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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, XXX

Draft

COMMISSION REGULATION (EU) No .../2010

of [...]

laying down common airspace usage requirements and operating procedures

(Text with EEA relevance)

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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⁾ as amended by Regulation (EC) No 1108/2009 of the European Parliament and of the Council of 21 October 2009 in the field of aerodromes, air traffic management and air navigation services and repealing Directive 2006/23/EC ⁽²⁾, and in particular Articles 8, 8b and 9 thereof,

Whereas:

- (1) Pursuant to Regulation (EC) No 216/2008, the Commission, assisted by the European Aviation Safety Agency (hereinafter referred to as ‘the Agency’), is required to adopt the necessary implementing rules for common general operating requirements throughout the Union.
- (2) The provision of general operating requirements within the Union should be subject to conditions and limitations in the interests of safety in accordance with Article 8b of Regulation (EC) No 216/2008.
- (3) In adopting measures for the implementation of Regulation (EC) No 216/2008, the Commission must take care that they reflect the state of the art, including best practices, and scientific and technical progress.
- (4) It is necessary to ensure a uniform application of the general operating requirements by all airspace users.
- (5) In order to ensure a smooth transition to the new regulatory framework of the Agency it is necessary to provide sufficient time for the aeronautical industry to adapt to this new Regulation.

⁽¹⁾ OJ L 79, 19.3.2008, p. 1.

⁽²⁾ OJ L 309, 24.11.2009, p. 51.

- (6) With a view to ensuring uniformity in the application of common requirements makes it necessary that common parts, appliances, constituents and procedures are used when implementing these requirements; the Agency should develop certification specifications, acceptable means of compliance and guidance material to facilitate the necessary regulatory uniformity.
- (7) The measures provided by this Regulation are based on the Opinion issued by the Agency in accordance with Articles 17 and 19 of Regulation (EC) No 216/2008.
- (8) The measures provided for in this Regulation are in accordance with the Opinion of the European Aviation Safety Agency Committee established by Article 65 of Regulation (EC) No 216/2008,

HAS ADOPTED THIS REGULATION:

Article 1
Applicability

This Regulation lays down common requirements and procedures for all users of the airspace to which the Treaty applies.

Article 2
Definitions

1. For the purposes of this Regulation in addition to the definitions established by Regulation (EC) No 216/2008, the following definitions shall apply.
 - a. ‘Airborne collision avoidance system (ACAS)’ means an aircraft system based on secondary surveillance radar (SSR) transponder signals which operates independently of ground-based equipment to provide advice to the pilot on potential conflicting aircraft that are equipped with SSR transponders.
 - b. ‘ACAS II’ means an ACAS which provides vertical resolution advisories in addition to traffic advisories.
 - c. ‘Resolution advisory (RA)’ means an indication given to the flight crew recommending:
 - i. a manoeuvre intended to provide separation from all threats; or
 - ii. a manoeuvre restriction intended to maintain existing separation.
 - d. ‘Traffic advisory (TA)’ means an indication given to the flight crew that the proximity of another aircraft is a potential threat.

Article 3
Airspace usage

Users of the airspace defined in Article 1 shall comply with the requirements of Annex 1.

Article 4
Entry into force

1. This Regulation shall enter into force on 1 March 2012.
2. By way of derogation from paragraph 1, in the case of aircraft with an individual certificate of airworthiness issued before 1 March 2012, the provisions of paragraphs AUR.ACAS.100 (a) and (b) of Annex 1 shall only apply on 1 December 2015.

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

Done at Brussels, ...

For the Commission
The President

ANNEX I

PART-AUR

SUBPART ACAS — Airborne Collision Avoidance Systems (ACAS) II

Section I — General Requirements

AUR.ACAS.1005 SCOPE

This subpart establishes the specific requirements for the carriage of ACAS II equipment to be met by all operators operating as undertaking flights within the airspace above the territory to which the Treaty applies.

Section II — Equipment

AUR.ACAS.2005 Performance Requirement

- (a) All turbine-powered aeroplane:
 - 1. with a maximum certificated take-off mass exceeding 5 700 kg, or
 - 2. authorised to carry more than 19 passengers,shall be equipped with ACAS II with collision avoidance logic version 7.1;
- (b) Aircraft not referred to in (a) but are equipping with ACAS II, shall have collision avoidance logic version 7.1;
- (c) Aircraft not referred to in (a) but are equipped with ACAS II, should have collision avoidance logic version 7.1;
- (d) Paragraph (a) shall not apply to unmanned aircraft systems.

Section III — Operations

AUR.ACAS.3005 Use of ACAS II

- (a) ACAS II shall be used during flight in a mode that enables RAs to be produced for the flight crew when undue proximity to another aircraft is detected, unless inhibition of RA mode (using TA only or equivalent) is called for by an abnormal procedure or due to performance limiting conditions.
- (b) When an RA is produced by ACAS II

1. the pilot flying shall immediately conform to the indications of the RA, even if this conflicts with an Air Traffic Control (ATC) instruction, unless doing so would jeopardise the safety of the aircraft;
2. as soon as permitted by flight crew workload, notify the appropriate ATC unit of any RA which requires a deviation from the current ATC instruction or clearance;
3. when the conflict is resolved, the aircraft shall:
 - (i) be promptly returned to the terms of the acknowledged ATC instruction or clearance and ATC notified of the manoeuvre, or
 - (ii) comply with any amended ATC clearance or instruction issued.

AUR.ACAS.3010 ACAS II Training

Operators shall establish ACAS II operational procedures and training programmes shall be established so that the flight crew is appropriately trained in the avoidance of collisions and competent in the use of ACAS II equipment.
