Changes to legislation: *Commission Implementing Regulation (EU) No 1079/2012 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) No 1079/2012 of 16 November 2012 laying down requirements for voice channels spacing for the single European sky (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 1079/2012

of 16 November 2012

laying down requirements for voice channels spacing for the single European sky

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 552/2004 of the European Parliament and of the Council of 10 March 2004 on the interoperability of the European Air Traffic Management network (the interoperability Regulation)[(1)], and in particular Article 3(5) thereof,

Whereas:

(1) The Commission has issued a mandate to Eurocontrol in accordance with Article 8(1) of Regulation (EC) No 549/2004 of the European Parliament and of the Council of 10 March 2004 laying down the framework for the creation of the single European sky (the framework Regulation)[(2)] to develop requirements for the coordinated introduction of air-ground voice communications based on 8,33 kHz channel spacing. This Regulation is based on the resulting mandate report of 12 July 2011.

(2) The first phase of the mandate led to the adoption of Commission Regulation (EC) No 1265/2007 of 26 October 2007 laying down requirements on air-ground voice channel spacing for the single European sky[(3)] which aimed at the coordinated introduction of air-ground voice communications based on 8,33 kHz channel spacing in the airspace above Flight Level (FL) 195.

(3) Specific provisions of Regulation (EC) No 1265/2007, mainly regarding procedures, were already applicable in the airspace below FL 195.

(4) Previous conversions to 8,33 kHz channel spacing above FL 195 have reduced frequency congestion, but have not eliminated it. Many Member States find it increasingly difficult to satisfy the demand for new frequency assignments in the aeronautical mobile route service band 117,975-137 MHz (‘the VHF band’).

(5) The only realistic option to resolve the medium to long-term congestion problem in the VHF band is the further deployment of air-ground voice communications based on 8,33 kHz channel spacing.

(6) Inability to meet future demand for frequency assignments will delay or make impossible airspace improvements to increase capacity and will lead to increase in delays entailing significant costs.

Changes to legislation: *Commission Implementing Regulation (EU) No 1079/2012 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) The Network Manager set up by Commission Regulation (EU) No 677/2011 of 7 July 2011 laying down detailed rules for the implementation of air traffic management (ATM) network functions and amending Regulation (EU) No 691/2010[(4)] coordinates and harmonises the processes and procedures to enhance the efficiency of aeronautical frequency management. It also coordinates the early identification of needs and resolution of frequency problems.

(8) Harmonised frequency use in the entire European airspace under Member States responsibility for specific applications will further optimise the use of limited radio spectrum resources. Therefore the 8,33 kHz channel spacing conversion of frequencies should take into account the possible actions of the Network Manager for harmonised frequency use mainly by general aviation for air-to-air communications purposes and for specific applications related to general aviation activities.

(9) The investment made as a result of Regulation (EC) No 1265/2007 has substantially reduced the cost of deployment of 8,33 kHz channel spacing in the airspace below FL 195 for air navigation service providers and for operators flying above FL 195.

(10) The requirements for general aviation aircraft operating under visual flight rules to be equipped with radios with 8,33 kHz channel spacing capability will impose a considerable cost with limited operational benefits for those aircraft.

(11) The European Organisation for Civil Aviation Equipment (Eurocae) specification ED-23B should be considered as sufficient means of compliance with regard to the capabilities of the airborne equipment.

(12) Airborne equipment compliant with the Eurocae specification ED-23C provides improved communications characteristics. It should therefore be considered as the preferred option to ED-23B whenever possible.

(13) The arrangements for State aircraft should take into account their specific constraints with appropriate implementation dates.

(14) This Regulation should not cover military operations and training in accordance with Article 1(2) of Regulation (EC) No 549/2004.

(15) Member States which apply North Atlantic Treaty Organisation (‘NATO’) combined frequency requirements should maintain the 122,1 MHz frequency in 25 kHz channel spacing for the accommodation of State aircraft not equipped with radios with 8,33 kHz channel spacing capability, until a suitable alternative is found.

(16) With a view to maintaining or enhancing existing safety levels of operations, Member States should ensure that the parties concerned carry out a safety assessment including hazard identification, risk assessment and mitigation processes. Harmonised implementation of those processes to the systems covered by this Regulation necessitates the identification of specific safety requirements for all interoperability and performance requirements.

(17) In accordance with Regulation (EC) No 552/2004, implementing rules for interoperability should describe the specific conformity assessment procedures to be

***Changes to legislation:** Commission Implementing Regulation (EU) No 1079/2012 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

used to assess the conformity or suitability for use of constituents as well as the verification of systems.

(18) The level of maturity of the market for the constituents to which this Regulation applies is such that their conformity or suitability for use can be assessed through internal production control, using procedures based on Module A in Annex II to Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC[(5)].

(19) For reasons of clarity, Regulation (EC) No 1265/2007 should be repealed.

(20) The measures provided for in this Regulation are in accordance with the opinion of the Single Sky Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down requirements for the coordinated introduction of air-ground voice communications based on 8,33 kHz channel spacing.

Article 2

Scope

1 This Regulation shall apply to all radios operating in the 117,975-137 MHz band (‘the VHF band’) allocated to the aeronautical mobile route service, including systems, their constituents and associated procedures.

2 This Regulation shall apply to flight data processing systems serving air traffic control units providing services to general air traffic, their constituents and associated procedures.

