

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)

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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 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.

- (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

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:

Status: This is the original version (as it was originally adopted).

- (1) OJ L 96, 31.3.2004, p. 26.
- (2) OJ L 96, 31.3.2004, p. 1.
- (3) OJ L 283, 27.10.2007, p. 25.
- (4) OJ L 185, 15.7.2011, p. 1.
- (5) OJ L 218, 13.8.2008, p. 82.