



Explanatory Note to Decision 2017/004/R

Commercial air transport operations at night or in instrument meteorological conditions using single-engined turbine aeroplanes

RELATED NPA/CRD 2014-18 — OPINION No 06/2015 — RMT.0232 & RMT.0233 (MDM.031(A)&(B))

EXECUTIVE SUMMARY

The objective of this Decision is to mitigate the safety risks identified for commercial air transport (CAT) operations at night or in instrument meteorological conditions (IMC) using single-engined turbine (SET) aeroplanes, taking into account the International Civil Aviation Organization’s (ICAO) Standards and Recommended Practices (SARPs), with a view to establishing a level playing field among CAT SET-IMC European Union (EU) operators.

The Decision introduces acceptable means of compliance (AMC) and guidance material (GM) for CAT SET-IMC operations. Those AMC/GM were developed taking into consideration the current industry best practices, the comments received during the public consultation of Notice of Proposed Amendment (NPA) 2014-18, as well as the outcome of a focused consultation held with national aviation authorities (NAAs) on 16 June 2015.

The amendments are expected to maintain safety and ensure alignment with ICAO.

Action area:	Operators other than airlines		
Affected rules:	AMC/GM to Part-ARO; AMC/GM to Part-ORO; AMC/GM to Part-CAT; AMC/GM to Part-SPA		
Affected stakeholders:	CAT SET-IMC EU operators and NAAs		
Driver:	Level playing field	Rulemaking group:	Yes
Impact assessment:	Full	Rulemaking Procedure:	Standard

EASA rulemaking process

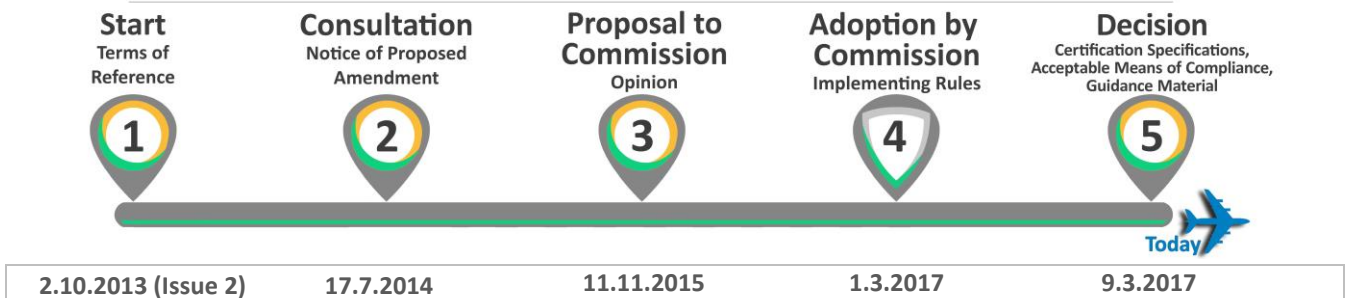


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1. About this Decision

The European Aviation Safety Agency (EASA) developed ED Decision 2017/004/R in line with Regulation (EC) No 216/2008¹ (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure².

This rulemaking activity is included in the EASA 5-year Rulemaking Programme³ under rulemaking task RMT.0232 & RMT.0233 (MDM.031(A)&(B)). The scope and timescales of the task were defined in the related Terms of Reference (ToR)⁴.

The draft text of this Decision has been developed by EASA based on the input of Rulemaking Group (RMG) RMT.0232 & RMT.0233 (MDM.031(A)&(B))⁵. All interested parties were consulted through NPA 2014-18⁶. 157 comments were received from interested parties, including EU competent authorities (CAs) (32 % of the comments), aircraft manufacturers (14 %), air operators (27 %), and associations representing manufacturers and operators (12 %).

