



EUROPEAN
COMMISSION

Brussels, **XXX**
[...](2020) **XXX** draft

Annex II to EASA Opinion No 03/2020

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

**amending Commission Regulation (EU) No 748/2012 of 3 August 2012 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**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

At the fifth meeting of its 219th Session on 11 March 2020, the ICAO Council adopted amendments to ICAO Annex 16 Volume I ‘Aircraft Noise’, Volume II ‘Aircraft Engine Emissions’, and Volume III ‘Aeroplane CO₂ Emissions’. These amendments are based on the recommendations agreed at the 11th formal meeting of the ICAO Committee on Aviation Environmental Protection (CAEP/11) from 4 to 15 February 2019 and are the outcome of the work conducted during the 3 years preceding that meeting in accordance with the CAEP/11 Work Programme.

In accordance with Article 19(3) of Regulation (EU) 2018/1139, the Commission is empowered to adopt delegated acts to amend the references to the provisions of Chicago Convention referred to in the first subparagraph of Article 9(2) of that Regulation, in order to update them in light of subsequent amendments to those provisions which enter into force after 4 July 2018 and which become applicable in all Member States, in so far as such adaptations do not broaden the scope of that Regulation. The Commission has amended those references by means of a regulation (Delegated Regulation [...] of [...]).

The specific objective of this proposal is to contribute to a high, uniform level of environmental protection by also updating the references to Annex 16 Volumes I, II and III to the Chicago Convention in Commission Regulation (EU) No 748/2012 in order to ensure consistency with Regulation (EU) 2018/1139.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

This draft delegated act is based on EASA Opinion No 03/2020 whose contents had been publicly consulted through Notice of Proposed Amendment (NPA) 2020-06 ‘Implementation of the latest CAEP amendments to ICAO Annex 16 Volumes I, II and III’ (RMT.0514) published by EASA on 16 March 2020. 24 comments were received from the interested parties, including industry and national aviation authorities. EASA has addressed and responded to the comments received on the NPA in Comment-Response Document (CRD) 2020-06.

In accordance with Article 128(4) of Regulation (EU) 2018/1139, before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law- Making.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Commission is empowered to adopt delegated acts, in accordance with Article 128 of Regulation (EU) 2018/1139, laying down detailed rules with regard to the conditions for issuing type certificates and changes thereto by the Agency, as provided in Article 19(1)(d) of Regulation (EU) 2018/1139.

COMMISSION DELEGATED REGULATION (EU) .../...

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amending Commission Regulation (EU) No 748/2012 of 3 August 2012 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

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91¹, and in particular Article 19(1) and (3) thereof,

Whereas:

- (1) On [...] the Commission adopted Delegated Regulation [...] amending the references to the provisions of the Chicago Convention in the first subparagraph of Article 9(2) of Regulation (EU) 2018/1139, in order to update them in light of the adoption by the ICAO Council, at the fifth meeting of its 219th Session on 11 March 2020, of Amendment 13 to Volume I, Amendment 10 to Volume II, and Amendment 1 to Volume III of Annex 16 to the Chicago Convention.
- (2) Aircraft, other than unmanned aircraft, referred to in points (a) and (b) of Article 2(1) of Regulation (EU) 2018/1139, and their engines, propellers, parts and non-installed equipment shall comply with the above-mentioned environmental protection requirements, as of 1 January 2021.
- (3) Commission Regulation (EU) No 748/2012² refers to the environmental protection requirements contained in Amendment 12 to Volume I, in Amendment 9 to Volume II, and in the initial issue of Volume III, all as applicable on 1 January 2018, of Annex 16 to the Chicago Convention.
- (4) Commission Regulation (EU) No 748/2012 should therefore be amended to align with Regulation (EU) 2018/1139 as amended by Delegated Regulation [...] adopted by the Commission referred to in Recital (1).
- (5) The measures provided for in this Regulation are based on Opinion No 03/2020 issued by the European Union Aviation Safety Agency (EASA) in accordance with 76(1) of Regulation (EU) 2018/1139,

¹ OJ L 212, 22.8.2018, p. 1.

² Commission Regulation (EU) No 748/2012 of 3 August 2012 laying down implementing rules for the airworthiness and environmental certification of aircraft and related products, parts and appliances, as well as for the certification of design and production organisations (OJ L 224, 21.8.2012, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

In Article 9 of Commission Regulation (EU) No 748/2012, paragraph 4 is replaced by the following:

‘4. By way of derogation from paragraph 1, the production organisation may apply to the competent authority for exemptions from the environmental protection requirements referred to in the first subparagraph of Article 9(2) of Regulation (EU) 2018/1139.’

Article 2

Annex I (Part 21) to Commission Regulation (EU) No 748/2012 is amended as follows:

(1) In point 21.A.21(a), point 3 is replaced by the following:

‘3. demonstrate that the engine and propeller, if installed in the aircraft:

(i) have a type-certificate issued or determined in accordance with this Regulation; or

(ii) have been demonstrated to be in compliance with the aircraft type-certification basis established and the environmental protection requirements designated and notified by the Agency as necessary to ensure the safe flight of the aircraft.’

(2) In point 21.A.130(b), point (4) is replaced by the following:

‘4. additionally, in the case of environmental protection requirements:

(i) a statement that the completed engine is in compliance with the applicable engine exhaust emissions requirements on the date of manufacture of the engine, and

(ii) a statement that the completed aeroplane is in compliance with the applicable CO₂ emissions requirements on the date its first certificate of airworthiness is issued.’

