European Union Aviation Safety Agency

Part-SPO

How to distinguish between a ‘commercial’ SPO operator and a ‘non-commercial’ SPO operator?

Answer

‘Commercial’ or ’non-commercial’ operation - Reference: Reg. (EU) No 965/2012 on Air Operations: Article 5

A commercial SPO operator is an operator who performs or intends to perform commercial non-transport operation such as specialised operations by receiving remuneration or other valuable consideration against those services.

Sometimes the distinction between ‘commercial’ and ‘non-commercial’ is not easily evident, especially when the remuneration or another way of compensation is not formalised e.g. a farmer comes with its own aircraft to spray crops to another farmer, against some compensation agreed verbally between the parties.

A clear example of non-commercial SPO operator is a farmer spraying his crops with his plane.

Competent authorities responsible for the oversight of SPO operators and operations should assess carefully each individual case to establish if there is a commercial operation, resorting if necessary to information otherwise available to social security or taxation bodies.

Specialised operations (SPO) are not commercial air transport (CAT) operation; hence, passengers cannot be transported during a SPO mission flight. However, task specialists may be carried during such a flight.

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Link:
https://www.easa.europa.eu/en/faq/22595

Are we a ‘complex’ or ‘non-complex’ operator considering the fact that we have five FTEs and four types of non-complex helicopters?

Answer

Size and complexity of the operator - Reference: Reg. (EU) No 965/2012 on Air Operations: ORO.GEN.200 (b)

AMC1 ORO.GEN.200 (b) paragraph (a) defines how to assess if an operator is complex or non-complex:

The operator is non-complex if its workforce is less than 20 full time equivalents (FTEs). However, point AMC1 ORO.GEN.200 (b) paragraph (b) indicates that an operator with less than 20 FTEs may also be considered complex if, for example, it performs high-risk commercial SPO or operates in a challenging environment (offshore, mountainous area, etc.).

Prior to sending a declaration an operator should check with the competent authority, if their assessment of complexity is correct.

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Can I use third-country registered aircraft for my SPO operations?

Answer

Third country registered aircraft - References: Reg. (EU) No 965/2012 on Air Operations; Reg. (EU) No 748/2012 on initial airworthiness

In accordance with ORO.SPO.100 (b), the aircraft used in commercial SPO (SPO-COM) shall have a certificate of airworthiness (CofA) issued by an EU Member State in accordance with Reg. (EU) No 748/2012 or shall be leased-in in accordance with ORO.SPO.100 (c). This means that operators conducting SPO-COM must operate aircraft registered in an EU MS or, alternatively, leased-in aircraft registered outside the EU.

In non-commercial SPO operations (SPO-NCC and SPO-NCO), there is no requirement with regard to the State of registration of aircraft.

For operations, such as parachute dropping, sailplane towing or aerobatic flights with non-complex motor powered aircraft, eligible for the exemption under SPO.GEN.005 (c), there is no requirement with regard to the registration of aircraft either.

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We operate a helicopter that is Annex II aircraft according to the Basic Regulation. How should we continue to conduct SPO now? Do we need any exemption?

Answer

Annex II aircraft - Reference: Reg. (EU) 2018/1139 (The Basic Regulation): Annex I

The use of Annex I aircraft in SPO activities is not regulated at EU level. You may be allowed to continue carrying out SPO with you Annex I helicopter or aeroplane, if this is permitted under your country national regulation. Please ask your competent authority what conditions apply to SPO operations with Annex I aircraft in your country.

Note, however, that any authorisation or certificate required by your national legislation may not be recognised by other Member States.

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Why may a SPO operator not carry on board passengers on an aerobatic flight?

Answer

Passengers - Reference: Reg. (EU) No 965/2012 on Air Operations: Article 5(7)

Except for crew members, persons other than those indispensable to the mission shall not be carried on board of flights, which take place immediately before, during or immediately after specialized operations and are directly connected to those operations.

