

COMMISSION IMPLEMENTING REGULATION (EU) 2021/97**of 28 January 2021****amending and correcting Regulation (EU) 2015/640 as regards the introduction of new additional airworthiness requirements**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 ⁽¹⁾, and in particular Article 17(1), point (h) thereof,

Whereas:

- (1) Pursuant to Article 76(3) of Regulation (EU) 2018/1139, the European Union Aviation Safety Agency (the 'Agency') issues certification specifications ('CS') and regularly updates them in order to ensure that CS remain fit for purpose. However, an aircraft the design of which has already been certified is not required to comply with the updated version of CS when it is produced or while in service. Therefore, in order to support continuing airworthiness and safety improvements, compliance of such aircraft with additional airworthiness requirements that were not included in the initial CS at the time of certification of design should be introduced. Commission Regulation (EU) 2015/640 ⁽²⁾ sets out such additional airworthiness requirements.
- (2) Commission Implementing Regulation (EU) 2019/133 ⁽³⁾ introduced in point 26.60 of Annex I to Regulation (EU) 2015/640 additional airworthiness requirements for the dynamic conditions of passenger and cabin crew seats of large aeroplanes newly produced on the basis of a design which has already been certified by the Agency. Large aeroplanes for which the individual certificate of airworthiness is first issued on or after 18 February 2021 have to comply with point 26.60. Because of delays in aeroplanes production caused by the Covid-19 pandemic, some aeroplanes, which were planned to be issued with a certificate of airworthiness before 18 February 2021, will be issued with that certificate after that date. In order to avoid imposing additional burden on the industry because of the need to requalify the seats in those aeroplanes to the dynamic conditions, aeroplanes whose production has been delayed by the Covid-19 pandemic should therefore be exempted from compliance with point 26.60.
- (3) For this reason, the issue date of the first individual certificate of airworthiness referred to in point 26.60 of Annex I to Regulation (EU) 2015/640, which is currently set for 18 February 2021 should be aligned with the application date of the list of aeroplanes models which are not subject to certain provisions of Annex I to Regulation (EU) 2015/640 set out in Appendix I to Commission Implementing Regulation (EU) 2020/1159 ⁽⁴⁾, this is 26 February 2021. Considering that the time difference is minimal, there would be no significant impact on aviation safety. Regulation (EU) 2015/640 should therefore be amended accordingly.
- (4) Implementing Regulation (EU) 2020/1159 introduced new requirements on ageing aircraft. In particular, point 26.334 of Annex I to Regulation (EU) 2015/640 implies that all holders of supplemental type-certificate issued before 1 September 2003 will have to develop the damage tolerance data whether or not this data is actually required by operators. To ensure a proportionate burden on industry, it has always been intended that this data should only be developed if required by operators and only upon their request. Regulation (EU) 2015/640 should therefore be corrected accordingly.

⁽¹⁾ OJ L 212, 22.8.2018, p. 1.

⁽²⁾ Commission Regulation (EU) 2015/640 of 23 April 2015 on additional airworthiness specifications for a given type of operations and amending Regulation (EU) No 965/2012 (OJ L 106, 24.4.2015, p. 18).

⁽³⁾ Commission Implementing Regulation (EU) 2019/133 of 28 January 2019 amending Regulation (EU) 2015/640 as regards the introduction of new additional airworthiness specifications (OJ L 25, 29.1.2019, p. 14).

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/1159 of 5 August 2020 amending Regulations (EU) No 1321/2014 and (EU) No 2015/640 as regards the introduction of new additional airworthiness requirements (OJ L 257, 6.8.2020, p. 14).

- (5) The measures provided for in this Regulation refer to the amendments introduced by Implementing Regulation (EU) 2020/1159 which apply from 26 February 2021. For reasons of consistency, this Regulation should therefore also be applicable as of 26 February.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 127 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) 2015/640 is amended in accordance with Annex I to this Regulation.

Article 2

Annex I to Regulation (EU) 2015/640 is corrected in accordance with Annex II to this Regulation.

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*.

It shall apply from 26 February 2021, except point (1) of Annex I, which shall apply from 16 February 2021.

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

Done at Brussels, 28 January 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

Annex I to Regulation (EU) 2015/640 is amended as follows:

(1) point 26.60 is replaced by the following:

‘26.60 Emergency landing – dynamic conditions

Operators of large aeroplanes used in commercial air transport of passengers, type-certified on or after 1 January 1958, and for which the individual certificate of airworthiness is first issued on or after 26 February 2021 shall demonstrate for each seat type design approved for occupancy during taxiing, take-off or landing that the occupant is protected when exposed to loads resulting from emergency landing conditions. The demonstration shall be made by one of the following means:

- (a) successfully completed dynamic tests;
- (b) rational analysis providing equivalent safety, based on dynamic tests of a similar seat type design.

