

NOTICE OF PROPOSED AMENDMENT (NPA) No 15-2005

DRAFT OPINION OF THE EXECUTIVE DIRECTOR

for a Commission Regulation adapting European Parliament and Council Regulation (EC) No 1592/2002, on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

AND

DRAFT OPINION OF THE EXECUTIVE DIRECTOR

for a Commission Regulation adapting Commission 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 the certification of design and production organisations

AND

DRAFT DECISION OF THE EXECUTIVE DIRECTOR

on Certification Specifications for Aircraft Noise (CS36)

**Adoption of Amendment 8 to Volume I of ICAO Annex 16,
Amendment 5 to Volume II of ICAO Annex 16 and
of ICAO Doc. 9501 the third edition -2004 of the Environmental Technical
Manual
on the Use of Procedures in the Noise Certification of Aircraft**

TABLE OF CONTENTS.

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A. Explanatory Note

I. General

1. The purpose of this Notice of Proposed Amendment (NPA) is to envisage adapting Article 6 (1) of Commission Regulation (EC) No 1592/2002¹, to adapt Article 21A.204 (b) 2 (i) and Appendix VI of Commission Regulation (EC) No 1702/2003² (EASA Form 45, Noise certificate) and to amend the Certification Specifications for Aircraft Noise (CS36)³. This rulemaking activity is described in more detail below.
2. The Agency is directly involved in the rule-shaping process. It assists the Commission in its executive tasks by preparing draft regulations, and amendments thereof, for the implementation of the Basic Regulation⁴ which are adopted as “Opinions” (Article 14.1). It also adopts Certification Specifications, including Airworthiness Codes and Acceptable Means of Compliance, and Guidance Material to be used in the certification process (Article 14.2).
3. This rulemaking activity is included in the Agency’s rulemaking programme for 2005. It implements the rulemaking task 21.036, 34.001, 36.001 and 36.002.
4. The text of this NPA has been developed by the Agency. It is submitted for consultation of all interested parties in accordance with Article 43 of the Basic Regulation and Articles 5(3) and 6 of the EASA rulemaking procedure⁵.

¹ OJ L 240, 7.9.2002, p. 1.

² OJ L 243, 28.9.2003, p. 6.

³ ED Decision 2003/4/RM

⁴ Regulation (EC) No 1592/2002. OJ L 240, 7.9.2002, p.1.

⁵ Decision of the Management Board concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material (“rulemaking procedure”), EASA MB/7/03, 27.6.2003.

II. Consultation

5. To achieve optimal consultation, the Agency is publishing its draft opinions and decisions on its internet site. In view however of the fact that this tasks only aims at transposing into EU law and agency rules decisions already made by ICAO and supported by Member States, and taking into consideration the already agreed date of implementation of such decisions, the Agency considers it not to be necessary to provide for the normal period of three months consultation. Comments should therefore be provided within 6 weeks in accordance with Article 6(5) of the EASA rulemaking procedure.
6. Comments on this proposal may be forwarded (*preferably by e-mail*), using the attached comment form, to:

By e-mail: NPA@easa.eu.int

By Fax: +49(221) 89990 5508

By correspondence: Process Support Department
Rulemaking Directorate
EASA
Ref: NPA 15-2005
Postfach 10 12 53
D-50452 Köln
Germany

Comments should be received by the Agency before 25-08-2005. If received after this deadline they might not be treated. Comments may not be considered if the form provided for this purpose is not used.

III. Comment response document

7. All comments received in time will be responded to and incorporated in a comment response document (CRD). This may contain a list of all persons and/or organisations that have provided comments. The CRD will be widely available on the Agency's website.

IV. Content of the draft opinion

8 Amendment 8 to Annex 16, Volume I

- 8.1 Amendment 8 to the International Standards and Recommended Practices, Environmental Protection - Aircraft Noise (Annex 16, Volume I to the Convention on International Civil Aviation) was adopted by the ICAO Council at the fifth meeting of its 174th Session on 23 February 2005. When adopting the amendment, the Council prescribed 11 July 2005 as the date on which it will become effective, except for any part concerning which a majority of Contracting States have registered their disapproval before that date. In addition, the Council resolved that Amendment 8, to the extent it becomes effective, will be applicable on 24 November 2005