When SPO related rules apply to a flight or a number of flights, passengers (fare paying or not) cannot be carried on board such flights. In some SPO operations, the concept of “passenger” and “task specialist” do blend into each other. Therefore, for regulatory and risk mitigation

purposes persons carried on board are considered task specialists, even if their “task” is to enjoy 0-G flight, a tandem jump, or a looping. The rules call for task specialists to be instructed on their tasks, including the risks connected to those tasks of which they are not sufficiently or at all informed.

If passengers are being transported, the flight has to be performed in accordance with Part-CAT or Part-NCC or Part-NCO, as applicable.

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Now, thanks to Art. 6 (8) of Reg. (EU) 965/2012, I operate non-commercially a twin turbo-propeller aircraft below 5.7 t MCTOM in accordance with Part-NCO. May I also carry out non-commercial specialised operations with the same aircraft under Part-NCO?

Answer

Twin turboprops at or below 5.7 t MCTOM - Reference: Reg. (EU) No 965/2012 on Air Operations: Article 6(8)

The derogation of Art 6(8) of Regulation 965/2012 does not apply to non-commercial specialised operations or to commercial operations. It is only applicable to ‘pure’ non-commercial operations of complex motor-powered aeroplanes with a maximum certificated take-off mass (MCTOM) at or below 5 700 kg, equipped with turboprop engines. When operating such aircraft the operators shall comply with Part-NCO, instead of Part-NCC and Part-ORO.

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Is it permissible for me to determine myself whether the operations I conduct are eligible for the alleviation of SPO.GEN.005 (c)?

Answer

Limited operations - Reference: Reg. (EU) No 965/2012 on air operations: SPO.GEN.005 (c)

The purpose of SPO.GEN.005 (c) is to alleviate certain flights that might otherwise be qualified as commercial (where compliance with Part-SPO is required) to comply with the less demanding rules of Part-NCO.

The operator must check with the competent authority whether the operations it conducts are eligible for the alleviation of SPO.GEN.005 (c). The competent authority makes the final determination.

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What do the terms ‘marginal activity’, ‘direct cost’, ‘annual cost’ and ‘organisation created with the aim of promoting aerial sport or leisure aviation’ mean?

Answer

‘Marginal activity’, ‘Direct cost’… - Reference: Reg. (EU) No 965/2012 on air operations: SPO.GEN.005 (c)

These terms are used in SPO.GEN.005 (c) as well as in Article 6, paragraph 4a of Reg. (EU) No 965/2012.

Their meaning, in the context of Reg. (EU) No 965/2012, can be found in the guidance material placed under Article 6, paragraph 4a. The same meaning is also applicable for the purpose SPO.GEN.005 (c).

As regards ‘marginal activity’, AMC1 ARO.OPS.300 also applies in the case of parachute dropping, sailplane towing or aerobatic flights. This is because whenever a competent authority publishes criteria specifying to which extent it considers an activity marginal and how this is being overseen, the nature of flight (introductory, parachute dropping, sailplane towing or aerobatic flights) has little importance.

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Are we high-risk or non-high-risk commercial specialised operator?

Answer

Reference: Reg. (EU) No 965/2012 on air operations: Article 2 (8)
Each competent authority may decide for their territory which commercial SPO operation poses a high risk, in particular to third parties on the ground. If you operate in the Member State where you are residing or your organisation is established or has its principal place of business, this is your competent authority; if you operate in another Member State, this is the competent authority designated by that Member State.
Even if the competent authority has not established its list of high-risk commercial SPO operations, the operator must determine through a risk assessment whether a particular operation is posing high risk to third parties on the ground in the event of an emergency.
The competent authority should publish and regularly update the list of high-risk SPO for their territory.
For more information, please refer to various publications about the high-risk SPO operations in the Member States available on this webpage, including the *Guidelines for cross-border high-risk commercial SPO*.

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Do I need two authorisations, if the lists of high-risk commercial SPO of different Member States differ?