EASA reviewed the comments received during the consultation with the support of Review Group (RG) NPA 2014-18 (RMT.0232 & RMT.0233 (MDM.031(A)&(B)))⁷. The comments received and the EASA responses thereto were presented in Comment-Response Document (CRD) 2014-18⁸. Based on the comments received, EASA published on 11 November 2015 Opinion No 06/2015⁹ which was addressed to the European Commission. The related Regulation (EU) 2017/363 was adopted on 1 March 2017¹⁰.

The final text of this Decision with the AMC/GM has been developed by EASA based on the input of RG NPA 2014-18 as well as on a focused consultation which helped to foster Member States' (MSs) support for the proposed AMC/GM.

The major milestones of this rulemaking activity are presented on the title page.

¹ 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/EC (OJ L 79, 19.3.2008, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1467719701894&uri=CELEX:32008R0216>).

² EASA is bound to follow a structured rulemaking process as required by Article 52(1) of Regulation (EC) No 216/2008. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the 'Rulemaking Procedure'. See EASA Management Board (MB) Decision 01-2012 of 13 March 2012 amending and replacing Decision 08-2007 concerning the procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material ('Rulemaking Procedure') (<http://www.easa.europa.eu/system/files/dfu/EASA%20MB%20Decision%2001-2012%20Revised%20MB%20Decision%20RM%20Process%20.pdf>).

³ <https://www.easa.europa.eu/document-library/rulemaking-programmes>

⁴ <https://www.easa.europa.eu/document-library/terms-of-reference/tor-rmt0232-0233-mdm031ab-issue-2>

⁵ <http://www.easa.europa.eu/system/files/dfu/GC%20RMT.0232-0233%20%28MDM.031%28a%29%26%28b%29%29%20Issue%202.pdf>

⁶ In accordance with Article 52 of the Basic Regulation, and Articles 5(3), 6 and 7 of the Rulemaking Procedure.

⁷ <https://www.easa.europa.eu/document-library/npa-review-groups/commercial-air-transport-operations-night-or-imc-using-single>

⁸ <https://www.easa.europa.eu/document-library/comment-response-documents/crd-2014-18>

⁹ <https://www.easa.europa.eu/document-library/opinions/opinion-062015>

¹⁰ Commission Regulation (EU) 2017/363 of 1 March 2017 amending Regulation (EU) No 965/2012 as regards the specific approval of single-engined turbine aeroplane operations at night or in instrument meteorological conditions and the approval requirements for the dangerous goods training relating to commercial specialised operations, non-commercial operations of complex motor-powered aircraft and non-commercial specialised operations of complex motor-powered aircraft (OJ L 55, 2.3.2017, p. 1) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1489047314655&uri=CELEX:32017R0363>).

2. In summary — why and what

2.1. Why we need to change the AMC/GM

The main issues addressed by this Opinion are the following:

- A level playing field issue since certain MSs currently allow some of their operators to operate CAT SET-IMC flights under an exemption stemming from Regulation (EEC) No 3922/91¹¹ (the ‘EU-OPS Regulation’). These exemptions are based on different sets of conditions (ICAO Annex 6 or Joint Aviation Authorities (JAA) NPA OPS 29 Rev 2), which do not provide for a level playing field amongst operators allowed to conduct CAT SET-IMC operations. It should be noted as well that EU operators are, in addition, facing competition from non-EU operators allowed by their authorities to operate CAT SET-IMC flights.
- An ICAO alignment issue due to the fact that the ICAO SARPs allowing CAT SET-IMC operations are applicable since 2005.
- A harmonisation issue since some other major foreign aviation authorities (Federal Aviation Administration (FAA), Transport Canada Civil Aviation (TCCA), Civil Aviation Safety Authority (CASA)) have been allowing CAT SET-IMC operations for quite a long time.
- An environmental issue since the current regulatory status does not promote the use of modern aeroplanes having a better environmental footprint, especially regarding lead and carbon monoxide (CO) emissions.
- An economic issue since the current situation prevents, due to performance or operating-cost considerations, the opening of new low-density routes that could be operated safely and efficiently only by SET aeroplanes.
- A social issue since the current situation prevents the opening of new routes in remote areas and, therefore, reduces the possibility of movement of the population living therein.