- 8.2 Amendment 8 arises from the recommendations of the sixth meeting of the ICAO Committee on Aviation Environmental Protection (CAEP). The ICAO member states were informed about the adoption by the council in ICAO State letter AN 1/61.1-05/31 of 24 March 2005.
- 8.3 The amendment further minimizes the effects of aviation on the environment by enhancing measures related to aircraft noise. The amendment includes changes in applicability to allow for the re-certification of Chapter 5 aeroplanes to the more stringent requirements of Chapter 4. Further, clarification is provided for situations which do not require demonstration of compliance with noise provisions.
- 8.4. New guidelines are proposed for obtaining helicopter noise data for land use planning purposes.
- 8.5. New guidelines are proposed to facilitate the administration of noise certification documentation

9. Amendment 5 to Annex 16, Volume II

- 9.1 Amendment 5 to the International Standards and Recommended Practices, Environmental Protection - Aircraft Engine Emissions (Annex 16, Volume II to the Convention on International Civil Aviation) was adopted by the ICAO Council at the fifth meeting of its 174th Session on 23 February 2005. When adopting the amendment, the Council prescribed 11 July 2005 as the date on which it will become effective, except for any part concerning which a majority of Contracting States have registered their disapproval before that date. In addition, the Council resolved that Amendment 8, to the extent it becomes effective, will be applicable on 24 November 2005.
- 9.2 Amendment 5 arises from the recommendations of the sixth meeting of CAEP. The ICAO contracting states were informed about this adoption by ICAO State letter AN 1/61.1-05/32 of 24 March 2005.
- 9.3 The amendment further minimizes the effects of aviation on the environment by enhancing measures related to aircraft engine emissions. In response to the need to further reduce aircraft engine emissions, a new NOX standard that is 12 per cent below current levels is included.

10. Third edition of the Environmental Technical Manual on the use of Procedures in the Noise Certification of Aircraft.

In the third edition of the Environmental Technical Manual adds the following new elements are introduced:

- 10.1 Criteria for “no-acoustical change” for helicopters and Clarification of text concerning the helicopter test speed requirements during flyover and the designation of overflights in light winds.

- 10.2 Clarification of applicability of text for determination of lateral noise certification level for heavy propeller driven aeroplanes, New guidance material for light propeller driven aeroplanes concerning the installation of silencers and use of a microphone windscreen.
- 10.3 Deletion of Section 7, “Measurement and Analysis Equipment”, from the ETM following the transfer of the text therein to Annex 16, Volume I.
- 10.4 Complete re-write of Appendix 3, “Guidelines for Adjustment of Aircraft Noise Levels for the Effects of Background Noise”. The old text was not considered to give sufficient, clear guidance to applicants. The new text represents comprehensive and clear guidance based on current best-practice.
- 10.5 Expansion of Appendix 8, “Re-certification of an Aeroplane” to include re-certification from Chapter 2 to Chapter 4, re-certification from FAR Part 36 Stage 3 to Chapter 4 and re-certification guidelines for “modified” aeroplanes.
- 10.6 Various minor changes of no material consequence to ensure consistency with text of latest Amendment of Annex 16, Volume I. and extensive editorial changes of no material consequence to enable its publication as the 3rd Edition of ICAO Doc. 9501.

11 Impact on EASA rules

- 11.1 The EASA basic regulation stipulates the importance of requirements contained in the ICAO environmental Standards and Recommended Practices by referring directly to them as essential requirements in Article 6 (1). Article 6 (2) specifies that when the Annex has been amended adaptation should be carried out in accordance with the procedure laid down in Article 54 (3) of the same regulation. This proposal effects such adaptation following an amendment of the ICAO Standards
- 11.2. Some elements, in particular the administrative requirements of ICAO Annex 16 have been incorporated in Part 21. This NPA proposes to amend Part 21 such that it is in line with the latest amendment of ICAO Annex 16 Volume I.
- 11.3 ICAO publishes in Doc. 9501 guidance in the wider application of equivalent procedures that have been accepted as technical means for demonstrating compliance with the noise certification requirements of Annex 16, Volume I. CAEP Steering Group Approved Revision 7 of the Manual is referred to in the Guidance Material to CS36. This NPA proposes to update this reference in CS 36 Book2 to the latest edition of Doc. 9501.

V. Regulatory Impact Assessment

12. Purpose and Intended Effect

The purpose of this NPA is to change the reference in Article 6 (1) of Commission Regulation (EC) No 1592/2002⁶ from Amendment 7 to

⁶ OJ L 240, 7.9.2002, p. 1.

