

# Ordinance on the Acquisition of Data on Tonne-Kilometres performed by Aircraft

of ...

*Draft dated 11 May 2012*

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*The Swiss Federal Council,*

on the basis of Article 2 paragraph 3 of the CO<sub>2</sub> Act of 8 October 1999<sup>1</sup> and Article 58 paragraph 2 of the Civil Aviation Act of 21 December 1948<sup>2</sup> in conjunction with Article 47 paragraph 4 of the Government and the Administration Act of 21 March 1997<sup>3</sup>,

*ordains:*

## **Art. 1** Purpose

<sup>1</sup> This Ordinance regulates the acquisition of data relating to distances covered by aircraft in 2013 and the corresponding transported payloads.

<sup>2</sup> The acquired data are indicated in tonne-kilometres and calculated in accordance with the instructions in Annex 1.

## **Art. 2** Scope of application

<sup>1</sup> This Ordinance governs the acquisition of tonne-kilometre data for all flights from and to aerodromes in Switzerland.

<sup>2</sup> It also applies to flights from and to Basel-Mulhouse Airport if they are classified as Swiss flights in accordance with the treaty between Switzerland and France dated 4 July 1949<sup>4</sup> on the construction and operation of Basel-Mulhouse Airport in Blotzheim.

<sup>3</sup> It does not apply to the following flights:

- a. flights performed exclusively for the transport on official mission of a reigning monarch and his/her immediate family, heads of state, heads of government and government ministers, where this is substantiated by an appropriate status indicator in the flight plan;
- b. military, customs and police flights;
- c. flights related to search and rescue, fire-fighting flights, humanitarian flights and emergency medical service flights;

<sup>1</sup> SR 641.71; from 1 January 2013 this Ordinance is based on Article 16 paragraph 1 of the CO<sub>2</sub> Act of 23 December 2011, FF 2012 109.

<sup>2</sup> SR 748.0

<sup>3</sup> SR 172.010

<sup>4</sup> SR 0.748.131.934.92

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- d. flights performed exclusively under visual flight rules as defined in Annex 2 to the Convention of 7 December 19445 on International Civil Aviation;
  - e. flights terminating at the aerodrome from which the aircraft has taken off and during which no planned intermediate landing has been made;
  - f. training flights performed exclusively in order to acquire or maintain a licence, or a rating in the case of cockpit flight crew where this is substantiated by an appropriate remark in the flight plan provided that the flight does not serve for the transport of passengers and/or cargo or for the positioning or ferrying of the aircraft;
  - g. flights performed exclusively for the purpose of scientific research;
  - h. flights performed exclusively for the purpose of checking, testing or certifying aircraft or airborne or ground-based equipment;
  - i. flights performed by aircraft with a certified maximum take-off mass of less than 5700 kilograms.

**Art. 3** Responsibility for delivery of data

<sup>1</sup> The operator of the aircraft concerned is responsible for supplying the data.

<sup>2</sup> If the operator cannot be identified, the owner of the aircraft is deemed to be the aircraft operator.

**Art. 4** Monitoring plan

<sup>1</sup> Aircraft operators shall draw up a plan for the acquisition and reporting of tonne-kilometre data (monitoring plan).

<sup>2</sup> Monitoring plans shall be prepared in accordance with Annex 2 number 1.

**Art. 5** Approval of monitoring plan

<sup>1</sup> Aircraft operators shall submit their monitoring plan to the Federal Office of Civil Aviation (FOCA) for approval by no later than 30 September 2012.

<sup>2</sup> In the event that a monitoring plan is not approved, the aircraft operator concerned shall make the necessary adjustments and resubmit it to the FOCA.

**Art. 6** Monitoring report

<sup>1</sup> Based on the monitoring plan, aircraft operators shall record the tonne-kilometres performed in the period from 1 January to 31 December 2013 and present the data in a monitoring report.

<sup>2</sup> Monitoring reports shall be prepared in accordance with Annex 2 number 2.

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**Art. 7** Verification of monitoring report

<sup>1</sup> Aircraft operators shall have their monitoring report verified by a verifier.

<sup>2</sup> Verification must be carried out as specified in Annex 3 numbers 1 to 3.

<sup>3</sup> Verifiers must meet the requirements specified in Annex 3 number 4.

**Art. 8** Approval of monitoring report

Aircraft operators shall submit their verified monitoring report to the FOCA for approval by no later than 31 March 2014.

**Art. 9** Archiving and processing of data

<sup>1</sup> The FOCA shall archive the monitoring plans and reports and the data contained therein. It shall store the data safely and treat them as confidential.

<sup>2</sup> In response to a specific request from the Federal Office for the Environment (FOEN), the FOCA shall pass on the data to the FOEN if they are required for the implementation of measures to limit greenhouse gas emissions from the civil aviation sector.

**Art. 10** Criminal provision

Aircraft operators shall be fined in accordance with Article 91 paragraph 1 letter i of the Civil Aviation Act of 21 December 1948<sup>6</sup> if they:

- a. fail to comply with the obligations specified in this Ordinance, or
- b. wilfully supply false data.