Answer

Reference: Reg. (EU) No 965/2012 on air operations: ARO.OPS.150 (f)
No, you do not. Where the cross-border SPO operation you are planning to carry out is on the list of high-risk SPO established by the competent authority of the place of operation, you shall seek authorisation from your own competent authority, irrespective of whether that authority considers this particular operation ‘high risk’ or not. This is because in the EU the HR

authorisation issued by your competent authority under Regulation (EU) No 965/2012 is recognised as valid by the competent authority of another Members State.
For that purpose, the competent authorities involved will coordinate the validation process. The safety considerations of the competent authority of the place where the operation will be conducted need to be accounted for; both competent authorities need to be satisfied with the operator's risk assessment and standard operating procedures - SOPs.
For more information, please refer to various publications about the high-risk SPO operations in the Member States available on this webpage, including the *Guidelines for cross-border high-risk commercial SPO*.

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What is the meaning of "applicable national flight time limitation legislation" in Article 8 (4) of regulation 965/2012?

Answer

Cross-border commercial SPO - Reference: Reg. (EU) No 965/2012 on air operations: Art. 8(4)

Article 8 (4) of Regulation 965/2012 foresees that specialised operators continue to comply with applicable national flight time limitation legislation until EU implementing rules are adopted and apply.

In the context of Part-SPO, the intent of 'applicable national flight time limitation legislation' with regard to specialised operators is understood to mean the national law of the Member State in which the operator has its principal place of business, or, where the operator has no principal place of business, the place where the operator is established or resides.

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My SPO operations fall under Part-SPO. What type of certification shall I expect from my competent authority – AOC or other type?

Answer

AOC or other certification - Reference: Reg. (EU) No 965/2012 on air operations: Part-ORO and Part-SPO

You are not required to obtain an air operator certificate (AOC). You are however required to submit a declaration to your competent authority. Please make sure that the Declaration is properly completed.

In addition, depending on the operations you conduct, you might need a specific approval for one or more of these: RVSM, MNPS, RNP AR APCH, LVO and DG.

In some cases of high-risk commercial SPO, an authorisation may be required.

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https://www.easa.europa.eu/en/faq/22606

Who must submit a declaration?

Answer

Declaration - Reference: Reg. (EU) No 965/2012 on air operations: ORO.DEC.100

Every SPO operator (commercial and non-commercial), except NCO-SPO, submits a declaration.

An operator may perform both commercial and non-commercial flights with complex motor-powered aircraft based on one declaration.

Operators are not required to submit a declaration before each flight, but must submit a new declaration in the case of changes.

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Is the skydiving activity itself under the scope of Regulation (EU) No

965/2012?

Answer

Skydiving/parachute dropping

Parachutes are completely outside Regulation (EU) 2018/1139 (the Basic Regulation), on account that they are not an aircraft.

In addition, the way people do skydiving (parachute jumps/tandem jumps) does not belong to the scope of Regulation 965/2012.

Regulation (EU) No 965/2012 applies to the flight operation of bringing parachutists at the required level for the execution of the jumps.

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Can I fly an aeroplane for commercial parachute dropping operation with my PPL (A)?

Answer

Parachute dropping - Reference: Reg. (EU) No 965/2012 on air operations: Art. 6(4a); Regulation (EU) No 1178/2011 on Aircrew: Art. 3(2)

The holder of an LAPL or a PPL may conduct parachute-dropping flights, only if the conditions stipulated in Art 6 (4a) of Reg. (EU) No 965/2012 are met.

In all other cases, only pilots who hold at least a CPL can conduct SPO flights in accordance with Part-SPO.

Holders of a PPL (A) with instructor/examiner ratings may receive remuneration for providing training, testing and checking related to LAPL (A) and PPL (A), as well as associated ratings and certificates.

The PPL holder cannot receive remuneration for conducting operations other than those listed in FCL.205.A of Reg. (EU) No 1178/2011, as well as for any of the flights mentioned in Article 6 (4a) of Reg. (EU) No 965/2012.

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Is 'MOPSC' (Maximum Operational Passenger Seating Configuration') applicable in case of parachute dropping, where only task specialists are carried?

Answer

MOPSC - Reference: Reg. (EU) No 965/2012 on air operations: SPO.IDE.A.130

For the purpose of SPO.IDE.A.130, only one of the two values is used: either MCTOM of more than 5 700 kg or MOPSC of more than nine.

MOPSC is established for operational purposes. Where MOPSC is not established or is not relevant for a particular operation, the value of MCTOM should be used.

