



Notice of Proposed Amendment 2023-08 (C)

in accordance with Article 6 of MB Decision No 01-2022

Regular update of the air traffic management / air navigation services rules *Implementing rules, acceptable means of compliance and guidance material*

RMT.0719 (SUBTASK 4B)

EXECUTIVE SUMMARY

The provision of air traffic management/air navigation services (ATM/ANS) is subject to constant evolution generated by a variety of factors, such as the introduction of new technologies and operational concepts, the acquisition of experience from the implementation and oversight of the applicable rules or the evolution of the interdependent EU and/or International Civil Aviation Organization (ICAO) regulatory frameworks. It is therefore necessary to perform regular reviews and maintenance of the currently applicable regulatory material for the provision of ATM/ANS, as regulatory consistency is a key enabler to ensure a safe and efficient aviation system.

The general objective of the amendments proposed in this Notice of Proposed Amendment (NPA) is to ensure a high and uniform level of safety in ATM/ANS and other ATM network functions and to reflect the state of the art and best practices by proposing amendments based on the selection of non-complex, non-controversial or mature subjects originating from European Commission requests, ICAO developments, stakeholders and expert groups or individuals which EASA has assessed as suitable and beneficial.

It includes proposed updates to a variety of provisions in Regulation (EU) 2017/373 and associated AMC and GM, in particular concerning air traffic services (ATS) and aeronautical information services (AIS) requirements. Consequential amendments to Regulation (EU) No 923/2012 and Regulation (EU) No 139/2014 and related AMC and GM are also proposed for consistency reasons.

NPA 2023-08 is divided in four parts. The present NPA 2023-08 (C) includes the proposed amendments to Regulation (EU) No 923/2012 and to the related AMC & GM.

REGULATIONS TO BE AMENDED

- Regulation (EU) 2017/373 (ATM/ANS)
- Regulation (EU) No 923/2012 (SERA)
- Regulation (EU) No 139/2014 (ADR)

ED DECISIONS TO BE AMENDED

- [ED Decision 2017/001/R](#) 'AMC/GM to Regulation (EU) 2017/373'
- [ED Decision 2013/013/R](#) 'AMC/GM to Regulation (EU) No 923/2012'
- [ED Decision 2014/012/R](#) 'AMC/GM to Regulation (EU) No 139/2014'

AFFECTED STAKEHOLDERS: ATM/ANS service providers; aerodrome operators; aircraft operators; national competent authorities (NCAs); Member States (MSs)

WORKING METHOD(S)

Development	Impact assessment(s)	Consultation
By EASA with external support	Detailed	NPA — Public

PLANNING MILESTONES: Refer to the latest edition of the EPAS Volume II.



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1. Proposed amendments and rationale

The amendment is arranged to show deleted, new or amended, and unchanged text as follows:

- deleted text is ~~struck through~~;
- new or amended text is **highlighted**;
- an ellipsis '[...]' indicates that the rest of the text is unchanged.

Where necessary, the rationale is provided in *blue italics*.

1.1. Draft regulation (draft EASA opinion)

Proposed amendments to Regulation (EU) No 923/2012

Commission Implementing Regulation (EU) No 923/2012 is amended as follows:

SECTION 3 GENERAL RULES AND COLLISION AVOIDANCE

[...]

SERA.3215 Lights to be displayed by aircraft

[...]

- (f) By way of derogation from points (b)(3) and (d)(1), an aircraft being towed on the movement area of an aerodrome without the presence of qualified personnel in the flight deck may also be clearly illuminated with suitable colours by other means which do not create harmful dazzle to other aircraft or outside observers.

Rationale:

The majority of aircraft tows are conducted with towbar-less trucks, which do not require the presence of a person in the flight deck to operate the brakes. The existing requirements in SERA concerning the display of lights during towing require the activation of the auxiliary power unit (APU) of the aircraft. This increases fuel consumption and noise and emission pollution, also because the majority of tows take place during night hours. The proposed point (f) allows the use of other means to indicate the moving aircraft.

[...]

SECTION 8 AIR TRAFFIC CONTROL SERVICE

[...]

SERA.8005 Operation of air traffic control service

[...]

- (c) Except for cases of operations on parallel or near-parallel runways referred to in point ATS.TR.255 of Annex IV to Commission Implementing Regulation (EU) 2017/373, or when **visual**



or own ~~a reduction in~~ separation ~~minima~~ in the vicinity of aerodromes can be applied, separation by an ATC ~~air traffic control~~ unit shall be obtained by at least one of the following:

[...]

Rationale:

The proposed amendment ensures consistency with the proposed amendments to ATS.TR.210 point (c) included in this NPA, which aimed to clarify the scope of exemptions from the application of separation minima.

[...]

SERA.8012 Application of wake turbulence separation

[...]

(b) ~~Paragraph (a) shall not apply to arriving VFR flights and to arriving IFR flights executing visual approach when the aircraft has reported the preceding aircraft in sight and has been instructed to follow and maintain own separation from that aircraft. In those cases, the air traffic control unit shall issue caution for wake turbulence.~~ The provisions in point (a) shall not apply to:

(1) arriving VFR flights;

(2) IFR flights that have requested, or have been instructed and have accepted, to maintain own separation from another aircraft.

(c) In all cases listed in point (b), the air traffic control unit shall issue a caution for wake turbulence.

Rationale:

The proposed amendment ensures consistency with the proposed amendments to points (b) and (c) of point ATS.TR.220, included in this NPA.