**Art. 11** Amendments to the Annexes

The Federal Department of the Environment, Transport, Energy and Communications may amend the Annexes to this Ordinance in order to ensure that they are compatible with European Union legislation.

**Art. 12** Commencement and duration

This Ordinance comes into force on 15 September 2012 and is valid until 31 December 2014.

<sup>6</sup> SR 748.0

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On behalf of the Federal Council

Eveline Widmer-Schlumpf, President of the  
Swiss Confederation

Corina Casanova, Federal Chancellor

## **Calculation of tonne-kilometres**

1 Tonne-kilometres shall be calculated on the basis of the following formula:  
tonne-kilometres [tkm] = distance [km] x payload [t].

2 Distance means the great circle distance between the aerodrome of departure and the aerodrome of arrival, plus an additional fixed factor of 95 km.

3 Payload means the total mass of conveyed freight, mail and passengers.

4 For the purposes of calculating the payload:

4.1 the number of passengers corresponds to the number of persons on board, excluding crew members;

4.2 aircraft operators may choose to apply either the actual or standard mass for passengers and checked baggage contained in their mass and balance documentation for the relevant flights or a default value of 100 kilograms for each passenger and his/her checked baggage.

## **Report on tonne-kilometre data: Monitoring plan and Monitoring report**

### **1 Monitoring plan**

1.1 The monitoring plan must guarantee that all relevant flights are included, and the required data for each flight are recorded accurately.

1.2 In addition, the monitoring plan must contain the following information:

- 1.2.1 the necessary details for identifying the aircraft operator;
- 1.2.2 the necessary details for identifying the operated aircraft;
- 1.2.3 a description of the methodology for ensuring the complete acquisition of data for all relevant aircraft and flights;
- 1.2.4 a description of the method of data acquisition and management;
- 1.2.5 a description of the methodology for calculating the tonne-kilometres for each flight.

### **2 Monitoring report**

The monitoring report must contain the following information:

- 2.1 the necessary details for identifying the aircraft operator;
- 2.2 the necessary details for identifying the verifier responsible for verifying the monitoring report;
- 2.3 the necessary details for identifying the operated aircraft;
- 2.4 a description and substantiation of any deviations from the underlying monitoring plan;
- 2.5 a description of the methodology for calculating the payload;
- 2.6 the total of all tonne-kilometres for flights operated by the aircraft operator during 2013;
- 2.7 for each aerodrome pair:
  - 2.7.1 the ICAO<sup>7</sup> aerodrome designation,
  - 2.7.2 the distance,
  - 2.7.3 the number of flights,
  - 2.7.4 the number of passengers and transported payload,
  - 2.7.5 the number of tonne-kilometres.

<sup>7</sup> ICAO = International Civil Aviation Organisation ([www.icao.int](http://www.icao.int))

## **Verification of tonne-kilometres and requirements to be met by the verifier**

### **1 General requirements**

1.1 The verifier shall verify the reliability, credibility and accuracy of the monitoring systems and the submitted data and other information. In particular it shall ensure that the data permit the calculation of tonne-kilometres with a high degree of reliability.

1.2 The aircraft operator shall grant the verifier access to all data and documentation that are required for the purpose of the verification procedure. In particular, the aircraft operator shall obtain from Eurocontrol the necessary flight operation data and place them at the disposal of the verifier.

### **2 Specific requirements**

2.1 The verifier shall ensure that only those flights are taken into account:

- 2.1.1 for which the aircraft operator is responsible;
- 2.1.2 that have in fact been carried out;
- 2.1.3 that are governed by this Ordinance.

2.2 For this purpose the verifier shall use the data which the aircraft operator has obtained from Eurocontrol.

2.3 The verifier shall ensure that the data reported by the aircraft operator relating to payload correspond to the payload indicated by the aircraft operator for safety purposes.

### **3 Requirements relating to the verification methodology**

The verification of monitoring reports shall be carried out as follows:

- 3.1 Analysis of all activities carried out by the aircraft operator (strategic analysis);
- 3.2 Performance of random checks in order to determine the reliability of the submitted data and other information (process analysis);
- 3.3 Analysis of error risk relating to the utilised data, and examination of the procedure for limiting error risk (risk analysis);
- 3.4 Preparation of a verification report in which it is stated whether the monitoring report meets the requirements of this Ordinance. The verification report shall list all relevant aspects of the activities carried out within the scope of the verification procedure.

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## **4 Requirements to be met by the verifier**

4.1 The verifier must be accredited for the mandated verification activity in accordance with the Accreditation and Designation Ordinance of 17 June 1996<sup>8</sup> or Regulation (EC) No 765/2008<sup>9</sup>.

4.2 It must be independent of the aircraft operator and shall perform its duties professionally and objectively.

4.3 It must be able to demonstrate that it possesses the required competence to verify tonne-kilometre data in the civil aviation sector, and is familiar with the way in which all information for the monitoring report is produced, in particular with respect to the acquisition, measurement, calculation and submission of data.

4.4 It must be familiar with all the relevant provisions and the applicable legal and administrative regulations.

<sup>8</sup> SR 946.512

<sup>9</sup> Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93. OJ L 218 of 13.8. 2008, p. 30.