



Explanatory Note to Decision 2014/019/R

GM to Commission Regulation (EU) No 965/2012

RELATED NPA/CRD 2009-02 — OPINION No 03/2012 — RMT.0289 (OPS.001) — 24.04.2014

EXECUTIVE SUMMARY

This Decision deals with guidance material related to Article 6 of Commission Regulation (EU) No 965/2012 (Regulation on Air Operations) concerning cost-shared flights by private individuals, competition flights, flying displays, introductory flights, parachute dropping, sailplane towing and aerobatic flights with other than complex motor-powered aircraft. The EASA Committee decided to propose certain alleviations for such flights.

Following the deliberations of the EASA Committee, the Agency was tasked to provide additional guidance material to further explain the terms used in this article of the Cover Regulation and the intent of the rule. The specific objective of this Decision is to allow for common understanding and rule implementation.

This Decision is part of the OPS Phases III and IV involving amendments to the Cover Regulation and the following Annexes to the Regulation on Air Operations:

- Annex II (Part-ARO),
- Annex III (Part-ORO),
- Annex IV (Part-CAT),
- Annex VII (Part-NCO), and
- Annex VIII (Part-SPO).

Applicability		Process map	
Affected regulations and decisions:	GM to the Cover Regulation of Commission Regulation (EU) No 965/2012	Terms of Reference:	20.7.2006
Affected stakeholders:	air operators, competent authorities	Concept Paper:	No
Driver/origin:	Legal obligation	Rulemaking group:	Yes
Reference:		RIA type:	Full
		Technical consultation during NPA drafting:	Yes
		Publication date of the NPA:	30.1.2009
		Duration of NPA consultation:	6 months
		Review group:	Yes
		Focussed consultation:	No
		Publication date of the Opinion:	3.9.2012

Table of contents

1. Procedural information	3
1.1. The rule development procedure	3
1.2. Structure of the related documents	3
2. Explanatory Note	4
2.1. Overview of the issues to be addressed.....	4
2.2. Objectives.....	4
2.3. Overview of the amendments	4
3. References.....	6
3.1. Related regulations.....	6
3.2. Affected decisions	6
3.3. Reference documents	6

1. Procedural information

1.1. The rule development procedure

The European Aviation Safety Agency (hereinafter referred to as the 'Agency') developed ED Decision 2014/019/R in line with Regulation (EC) No 216/2008¹ (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure².

This rulemaking activity is included in the Agency's [4-year Rulemaking Programme](#) under RMT.0289 (OPS.001). The scope and timescale of the task were defined in the related Terms of Reference (see process map on the title page).

The draft text of this Decision has been developed by the Agency based on input of Review Group RG01. All interested parties were consulted on the AMC and GM material for the Regulation on Air Operations through NPA 2009-02³. More than 15 000 comments in total were received from interested parties, including industry, national aviation authorities and social partners.

The Agency has reviewed the comments received on the NPA. The comments received and the Agency's responses are presented in the Comment-Response Document (CRD) [2009-02](#).

The final Decision takes into account recommendations received from the EASA Committee.

The process map on the title page summarises the major milestones of this rulemaking activity.

1.2. Structure of the related documents

Chapter 1 contains the procedural information related to this task. Chapter 2 explains the core technical content. Chapter 3 provides references. The text of the AMC/GM is annexed to the ED Decision.

¹ Regulation (EC) No 216/2008 of the European Parliament and 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 (OJ L 79, 19.3.2008, p. 1), as last amended by Commission Regulation (EU) No 6/2013 of 8 January 2013 (OJ L 4, 9.1.2013, p. 34).

² The Agency is bound to follow a structured rulemaking process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the Agency's Management Board and is referred to as the 'Rulemaking Procedure'. See Management Board Decision concerning the procedure to be applied by the Agency for the issuing of opinions, certification specifications and guidance material (Rulemaking Procedure), EASA MB Decision No 01-2012 of 13 March 2012.

³ In accordance with Article 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure.

2. Explanatory Note

This Decision provides guidance material to Commission Regulation (EU) No 965/2012 of 5 October 2012 and in particular to Article 6.4a of the Cover Regulation.

2.1. Overview of the issues to be addressed

While discussing the EASA Opinions No 02/2012 on Specialised Operations and No 03/2012 on CAT A-A flights in the EASA Committee, Member States expressed the need to provide further alleviations to a number of commercial flights with other-than-complex motor-powered aircraft. The flights being identified were:

- cost-shared flights by private individuals,
- competition flights,
- flying displays,
- introductory flights,
- parachute dropping,
- sailplane towing, and
- aerobatic flights.

Article 6.4a of the OPS Cover Regulation now specifies that such flights are to be conducted in accordance with Part-NCO. Certain criteria are stipulated that allow remuneration for cost-shared flights by private individuals and remuneration or other valuable considerations for competition flights and flying displays flights if related to direct or annual costs or prizes of a specified value. Moreover, training organisations and organisations created with the aim of promoting aerial sport or leisure aviation are permitted to offer introductory flights, parachute dropping, sailplane towing and aerobatic flights to non-members against remuneration if such flights represent a marginal activity.

The Agency was tasked to develop guidance material further explaining the terms:

- direct cost,
- annual cost,
- organisation created with the aim of promoting aerial sport or leisure aviation, and
- marginal activity.

2.2. Objectives

The overall objectives of the EASA system are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2. The specific objective of this Decision is to allow for common understanding and rule implementation.

2.3. Overview of the amendments

The Decision introduces five new guidance materials further explaining some terms used in the Cover Regulation. The guidance material is based on elements provided by Member States during the discussions in the EASA Committee and practices found in Member States today.

GM1 to Article 6.4a was introduced following a comment from a Member State that the incorrect use of hyphens in the term other-than-complex motor-powered aircraft may exclude balloons and sailplanes. The GM clarifies that balloons and sailplanes are covered by this term in any case. The correct use of hyphens will be checked with the next editorial update of the OPS rules.

GM2 to Article 6.4a(a);(b) describes the meaning of direct cost incurred in relation to a flight.

GM3 to Article 6.4a(a)(b) describes the meaning of annual cost.

GM1 to Article 6.4a(c) provides elements to better define an 'organisation created with the aim of promoting aerial sport or leisure aviation'. Reference is made to Member States' national law governing non-profit organisations. It is the Agency's understanding that existing aero clubs are set-up in accordance with such law today.

GM2 to Article 6.4a(c) contains considerations in relation to the term 'marginal activity'. This is complemented by AMC and GM to ARO.OPS.300.

3. References

3.1. Related regulations

Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 296, 25.10.2012, p. 1).

3.2. Affected decisions

None.

3.3. Reference documents

None.