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How is a ramp inspector supposed to know the nature of a particular SPO flight (commercial or non-commercial)?

Answer

Declaration - Reference: Reg. (EU) No 965/2012 on air operations: ORO.DEC.100

A declaration is not meant to provide information about the nature of a flight at a particular moment. The ATS flight plan, if applicable, and/or the Journey log contain information on the nature of a particular flight.

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If I hold an AOC and want to perform SPO activities (commercial and non-commercial) with the same aircraft registered on my AOC, do I have to submit a declaration too?

Answer

Mixed operations - Reference: Reg. (EU) No 965/2012 on air operations: ORO.DEC.100

Yes. SPO operations are not covered by the AOC certification process. Therefore, an AOC holder when conducting SPO missions will have to comply fully with Part-SPO and its associated procedures. This means that the AOC holder must submit a declaration, as well as apply for a high-risk authorisation, if it performs high-risk commercial SPO activities. The aircraft used for the SPO activities are listed on the declaration and in the operations manual.

However, you do not have to submit a declaration, if you operate NCO-SPO i.e. non-commercial specialised operations with other-than complex motor-powered aircraft.

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Must an operator holding specific approvals (SPAs) for its CAT operations apply for the same SPAs when it also conducts specialised operations?

Answer

Specific approvals (SPA) for mixed operations - Reference: Reg. (EU) No 965/2012 on air operations: ARO.OPS.200(b)

Duplications should be avoided whenever possible. However, a separate SPA approval might be needed if:
(a) for its specialised operations the operator has a different training programme or has different operating procedures;
(b) the validity of the SPA included in the OPSSPECS has expired; or
(c) for its specialised operations the operator will use aircraft that are not included in its AOC and for which it does not have any SPA yet.

The operator does not have to duplicate in its operations manuals the procedures and training for the SPA used for SPO when they are the same as the ones used for CAT operations; a cross-reference, specified in its operations manual, to the place where the training and operating procedures are already detailed, is enough.

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Is it allowed to perform specialised operations with a permit-to-fly or is a CofA mandatory at all times?

Answer

Permit-to-fly - Reference: Reg. (EU) No 965/2012: ORO.SPO.100 (b); SPO.GEN.140; and NCO.GEN.135

Aircraft used in commercial specialised operations that fall under Part-SPO, must have a certificate of airworthiness (CofA) in accordance with Regulation (EU) No 748/2012 or may be wet leased-in from a third country operator or dry leased-in by an EU operator while being registered in a third country.

For commercial specialised operations as well as for any other specialised operation that fall under Part-SPO, the original certificate of airworthiness (CofA) need to be carried on each SPO flight (SPO.GEN.140 (a) (3)).

According to AMC1 SPO.GEN.140(a)(3) a permit to fly may (PtF) be used in SPO operations, if issued in accordance with the applicable airworthiness requirements and subject to compliance with the flight conditions established by the competent authority.

The applicable airworthiness requirements are those contained in Commission Regulation (EU) No 748/2012 (Part-21 thereof). Part-21 contains a list of purposes for which a PtF may be issued under certain conditions. For example, a mission for air racing may be possible with PtF. Please check with your competent authority if the purpose of the SPO mission complies with that list and those conditions.

For non-commercial specialised operations falling under Part-NCO, NCO.GEN.135 (a) (3) requires the original certificate of airworthiness (CofA) be carried on each flight.

According to AMC1 NCO.GEN.135 (a) (3) a PtF may be used in NCO operations, if issued in

accordance with the applicable airworthiness requirements and subject to compliance with the flight conditions established by the competent authority.

The applicable airworthiness requirements are those contained in Part-21. Part-21 contains a list of purposes for which a PtF may be issued under certain conditions. For example, a non-commercial flying activity on individual non-complex aircraft or types for which a certificate of airworthiness or restricted certificate of airworthiness is not appropriate (mainly, but not limited to, the so-called ‘orphan’ aircraft) may be possible with PtF. Please check with your competent authority if the purpose of the SPO mission complies with that list and those conditions.