1.2. Draft acceptable means of compliance and guidance material (draft EASA decision)

Proposed amendments to the AMC & GM to Commission Regulation (EU) No 923/2012

AMC1 SERA.3215(f) Lights to be displayed by aircraft

ALTERNATIVE LIGHTING

(a) The means of illumination used should allow the aircraft wingtips and tail to be seen as clearly as if the aircraft position lights were turned on.

(b) Appropriate forward position lights should be displayed either at the wingtips of the aircraft or at the tow truck to indicate the relative path of the towed aircraft.

AMC2 SERA.3215(f) Lights to be displayed by aircraft**LIGHT CHARACTERISTICS**

Specifications of lights should be in accordance with CS 25.1385 of ED Decision 2020/006/R.

Rationale:

See rationale for SERA.3215 new point (f).

AMC1 SERA.3145 (a) Prohibited areas and restricted areas**DULY PUBLISHED, PROHIBITED AND RESTRICTED AREAS**

A prohibited area or restricted area is duly published only when it is published in the aeronautical information publication (AIP) of the responsible Member State and, when necessary, a relevant NOTAM has been issued in this respect.

Rationale:

SERA 3145 foresees that ‘Aircraft shall not be flown in a prohibited area, or in a restricted area, the particulars of which have been duly published, except in accordance with the conditions of the restrictions or by permission of the Member State over whose territory the areas are established.’

The proposed AMC1 SERA.3145(a) to Regulation (EU) No 923/2012 (and proposed GM2 Article 3(1) to Regulation (EU) 2017/373), aim at supporting the implementation of this SERA requirement by clarifying the meaning of the term ‘duly published’. Indeed, the need for the introduction of a prohibition or a restriction of aircraft flight over certain areas may be the result of a variety of reasons, including of a non-aviation nature, such as protection of natural reserves.

However, the mere adoption of measures by the responsible administration services of a State (e.g. an environmental protection authority), which intend to prohibit or restrict aircraft flight over certain areas (e.g. to protect wildlife), is not on its own sufficient for aviation purposes, nor in line with the provisions of the Chicago Convention. This is because such information needs to also be published in the en-route section of the AIP of the responsible State, but also the respective aeronautical charts, to ensure the awareness of the aviation community. It is only then that the particulars of a prohibited or restricted area are ‘duly published’ as per SERA.3145, and thus the latter produces its legal effects and the State discharges its responsibilities under the Chicago Convention.

The publication of information regarding prohibited or restricted areas in the AIP is required to be made in section ‘ENR 5.1 Prohibited, restricted and danger areas’, as per Appendix 1 to Annex VI (Part-AIS) to Regulation (EU) 2017/373. Moreover, Section VI of Appendix 1 to Annex XI (Part FPD) of Regulation (EU) 2017/373 requires that ‘When prohibited areas, restricted areas or danger areas are established, upon initial establishment, they shall be given an identification, and full details shall be provided for promulgation.’

This assumes the existence of an effective mechanism, at the State level, which ensures coordination amongst the various authorities, to avoid the uncoordinated introduction of de facto restrictions or prohibitions, in a manner that is not in line with international and EU law.

It is therefore necessary for States to establish adequate coordination of their authorities, to ensure that:

- (1) whenever a need arises to establish a danger area, or to restrict or prohibit aircraft flight over certain areas, irrespective of the reason, such areas are formally established;

- (2) details relevant to such areas are provided to the aeronautical services provider for promulgation, in accordance with Section VI of Appendix 1 to Annex XI of Regulation (EU) 2017/373;
- (3) all necessary information relevant to such areas is published in section 'ENR 5.1 Prohibited, restricted and danger areas' of the AIP and the relevant aeronautical charts;
- (4) NOTAMs are issued, as necessary, concerning the establishment, discontinuance, activation, deactivation or changes to the status of such areas, in accordance with AIS.TR.330 NOTAM.

AMC1 SERA.8012 Application of wake turbulence separation

CATEGORISATION OF AIRCRAFT FOR THE PURPOSES OF WAKE TURBULENCE SEPARATION MINIMA

(a) Wake turbulence separation minima are defined for scenarios and pairs of aircraft for which the separation minima applied to fulfil the objectives of ATS are not sufficient to protect for potential wake encounters.

(b) [...]

Rationale:

AMC1 SERA.8012 is amended to replicate the AMC1 ATS.TR.220 as a result of the proposed amendments with this NPA.

GM1 SERA.8012(b)(2) Application of wake turbulence separation

IFR FLIGHTS MAINTAINING OWN SEPARATION

IFR flights may be instructed to maintain own separation in the following circumstances:

(a) IFR flights executing visual approach when the aircraft has reported the preceding aircraft in sight and requested or accepted to maintain own separation from that aircraft;

(b) in the vicinity of an aerodrome:

(1) when each aircraft is continuously visible to flight crews of the other aircraft concerned and the pilots thereof report that they can maintain their own separation, and

(2) in the case of one aircraft following another, the flight crew of the succeeding aircraft reports that the other aircraft is in sight and own separation can be maintained;

(c) in airspace classes D and E, below 10 000 ft, during the hours of daylight in visual meteorological conditions, when requested by an aircraft and agreed by the pilot of the other aircraft to maintain own separation.

Rationale:

See rationale provided for proposed amendments to ATS.TR.220 points (b) and (c). A new GM1 SERA.8012(b)(2) replicating the GM1 ATS.TR.220(b)(2) as a result of the proposed amendments with this NPA is introduced. This GM describes the circumstances where flights may be instructed to maintain own separation and, consequently, wake turbulence separation does not have to be ensured by the air traffic controller.

[...]