NPA 2017-05(A) comments by EMFU - 4/9/2017

NPA page	Paragraph	Original text, if required	EMFU comment
6	2.3.1 General issues		The European Model Flying Union (EMFU) thanks the Agency for preparing the NPA 2017-05(A)(B) with the help of an EASA UAS Expert Group involving for model aircraft activities Dave Phipps (EMFU President) as EAS representative and Bruno Delor (EMFU Vice-president) as FAI representative. EMFU appreciate the EASA effort in order to cover model flying with appropriate requirements with introduction of 3 possibilities: - Dedicated requirements to cover activities conducted in the framework of model clubs and associations (Article 14). - Operations in specific zones designated by MSs and where they can alleviate requirements of the rules proposed in the NPA (Article 12). - Operations in subcategory A3 of the open category for model aircraft pilots not intending to join a model club. We recommend that specific guidance is made available to assist national authorities to interpret and implement the regulations in a way which is not detrimental to established model flying activities. We have concentrated our efforts on commenting on part (A) as it particularly concerns the flight operations of our many thousands of members in all Member states. Only a few comments have been provided on the draft acceptable means of compliance (AMC) and guidance material (GM) because we consider it better to await the final outcome of NPA 2017-05 that will be published as “Opinion of the Agency” in order to avoid to creating inconsistencies in comments.
23	Article 1 Subject, matter, and scope		**Control Line model aircraft operations:** It has been concluded in the EASA UAS Expert Group that the regulation will not apply to Control Line model flying considering that there is no air risk with such tethered activities. It has been concluded that this could be achieved with a minor amendment of the Annex 1 of the revised Basic Regulation (remove "with no propulsion system" in "tethered aircraft with no propulsion system"). In case this amendment is finally not adopted, it will be then necessary to mention in article 1 that the regulation will not apply to MTOM less than 25 kg UAS for which the flight control is accomplished via a physical connection to the pilot through one or more inextensible wires or cables directly connected to the aircraft.

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23	Article 1 Subject, matter, and scope		**Free Flight model aircraft operations:** such a model aircraft is hand launched with then no physical connection during the flight between the model aircraft and the flyer (or his helper). The model aircraft is not equipped with any device that allows them to be flown automatically to a selected location or controlled remotely during the flight other than to stop the motor and/or to terminate the flight after a pre-determined time. It has been concluded in the EASA UAS Expert Group that the regulation will apply to the Free Flight model flying. After a more complete analysis of the NPA, some requirements may cause problems for these specific activities. As an example, AMC1 UAS.OPEN.30(a)(1) Ability to take control of the UA mentions: "a) Except in case of lost-link conditions, the remote pilot should be at any time able to take control of the UA. Autonomous operation is not allowed in the open category." So, it could be understood that Free Flight model flying cannot be considered within the open category. Considering the very low air risk of these activities (established over the last century) and in order to avoid prohibitive and unenforceable* restrictions, it seems reasonable to consider that the regulation will not apply to UAS with a MTOM less than 900 g which flies autonomously by following the atmosphere movements after it has been hand launched and provided the flight is terminated after a pre-determined time (dependent upon weather conditions and operating location, but generally less than 12 minutes). * Small free-flight models sold by their thousand as children's toys would be unable to comply, and it is assumed the aim of the NPA is not to restrict their use
26	Article 3 Principles to all UAS operations	2. The UAS operator shall register itself and the UA, as required by this Regulation, with the entity designated for that purpose by the Member State where the operator has its principal place of business or place of residence, and shall display the registration information on the UA it operates.	The EMFU proposes an amended wording: 2. When required by this Regulation, the UAS operator shall register itself and/or the UA~~, as required by this Regulation,~~ with the entity designated for that purpose by the Member State where the operator has its principal place of business or place of residence, and ~~shall~~ display the registration information on the UA it operates.
26	Article 3 Principles to all UAS operations		Article 3 paragraph 5 specifies: "The UAS operator shall report to the competent authority an occurrence and other safety-related information regarding the UAS". In some States, nothing exists at the moment about occurrence report for model aircraft. Is it possible to consider in Article 14 an exemption or a different way to proceed? Small incidents such as minor accidental property damage should not require mandatory notification as they are generally insurance matters

