



Brussels, **XXX**
[...](2017) **XXX** draft

ANNEX I to EASA Opinion No 09/2017

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

of **XXX**

**amending Regulation (EC) No 216/2008 of the European Parliament and of the Council
as regards essential requirements for environmental protection**

DRAFT COMMISSION REGULATION (EU) .../...

of XXX

**amending Regulation (EC) No 216/2008 of the European Parliament and of the Council
as regards essential requirements for environmental protection**

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular Article 6(2) thereof,

Whereas:

- (1) Article 6(1) of Regulation (EC) No 216/2008 requires that products, parts and appliances comply with the aviation environmental protection requirements contained in Volumes I and II of Annex 16 to the Convention on International Civil Aviation (hereinafter referred to as the ‘Chicago Convention’) as applicable on 17 November 2011, except for the Appendices to that Annex.
- (2) Volumes I and II of Annex 16 to the Chicago Convention have been amended in 2017 to update the aviation environmental protection technical requirements and to address non-volatile particulate matter engine emissions.
- (3) Volume III of Annex 16 to the Chicago Convention has been introduced in 2017 to address aeroplane CO₂ emissions.
- (4) Regulation (EC) No 216/2008 should therefore be amended accordingly.
- (5) The measures provided for in this Regulation are based on the opinion ⁽²⁾ issued by the European Aviation Safety Agency in accordance with Articles 17(2)(b) and 19(1) of Regulation (EC) No 216/2008.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 6 of Regulation (EC) No 216/2008, paragraph 1 is amended as follows:

‘1. Products, parts and appliances shall comply with the aviation environmental protection requirements contained in the 7th Edition of Volume I as amended by Amendment 12, and in the 3rd Edition of Volume II as amended by Amendment 9, and in the 1st Edition of Volume III of Annex 16 to the Chicago Convention as applicable on 1 January 2018, except for the Appendices to Annex 16.’

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ EASA Opinion No 09/2017 ‘Implementation of the CAEP/10 amendments on climate change, emissions and noise’.

Article 2

1. The competent authority may grant exemptions to production organisations against the aeroplane CO₂ standard established in ICAO Annex 16, Volume III, Part II, Chapter 2, paragraph 2.1.1(a) to (g).

2. Exemptions shall be granted under the following conditions:

- (a) such exemptions shall be granted in consultation with the Agency;
- (b) in the case of new aeroplanes, the maximum exemptions per type certificate shall not be more than:

% Margin to CAEP/10 New Type Regulatory Level	Maximum Exemptions per Aeroplane Type Certificate
0 to 2	40
2 to 4	$80 - 20 \times \% \text{ margin to regulatory level}$
More than 4	0

- (c) in the case of in-production aeroplanes, the maximum exemptions per type certificate shall not be more than:

% Margin to CAEP/10 In-production Type Regulatory Level	Maximum Exemptions per Aeroplane Type Certificate
0 to 2	75
2 to 10	$90 - 7.5 \times \% \text{ margin to regulatory level}$
More than 10	15

- (d) when considering a request for exemption, the production organisation shall provide the competent authority with information such that it can take into account:
 - (i) the justification provided by the production organisation responsible for manufacturing the exempted aeroplane, including but not limited to considerations of technical issues, adverse economic impacts, environmental effects, impact of unforeseen circumstances, and equity issues;
 - (ii) the number of new or in-production aeroplanes affected; and
 - (iii) the total number of exemptions granted for that aeroplane type; and
- (e) when granting the exemption, the competent authority shall specify in the exemption as a minimum:
 - (i) the aeroplane's type certificate number; and
 - (ii) the maximum number of new or in-production aeroplanes included in the exemption.

3. Production organisations that are responsible for manufacturing aeroplanes under an exemption granted in accordance with this Article shall:

- (a) ensure that the aeroplane's statement of conformity reads: 'Aeroplane exempted from the First Edition (unamended) of ICAO Annex 16, Volume III, Part II, Chapter 2, paragraph 2.1.1.[x]', as relevant to paragraph 1 of this Article;
 - (b) have a quality control process for maintaining oversight of, and managing the production of, affected aeroplanes; and
 - (c) provide, on a regular basis, to the competent authority that granted the exemption and the design organisation that is responsible for the aeroplane design, details on the exempted aeroplanes produced, including aeroplane type, model and serial number.
4. Competent authorities that granted an exemption shall, without undue delay, communicate to the Agency all data referred to in paragraphs 2(d), 2(e) and 3(c). The Agency shall establish and maintain a register containing such data and make it publicly available.

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
[\[...\]](#)