(3) In point 21.A.145, the introductory phrase of point (b) and point (1) of point (b) are replaced by the following:

‘(b) with regard to all necessary airworthiness and environmental protection data:

1. the production organisation is in receipt of such data from the Agency, and from the holder of, or applicant for, the type-certificate, restricted type-certificate or design approval, including any exemption granted against the environmental protection requirements, to determine conformity with the applicable design data;’

(4) In point 21.A.147, point (a) is replaced by the following:

‘(a) After the issue of a production organisation approval, each change to the approved production organisation that is significant to the showing of conformity or to the airworthiness and environmental protection characteristics of the product, part or appliance, particularly changes to the quality system, shall be approved by the competent authority. An application for approval shall be submitted in writing to the competent authority and the organisation shall demonstrate to the competent authority, before implementing the change, that it complies with this Subpart.’

(5) In point 21.A.801, point (a) is replaced by the following:

‘(a) The identification of products shall include the following information:

1. the manufacturer’s name;
2. the product designation;
3. the manufacturer’s serial number;
4. the ‘EXEMPT’ mark in case of an engine, when the competent authority has granted an exemption from the environmental protection requirements;
5. any other information the Agency finds appropriate.’

(6) Point 21.B.85 is replaced by the following:

‘21.B.85 Designation of applicable environmental protection requirements for a type-certificate or restricted type-certificate

(a) The Agency shall designate and notify to the applicant the applicable environmental protection requirements for a type-certificate or restricted type-certificate for an aircraft or for a type certificate for an engine. The environmental protection requirements shall consist of:

1. the applicable noise requirements established in:

- (i) Annex 16 to the Chicago Convention, Volume I, Part II, Chapter 1 and:
 - (A) for subsonic jet aeroplanes, in Chapters 2, 3, 4 and 14;
 - (B) for propeller-driven aeroplanes, in Chapters 3, 4, 5, 6, 10, and 14;
 - (C) for helicopters, in Chapters 8 and 11;
 - (D) for supersonic aeroplanes, in Chapter 12; and
 - (E) for tilt rotors, in Chapter 13.
- (ii) Annex 16 to the Chicago Convention, Volume I:

- (A) Appendix 1 for aeroplanes for which Chapters 2 and 12 of Annex 16 to the Chicago Convention, Volume I, Part II are applicable;
 - (B) Appendix 2 for aeroplanes for which Chapters 3, 4, 5, 8, 13 and 14 of Annex 16 to the Chicago Convention, Volume I, Part II are applicable;
 - (C) Appendix 3 for aeroplanes for which Chapter 6 of Annex 16 to the Chicago Convention, Volume I, Part II is applicable;
 - (D) Appendix 4 for aeroplanes for which Chapter 11 of Annex 16 to the Chicago Convention, Volume I, Part II is applicable; and
 - (E) Appendix 6 for aeroplanes for which Chapter 10 of Annex 16 to the Chicago Convention, Volume I, Part II is applicable;
2. the applicable emissions requirements for preventions of intentional fuel venting for aircraft established in Annex 16 to the Chicago Convention, Volume II, Part II, Chapters 1 and 2;
3. the applicable smoke, gaseous and particulate matter engine emissions requirements established in:
- (i) Annex 16 to the Chicago Convention, Volume II, Part III, Chapter 1 and:
 - (A) for smoke and gaseous emissions of turbojet and turbofan engines intended for propulsion only at subsonic speeds, in Chapter 2;
 - (B) for smoke and gaseous emissions of turbojet and turbofan engines intended for propulsion at supersonic speeds, in Chapter 3; and
 - (C) for particulate matter emissions of turbojet and turbofan engines intended for propulsion only at subsonic speeds, in Chapter 4;
 - (ii) Annex 16 to the Chicago Convention, Volume II:
 - (A) Appendix 1 for the measurement of reference pressure ratio;
 - (B) Appendix 2 for smoke emissions evaluation;
 - (C) Appendix 3 for instrumentation and measurement techniques for gaseous emissions;
 - (D) Appendix 4 for specifications for fuel to be used in aircraft turbine engine emissions testing;
 - (E) Appendix 5 for instrumentation and measurement techniques for gaseous emissions from afterburning gas turbine engines;

- (F) Appendix 6 for compliance procedure for gaseous, smoke and particulate matter emissions; and
 - (G) Appendix 7 for compliance procedure for particulate matter emissions;
4. the applicable aeroplane CO₂ emissions requirements established in:
- (i) Annex 16 to the Chicago Convention, Volume III, Part II, Chapter 1, and:
 - (A) for subsonic jet aeroplanes, in Chapter 2; and
 - (B) for subsonic propeller-driven aeroplanes, in Chapter 2;.
 - (ii) Annex 16 to the Chicago Convention, Volume III, Appendices 1 and 2, for aeroplanes for which Chapter 2 of Annex 16 to the Chicago Convention, Volume III, Part II is applicable;
5. for engines, the applicable requirements in Annex 16 to the Chicago Convention, Volume II, Part IV and Appendix 8 concerning non-volatile particulate matter assessment for inventory and modelling purposes.
- (b) (reserved).⁷

Article 3

This Regulation shall enter into force on the twentieth 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
[\[...\]](#)