3 This Regulation shall apply to all flights operating as general air traffic, within the airspace of the International Civil Aviation Organisation (‘ICAO’) EUR region where Member States are responsible for the provision of air traffic services in accordance with Regulation (EC) No 550/2004 of the European Parliament and of the Council[(6)].

4 The conversion requirements shall not apply to frequency assignments:

a that will remain in 25 kHz channel spacing on the following frequencies:

(i) the emergency frequency (121,5 MHz);

(ii) the auxiliary frequency for search and rescue operations (123,1 MHz);

(iii) the VHF digital link (VDL) frequencies (136,725 MHz, 136,775 MHz, 136,825 MHz, 136,875 MHz, 136,925 MHz and 136,975 MHz);

(iv) the aircraft communications addressing and reporting system (ACARS) frequencies (131,525 MHz, 131,725 MHz and 131,825 MHz);

b where offset carrier operation within a 25 kHz channel spacing is utilised.

Changes to legislation: *Commission Implementing Regulation (EU) No 1079/2012 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

5 Radios intended to operate exclusively in one or more frequency assignments that will remain in 25 kHz channel spacing shall not be required to have the 8,33 kHz channel spacing capability.

Article 3

Definitions

For the purpose of this Regulation, the definitions set out in Article 2 of Regulation (EC) No 549/2004 shall apply. The following definitions shall also apply:

(1) ‘channel’ means a numerical designator used in conjunction with voice communication equipment tuning, which allows unique identification of the applicable radio frequency and associated channel spacing;

(2) ‘8,33 kHz channel spacing’ means a channel spacing where the nominal channel centre frequencies are separated in increments of 8,33 kHz;

(3) ‘radio’ means any installed, portable or handheld device designed to transmit and/or receive transmissions in the VHF band;

(4) ‘central register’ means a register where the national frequency manager registers the necessary operational, technical and administrative details for each frequency assignment in accordance with Regulation (EU) No 677/2011;

(5) ‘8,33 kHz conversion’ means the replacement of a frequency assignment registered in the central register and using 25 kHz channel spacing by a frequency assignment using 8,33 kHz channel spacing;

(6) ‘frequency assignment’ means authorisation given by a Member State to use a radio frequency or radio frequency channel under specified conditions for the purpose of operating radio equipment;

(7) ‘operator’ means a person, organisation or enterprise engaged in or offering to engage in an aircraft operation;

(8) ‘flights operated under visual flight rules’ means any flights operated under visual flight rules as defined in Annex 2 to the 1944 Chicago Convention on International Civil Aviation (‘the Chicago Convention’);

(9) ‘State aircraft’ means any aircraft used by military, customs or police;

(10) ‘offset carrier operation’ means a case where the designated operational coverage cannot be ensured by a single ground transmitter and where, in order to minimise the interference problems, the signals from two or more ground transmitters are offset from the nominal channel centre frequency;

(11) ‘aircraft radio equipment’ means one or more radios located on board an aircraft and used by an authorised flight crew member during flight;

(12) ‘radio upgrade’ means the replacement of a radio by a radio of a different model or part number;

(13) ‘designated operational coverage’ means the volume of airspace in which a particular service is provided and in which the service is afforded frequency protection;

***Changes to legislation:** Commission Implementing Regulation (EU) No 1079/2012 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(14) 'air traffic control unit' ('ATC unit') means area control centre, approach control unit or aerodrome control tower;

(15) 'working position' means the furniture and technical equipment at which a member of the air traffic services ('ATS') staff undertakes the tasks associated with his operational responsibilities;

(16) 'radio-telephony' means a form of radio-communication primarily intended for the exchange of information in the form of speech;

(17) 'letter of agreement' means an agreement between two adjacent ATS units that specifies how their respective ATS responsibilities are to be coordinated;

(18) 'Integrated Initial Flight Plan Processing System' ('IFPS') means a system within the European Air Traffic Management Network through which a centralised flight planning processing and distribution service, dealing with the reception, validation and distribution of flight plans, is provided within the airspace covered by this Regulation;

(19) 'transport-type State aircraft' means fixed wing State aircraft that are designed for the purpose of transporting persons and/or cargo;

(20) 'airport operator' means the managing body of an airport as defined in Council Regulation (EEC) No 95/93[(7)];

(21) 'operational control communication' means communication carried out by aircraft operators, which also affect air transport safety, regularity and efficiency of flights.

Article 4

Interoperability and performance requirements of radio equipment

1 Manufacturers of radios intended to operate in the VHF band, or their authorised representatives established in the Union, shall ensure that from 17 November 2013 all radios placed on the market, are 8,33 kHz channel spacing capable.

2 Air navigation service providers, operators and other users or owners of radios shall ensure that all radio equipment put into service from 17 November 2013, includes the 8,33 kHz channel spacing capability.

3 Member States shall ensure that aircraft for which the individual certificates of airworthiness or individual flight permits are first issued in the Union from 17 November 2013 and have a radio equipage requirement, are fitted with radios having the 8,33 kHz channel spacing capability.

4 Air navigation service providers, operators and other users or owners of radios shall ensure that from 17 November 2013 their radios include the 8,33 kHz channel spacing capability whenever they are subject to radio upgrades.

5 Member States shall ensure that by 31 December 2017 at the latest all radios have the 8,33 kHz channel spacing capability with the exception of ground radios operated by air navigation service providers.

6 In addition to 8,33 kHz channel spacing capability, the equipment referred to in paragraphs 1-5 shall be able to tune to 25 kHz spaced channels.