2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Section 2.1 above.

Following the publication of the CAT SET-IMC implementing rules (IRs) by the European Commission, the specific objective of this proposal is to provide acceptable means to comply with the requirements of the IRs in order to address the risks identified for CAT SET-IMC operations, by introducing AMC/GM to a new Subpart L ‘Single-engined turbine aeroplane operations at night or in instrument meteorological conditions (SET-IMC)’ of Part-SPA, taking into account the ICAO SARPs and current best practices.

2.3. How we want to achieve it — overview of the amendments

The following amendments have been made to the proposed AMC/GM published in CRD 2014-18:

¹¹ Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation (OJ L 373, 31.12.1991, p. 4) (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1484124285473&uri=CELEX:31991R3922>).



- the draft amendment to AMC1 ORO.GEN.160 ‘Occurrence reporting’ has been removed as it is currently being addressed through rulemaking task RMT.0681 ‘Alignment of implementing rules and acceptable means of compliance/guidance material with Regulation (EU) No 376/2014 — Occurrence reporting’ (see NPA 2016-19¹²);
- AMC1 CAT.POL.A.320 and GM1 CAT.POL.A.320 have been amended to clarify their applicability to CAT SET-IMC operations except during any risk period used by the operator approved in accordance with Subpart L of Part-SPA;
- a new GM2 CAT.POL.A.320 has been added to provide a definition of the risk period in the context of CAT SET-IMC operations; and
- several editorial changes have been made.

¹² <https://www.easa.europa.eu/document-library/notices-of-proposed-amendment/npa-2016-19>



3. References

3.1. Related regulations

Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

3.2. Affected decisions

- Decision 2014/025/R of the Executive Director of the Agency of 28 July 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-ARO of Regulation (EU) No 965/2012 and repealing Decision 2014/014/R of the Executive Director of the Agency of 24 April 2014 'AMC and GM to Part-ARO — Issue 3'
- Decision 2014/017/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-ORO of Regulation (EU) No 965/2012 and repealing Decision 2012/017/R of 24 October 2012 'AMC and GM to Part-ORO — Issue 2'
- Decision 2014/015/R of the Executive Director of the Agency of 24 April 2014 adopting Acceptable Means of Compliance and Guidance Material to Part-CAT of Regulation (EU) No 965/2012 and repealing Decision 2012/018/R of the Executive Director of the Agency of 24 October 2012 'AMC and GM to Part-CAT — Issue 2'
- Decision N° 2012/019/Directorate R of the Executive Director of the Agency of 24th October 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council 'Acceptable Means of Compliance and Guidance Material to Part-SPA'

3.3. Other reference documents

- ICAO Annex 6 — Operation of Aircraft, Part I — International CAT — Aeroplanes, last amended by Amendment 38, applicable as of 13 November 2014, specifically:
 - Chapter 5.4,
 - Appendix 3, and
 - Attachment H
- FAA Advisory Circular (AC) 23.1309-1E — System Safety Analysis and Assessment for Part 23 Airplanes, 17 November 2011
- QINETIQ report QINETIQ/EMEA/IX/CR0800029/2 — Risk assessment for European Public Transport Operations using Single Engine Turbine Aircraft at Night and in IMC, 15 October 2007
- JAA NPA OPS 29 Revision 2, 1 June 2004



- DOT/FAA/AR-05/24 — An inferred European Climatology of Icing Conditions, Including Supercooled Large Droplets, June 2005
- Royal Netherlands Meteorological Institute (KNMI), R. Leander, Climatology of low visibility for Amsterdam Airport Schiphol, July 2010
- Journal of Systems Engineering and Electronics 2009, — Engineering approach for human error probability quantification