Amendment 8 of Annex 16, Volume I and from Amendment 4 to Amendment 5 of Annex 16, Volume II, to amend Commission Regulation (EC) No 1702/2003⁷ Article 21A.204 (b) 2 (i) to remove the obligation to include noise information in the flight manual and to amend Appendix VI of Commission Regulation (EC) No 1702/2003⁸ (EASA Form 45, Noise certificate). In addition the reference to the ETM in CS 36 Book 2 is changed to the latest Edition.

Overall the intended effect is that EASA regulations will be in line with the latest ICAO Standards and recommended practices and associated guidelines

13. Options

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13.1 Alternative options would be to

a. Do nothing.

This would create a misalignment with ICAO standards, recommended practices and guidelines which are considered leading in environmental protection. It would most probably lead to disharmonisation with other standards for environmental protection and would not provide the European citizens with the high uniform level of environmental protection that was the objective of Commission Regulation (EC) No 1592/2002⁹.

b. To implement alternative requirements that would provide for an equivalent level of environmental protection.

This would almost certainly lead to higher costs for industry and (indirectly) the public because it would lead to additional costs to substantiate that these requirements would be met.

c. To implement alternative requirements that would provide for a higher or lower level of environmental protection.

The current proposals are the result of an extensive debate in ICAO in which all the arguments for and against both more and less stringent measures have been debated exhaustively. The current proposals must be considered as a reasonable compromise between safety, environment and economy.

13.2 The preferred option.

It is preferred to adopt the amendments as agreed in ICAO unaltered.

14. Sectors concerned

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a. Industry. This sector will be slightly affected in that the obligation to mention the noise information in the AFM is taken away. Presenting the noise information in a uniform way will make it easier to access the noise certification

⁷ OJ L 243, 28.9.2003, p. 6.

⁸ OJ L 243, 28.9.2003, p. 6.

⁹ OJ L 240, 7.9.2002, p. 1.

information. This will reduce the administrative burden. There will be a transition period that will of course generate some additional burden but it is expected that the advantages in the long term will outweigh the disadvantages by a significant amount.

- b. Airports and citizens living near airports. Many airports use the noise certification information as part of their measures and policies to reduce the noise nuisance around their airports. Making this information available in a uniform way will make it easier to execute these measures and as such will improve the effectiveness of them which is expected to be to the benefit of those living around airports.

15. Impacts

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- a. Safety

No safety impacts are expected from these measures for any of the options.

- b. Economic,

Economic impacts from all but the preferred option are expected to be negative. Any deviation from the measures adopted by ICAO would increase the risk of European products not being acceptable in different parts of the world, with the associated costs that this would bring. The reduction in administrative burden to the industry and clarification of administration of noise documents brought about by the preferred option is expected to have a positive economic effect.

- c. Environmental

The do nothing option and the option to adopt less stringent environmental standards would have no or a relatively small negative impact on the environment. All other options are expected to have a positive effect on the environment.

- d. Social

No social impacts are expected from the options other than the indirect effect of the mitigation of negative environmental effects of aviation on the environment.

- e. Other aviation requirements outside EASA scope.

It is expected that the proposals will be adopted unaltered by other aviation authorities of the world

- f. Equity and fairness in terms of distribution of positive and negative impacts among concerned sectors: not applicable

16. Summary and Final Assessment

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Based on the above and the extensive decision making process in ICAO it is recommended to adopt the amendments.

B DRAFT OPINIONS AND DECISION.

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1. ~~Text to be deleted is shown with a line through it.~~
2. New text to be inserted is doubly underlined

I Draft Proposal for a

COMMISSION REGULATION (EC) No <NUMBER>

of <DATE>

adapting Article 6 of Regulation (EC) No 1592/2002 of the European Parliament and of the Council on common rules in the field of civil aviation and establishing a European Aviation Safety Agency

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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, as adapted by regulation (EC) No. 1701/2003² and in particular Article 6(2) thereof,

Whereas:

- (1) Article 6(1) of Regulation (EC) No 1592/2002 requires products, parts and appliances to comply with the environmental protection requirements of Annex 16 to the Convention on International Civil Aviation (hereinafter Chicago Convention) as issued in March 2002 for Volume I and November 1999 for Volume II, except for its Appendices.
- (2) The Chicago Convention and its annexes have been amended since the adoption of Regulation (EC) No 1592/2002 requiring adaptation of Article 6(1) thereof in accordance with the procedure laid down in Article 54(3) of the same Regulation.