The obligation set out in the first paragraph shall not apply to the following seats:

- (a) flight deck crew seats;
- (b) seats in low-occupancy aeroplanes involved only in on-demand non-scheduled commercial air transport operations;
- (c) seats in an aeroplane model listed in Table A.1 of Appendix 1 and carrying a manufacturer serial number listed in that Table.;

(2) Appendix 1 is replaced by the following:

Appendix 1

List of aeroplane models not subject to certain provisions of Annex I (Part-26)

Table A.1

TC Holder	Type	Models	Manufacturer serial number	Provisions of Annex I (Part-26) that do NOT apply
The Boeing Company	707	All		26.301 to 26.334
The Boeing Company	720	All		26.301 to 26.334
The Boeing Company	DC-10	DC-10-10 DC-10-30 DC-10-30F	All	26.301 to 26.334
The Boeing Company	DC-8	All		26.301 to 26.334
The Boeing Company	DC-9	DC-9-11, DC-9-12, DC-9-13, DC-9-14, DC-9-15, DC-9-15F, DC-9-21, DC-9-31, DC-9-32, DC-9-32 (VC-9C), DC-9-32F, DC-9-32F (C-9A, C-9B), DC-9-33F, DC-9-34, DC-9-34F, DC-9-41, DC-9-51	All	26.301 to 26.334
The Boeing Company	MD-90	MD-90-30	All	26.301 to 26.334

FOKKER SERVICES B.V.	F27	Mark 100, 200, 300, 400, 500, 600, 700	All	26.301 to 26.334
FOKKER SERVICES B.V.	F28	Mark 1000, 1000C, 2000, 3000, 3000C, 3000R, 3000RC, 4000	All	26.301 to 26.334
GULFSTREAM AEROSPACE CORP.	G-159	G-159 (Gulfstream I)	All	26.301 to 26.334
GULFSTREAM AEROSPACE CORP.	G-II_III_IV_V	G-1159A (GIII) G-1159B (GIIB) G-1159 (GII)	All	26.301 to 26.334
KELOWNA FLIGHTCRAFT LTD.	CONVAIR 340/440	440	All	26.301 to 26.334
LEARJET INC.	Learjet 24/25/31/ 36/35/55/60	24,24 A,24B, 24B-A,24D, 24D-A,24F,24F-A, 25,25B,25C,25D, 25F	All	26.301 to 26.334
LOCKHEED MARTIN CORPORATION	1329	All		26.301 to 26.334
LOCKHEED MARTIN CORPORATION	188	All		26.301 to 26.334
LOCKHEED MARTIN CORPORATION	382	382, 382B, 382E, 382F, 382G	All	26.301 to 26.334
LOCKHEED MARTIN CORPORATION	L-1011	All		26.301 to 26.334
PT. DIRGANTARA INDONESIA	CN-235	All		26.301 to 26.334
SABRELINER CORPORATION	NA-265	NA-265-65	All	26.301 to 26.334
VIKING AIR LIMITED	SD3	SD3-30 Sherpa SD3 Sherpa	All	26.301 to 26.334
VIKING AIR LIMITED	DHC-7	All		26.301 to 26.334
VIKING AIR LIMITED	CL-215	CL-215-6B11	All	26.301 to 26.334
TUPOLEV PUBLIC STOCK COMPANY	TU-204	204-120CE	All	26.301 to 26.334
AIRBUS	A320 series	A320-251N, A320-271N	10033, 10242, 10281 and 10360	26.60

AIRBUS	A321 series	A321-271NX, A321-251NX	10071, 10257, 10371 and 10391	26.60.
AIRBUS	A330 series	A330-243, A330-941	1844, 1861, 1956, 1978, 1982, 1984, 1987, 1989, 1998, 2007, 2008, 2011, and 2012	26.60
ATR-GIE Avions de Transport Régional	ATR 72 series	ATR72-212A	1565, 1598, 1620, 1629, 1632, 1637, 1640, 1642, 1649, 1657, 1660, 1661	26.60
The Boeing Company	737 series	737-8 and 737-9	43299, 43304, 43305, 43310, 43321, 43322, 43332, 43334, 43344, 43348, 43391, 43579, 43797, 43798 43799, 43917, 43918, 43919, 43921, 43925, 43927, 43928, 43957, 43973, 43974, 43975, 43976, 44867, 44868, 44873, 60009, 60010, 60040, 60042, 60056, 60057, 60058, 60059, 60060, 60061, 60063, 60064, 60065, 60066, 60068, 60194, 60195, 60389, 60434, 60444, 60455, 61857, 61859, 61862, 61864, 62451, 62452, 62453, 62454, 62533, 63358, 63359, 63360, 64610, 64611, 64612, 62613, 64614, 65899, 66147, 66148, 66150	26.60'

ANNEX II

In point 26.334 of Annex I, points (a) and (b) are replaced by the following:

- (a) Upon request of an operator required to comply with point 26.370(a)(ii), a holder of a change approval that was issued before 1 September 2003 shall:
- (i) for changes and published repairs identified in accordance with paragraph (a)(i) of point 26.332 and paragraph (a)(iii) of point 26.332, perform a damage tolerance evaluation;
 - (ii) establish and document the associated damage tolerance inspection, unless it has already been done.
- (b) The holder of a change approval shall submit the damage tolerance data resulting from the evaluation performed in accordance with paragraph (a)(i) to the Agency:
- (i) within 24 months from receipt of a request, for requests received prior to 26 February 2023, for approval; or
 - (ii) before 26 February 2025 or within 12 months from receipt of a request, whichever occurs later, for requests received on or after 26 February 2023, for approval.
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