisions:

- points M.A.606(g) and M.A.801(b)2 of Annex I (Part-M),
- points 145.A.30(g) and (h) of Annex II (Part-145);

~~(b)~~ for the maintenance of ELA1 aeroplanes not involved in commercial air transport, until 28 September 2015:

↓ 1149/2011 Art. 1.3(i) (adapted)

(i) the requirement for the competent authority to issue aircraft maintenance licences in accordance with Annex III (Part-66), as new or as converted pursuant to point 66.A.70 of ~~this~~ the same Annex;

↓ 1149/2011 Art. 1.3(i)

(ii) the requirement to have certifying staff qualified in accordance with Annex III (Part-66) contained in the following provisions:

- points M.A.606(g) and M.A.801(b)2 of Annex I (Part-M),
- points 145.A.30(g) and (h) of Annex II (Part-145).

↓ 2042/2003 (adapted)

→₁ 707/2006 Art. 1.1

~~4. Member States may issue approvals with regard to Annex II and Annex IV of a limited duration until →₁ 28 September 2007 ←₂;~~

~~53.~~ When a Member State makes use of the provisions of paragraphs ~~3~~ 2 ~~or 4~~ it shall notify the Commission and the Agency.

~~6. The Agency shall make an evaluation of the implication of the provisions of Annex I to this Regulation with a view to submitting an opinion to the Commission, including possible amendments to it, before 28 March 2005.~~

↓ 127/2010 Art. 1.2 (adapted)

~~7. By way of derogation from paragraph 1:~~

~~(a) the provisions of point M.A.706(k) of Annex I (Part M) shall apply as from 28 September 2010;~~

~~(b) the provisions of point 7.7 of Appendix I to Annex III (Part 66) shall apply as from 28 September 2010;~~

~~(c) maintenance organisations approved in accordance with Section A of subpart F of Annex I (Part M) or Section A of Annex II (Part 145) may continue to issue Authorised Release Certificates by using the EASA Form 1 original issue, as laid down in Appendix II to the Annex I (Part M) as well as Appendix I to the Annex II (Part 145), until 28 September 2010;~~

~~(d) competent authorities may continue to issue certificates, previous issue, as laid down in Appendices III, V and VI to Annex I (Part M), Appendix III to Annex II (Part 145), Appendix V to Annex III (Part 66) or Appendix II to Annex IV (Part 147) to Regulation (EC) No 2042/2003 in force prior to the entry into force of this regulation, until 28 September 2010.~~

↓ 1149/2011 Art. 1.3(iii)
(adapted)

~~84.~~ For the purpose of time limits contained in points 66.A.25, 66.A.30 and Appendix III of Annex III (Part-66) related to basic knowledge examinations, basic experience, theoretical type training and examinations, practical training and assessment, type examinations and on the job training completed before ~~this~~ Regulation (EC) No 2042/2003 applied applies, the origin of time shall be the date by which ~~this~~ Regulation (EC) No 2042/2003 applied applies.

↓ 1149/2011 Art. 1.3(iii)

~~95.~~ The Agency shall submit an opinion to the Commission including proposals for a simple and proportionate system for the licensing of certifying staff involved in the maintenance of ELA1 aeroplanes as well as aircraft other than aeroplanes and helicopters.

↓ 1149/2011 Art. 1.4

Article ~~89~~

Agency measures

1. The Agency shall develop acceptable means of compliance (hereinafter called ‘AMC’) that competent authorities, organisations and personnel may use to demonstrate compliance with the provisions of the Annexes to this Regulation.
 2. The AMC issued by the Agency shall neither introduce new requirements nor alleviate the requirements of the Annexes to this Regulation.
 3. Without prejudice to Articles 54 and 55 of Regulation (EC) No 216/2008, when the acceptable means of compliance issued by the Agency are used, the related requirements of the Annexes to this Regulation shall be considered as met without further demonstration.
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↓ 2042/2003

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