- (3) The measures provided for in the present Regulation are in accordance with the opinion of the European Aviation Safety Agency Committee established by Article 54 of Regulation (EC) No 1592/2002,

HAS ADOPTED THIS REGULATION:

Article 1

Commission Regulation (EC) No. 1701/2003 shall be repealed as from 24 November 2005.

Article 2

In Article 6 of Regulation (EC) No 1592/2002, the first paragraph is replaced by the following:

‘1. Products, parts and appliances shall comply with the environmental protection requirements contained in Amendment 8 of Volume I and in Amendment 5 of Volume II of Annex 16 to the Chicago Convention as applicable on 24 November 2005, except for its Appendices.’

Article 3

This Regulation shall enter into force on 24 November 2005.

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

Done at Brussels, <DATE>

For the Commission

<NAME>

<FUNCTION>

⁽¹⁾ OJ L 240, 7.9.2002, p. 1

⁽²⁾ OJ L 243, 27.9.2003, p. 5.

II Draft Proposal for change to PART 21

SECTION A

REQUIREMENTS FOR APPLICANTS AND ACQUIRED RIGHTS AND OBLIGATIONS

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SUBPART I NOISE CERTIFICATES

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21A.204 Application

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(b) 1. (ii) The noise information determined in accordance with the applicable noise requirements. ~~This information shall be included in the flight manual, when a flight manual is required by the applicable airworthiness code for the particular aircraft.~~

(b) 2. with regard to used aircraft:

(i) The noise information determined in accordance with the applicable noise requirements. ~~This information shall be included in the flight manual, when a flight manual is required by the applicable airworthiness code for the particular aircraft, and~~

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Appendices

EASA FORMS

When the Forms of this Annex are issued in a language other than English they shall include an English translation.

The EASA (European Aviation Safety Agency) Forms referred to in the appendices to this Part shall have the following obligatory features. Member States shall ensure that the EASA Forms they issue are recognisable and shall be responsible for having those Forms printed.

Appendix I — EASA Form 1 Authorised release Certificate

Appendix II — EASA Form 15a Airworthiness Review Certificate

Appendix III — EASA Form 20 Permit to Fly

Appendix IV — EASA Form 24 Restricted Certificate of Airworthiness

Appendix V — EASA Form 25 Certificate of Airworthiness

Appendix VI — EASA Form 45 Noise Certificate

Appendix VII — EASA Form 52 Aircraft Statement of Conformity

Appendix VIII — EASA Form 53 Certificate of Release to Service

Appendix IX — EASA Form 55 Production Organisation Approval Certificate

Appendix X — EASA Form 65 Letter of Agreement [Production without POA]

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For use by State of registry	1. State of Registry		3. Document Number:	
2. NOISE CERTIFICATE				
4. Nationality and Registration Marks:	5. Manufacturer and Manufacturer's Designation Of Aircraft:		6. Aircraft Serial Number:	
.....	
7. Engine:		8. Propeller: *		
.....			
9. Maximum Take-Off Mass (kg)	10. Maximum Landing Mass(kg)*		11. Noise <i>Certification</i> Standard:	
.....	
12. Additional modifications incorporated for the purpose of compliance with the applicable noise certification standards:				
.....				
13. Lateral/Full-Power Noise Level: *	14. Approach Noise Level*	15. Flyover Noise Level*	16. Overflight Noise Level*	17. Take-off Noise Level*
.....
Remarks				
18. This Noise Certificate is issued pursuant to Annex 16, Volume I to the Convention on International Civil Aviation dated Dec. 7, 1944 and Regulation (EC) No. 1592/2002, Article 6 in respect of the above-mentioned aircraft, which is considered to comply with the <i>indicated</i> noise standard when maintained and operated in accordance with the relevant requirements and operating limitations.				
19-. Date of Issue..... 20. Signature.....				

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EASA Form 45

* These boxes may be omitted depending on *noise certification standard*.

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III Draft change to CS36

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EASA Certification Specifications
for
Aircraft Noise

CS-36
Book 2

Acceptable Means of Compliance
and Guidance Material

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GM 36.1 Aircraft noise

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References throughout these Certification Specifications to the ICAO Environmental Technical Manual refer to the ICAO Environmental Technical Manual on the Use of Procedures in the Noise Certification of Aircraft, *ICAO Doc 9501 AN/929, Third Edition –2004 Amdt: new.*

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Group Approved¶
Revision 7.