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Can we integrate the processes for a permission under Part-SERA and with high-risk authorisation (HRA) under Part-ARO?

Answer

Yes, it is possible, but this decision belongs to the competent authority. Competent authorities may, for example, consider the following option:

- for flights over the congested areas of cities, towns or settlements or over an open-air assembly of persons, issuing only HRA. If such flights are to be operated below 300m, the HRA may integrate the permission under Part-SERA, without a separate procedure; and
- for flights elsewhere and not over an open-air assembly of persons,
  - below 150 m, issuing permission under Part-SERA only. This permission may integrate potential risks under Part-SPO;
  - above 150 m, requiring neither HRA nor permission.

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Can we integrate the processes for a permission under Part-SERA and with high-risk authorisation (HRA) under Part-ARO?

Answer

Yes, it is possible, but this decision belongs to the competent authority. Competent authorities may, for example, consider the following option:

- for flights over the congested areas of cities, towns or settlements or over an open-air assembly of persons, issuing only HRA. If such flights are to be operated below 300m, the HRA may integrate the permission under Part-SERA, without a separate procedure; and
- for flights elsewhere and not over an open-air assembly of persons,
  - below 150 m, issuing permission under Part-SERA only. This permission may integrate potential risks under Part-SPO;
  - above 150 m, requiring neither HRA nor permission.

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Can I carry out ‘limited operations’ with aircraft having FC/PtF for NCO ?

Answer

Reference: Reg. (EU) No 965/2012 on air operations, Article 6 (4a) and SPO.GEN.005(c)

The term ‘Limited operations’ (used in Regulation (EU) No 2015/1536) refers to certain specialised operations of other-than-complex motor-powered aircraft (SPO-NCO), such as competition flights, flying displays, parachute dropping, sailplane towing and aerobatic flights. Under strict conditions specified in Article 6 (4a) and SPO.GEN.005(c) of Reg. (EU) No 965/2012, those operations may be conducted in accordance with Part-NCO, and in particular subpart E thereof.

AMC1 NCO.GEN.135 (a) (3) specifies that an aircraft may be operated with a permit to fly issued in accordance with the applicable airworthiness requirements.

Thus, in the case of aircraft registered in an EU Member State and used in SPO-NCO, the permit to fly (PtF) is issued in accordance with Commission Regulation (EU) 748/2012 (Part-21 thereof) depending of the purpose.

If the above conditions are met, it is possible to perform the so called ‘Limited operations’ under Part-NCO and its subpart E as long as the aircraft have a PtF for non-commercial flying under Part-21 and the operation is compatible with or is covered by the corresponding flight conditions (FC).

For aircraft registered in a third country, the same applies, except that the PtF/FC must be issued in accordance with that third country legislation.

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Does Regulation (EU) No 965/2012 also apply to third-country operators that conduct specialised operations in an EU Member State?

Answer

Third country operators – non-EU countries and non-EEE countries - Reference: Reg. (EU) No 965/2012 on air operations

Specialised operations (SPO) performed by third-country operators into, within, or out of the EASA Member States are not subject to Regulation (EU) No 965/2012 (Part-SPO) or Commission Regulation (EU) No 452/2014 (Part-TCO), unless conducted under an approved wet lease-in agreement signed by an EU commercial SPO operator (ORO.SPO.100). For stand-alone third-country SPO, EU law does not require prior safety authorisation for such operations, however those operations (and their aircrew and aircraft) must comply, as per Article 59 of Regulation (EU) 2018/1139, with the applicable ICAO standard – or to the extent that there are no such standards with the essential requirements of the above-mentioned Regulation – as well as EU requirements regarding use of the airspace when operating in the Single European Sky.

In addition, in case the aircraft performing such operations is registered in an EASA Member State, the crew must comply with the EU aircrew requirements, unless responsibilities for the regulatory oversight of the aircraft has been transferred by the EASA Member State to the third country concerned. For further details concerning conditions for conducting SPO by a TCO in EASA Member States, including eventual need for obtaining permits for conducting this type of professional activity, please contact the Member State of the intended operations, as EASA is not responsible for oversight of these type of operations.

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