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30	Article 10 Third-country UAS operators		**Model aircraft international events:** It is necessary to include a possibility for derogation to allow for the participation of competitors from countries outside of the European Community in international model aircraft events (National, World or European Championships, …) organised by a Member State. It is important to avoid inappropriate constraints (registration, remote-pilot competence, …). **Practice cross-border:** it is necessary to define how to proceed for a remote pilot who wants to occasionally operate his model aircraft (for example during his holidays) in a Member State country other than his residence country. It is also necessary to cover the case of a remote pilot outside the European Community coming for a temporary stay in a Member State country. For both cases, it is necessary to avoid inappropriate restrictions or constraints. For a remote pilot from another Member State country, any authorization (registration, remote-pilot competence, …) must be valid across Member States.
31	Article 12 Airspace areas or special zones for UAS operations		Article 12 gives the possibility to a Member State to designate special zones for model flying as it is actually the case in some countries. It would be appreciated to confirm that the maximum flight height in these zones may be more than 150 m where the airspace allows such possibilities. Similarly, in many State Members, model flying is currently permitted up to 150 m height everywhere except in forbidden or restricted zones) without any safety problem. There is no reason to restrict the height for model flying to 120 m as defined for open category. The EMFU strongly insist in order a Member State may continue with article 12 to allow model flying up to 150 m height everywhere except in forbidden or restricted zones defined in aeronautical information. Flights of radio controlled model aircraft generally take place only in appropriate locations and well within VLOS which ensures safe separation from manned aviation. Our excellent safety record established over many decades confirms this and should be used as a basis for genuinely risk based regulation for model flying.
31	Article 12 Airspace areas or special zones for UAS operations	(e) where UAS operations are exempted from one or more of the open-category requirements of this Regulation, and where operators are not required to hold an authorisation or submit a declaration.	The text must be as easy as possible to understand in order to prevent unnecessary restriction of model flying in any Member State, and in order to cover our needs in the best possible way. The EMFU would propose to clarify as follows the sub-paragraph (e): (e) where UAS operations are exempted from one or more of the open-category requirements of this Regulation (maximum height, age of the remote-pilot,…), and/or where operators are not required to hold an authorisation or submit a declaration (registration of the operator and/or of the UA, …). Note: If this proposal is not retained, GM1 Article 12 must be completed in order to encourage Member States to read in openly this article for model flying and avoid unnecessary constraints justified by a restrictive interpretation of the Regulation. It is also suggested to mention in GM1 Article 12 that the zones dedicated to model flying must stay open to other traffic in order to avoid unnecessary restrictions on the other air sport activities.

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32	Article 14 UAS operations conducted in the framework of model clubs and associations		Even if the main idea of article 14 is to "grandfather" model flying in every Member State as it is now, it is necessary to allow any national competent authority to issue an operational authorization which is not strictly restricted to the provisions currently in force. That will give the possibility for a Member State to use the best practices of other Member States proved to be safe. This may be mentioned in GM1 Article 14 Hobbyist flights. That may help Member States for which model flying is not sufficiently (or not at all) regulated to define appropriate requirements. Note: EMFU has decided an action in connection with the FAI to produce a guidance document to summarize what could be considered as the appropriate requirements for model flying taking in account safety and actual best practices.
32	Article 15 Applicability		As written, this appears to limit a Member State to make provision for model flying solely within the terms of Article 12 or solely within the terms of Article 14. The EMFU suggest that this is unnecessarily restrictive and there may be instances where both Article 12 and Article 14 could be used to facilitate model flying within a Member State.
35	UAS.OPEN.10		Introduction of a definition of "operator" in article 2 is recommended in order to avoid wrong interpretation of this term.
35	UAS.OPEN.20 Registration (b) to (e)		We consider that registration of privately built UA is unworkable considering different model aircraft with similar characteristics cannot be practically distinguished. In addition, registration of the UA is unnecessary when electronic identification will not be required. It is desirable to avoid creating an overly cumbersome requirement with no added benefit. Nametag visible on or in the UA mentioning the owner details is sufficient. EASA must also consider the updating effort required to get and maintain an accurate and reliable data base and the risk to rapidly create a data cemetery.
35	UAS.OPEN.20 Registration (f)		We propose that registration of UAS operator remains valid for five years instead of three. Considering that three years is a short period which will increase administration work with no added value especially on safety. Even then, the requirement is excessive in comparison to manned aviation. Where required, registration of model flyers should be administered by the model flying associations who already adequately fulfil this requirement in most Member States.
37	UAS.OPEN.35 Maximum height of UAS operations in the open category (a) and (b)		The maximum height permitted is 120 m instead of the common 150 m (500t) applicable to all general aviation activities. Such a buffer of 20 % of the height (30 m) is excessive and absolutely not justified. We consider it is the responsibility of the manufacturer to define the appropriate provisions, to guarantee adherence to the height limit without introducing in the regulation a defined buffer and ensure that the flight of their products remains in compliance with the airspace limitation. It is better to leave to the operator the individual responsibility to take appropriate disposition to be sure that its UA does not fly over the maximum height permitted.

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39	UAS.OPEN.60 Requirements applicable to UAS operations in subcategory A3		We note that the minimum age requirement is more restrictive in sub-category A3 for UAS less than 900 g compared to the age required for subcategory A1. This is not logical considering you can fly over people in subcategory A1. Restricting the age to 16 instead of 14 is not justified. In order to simplify, we suggest an age of 14 years in sub-categories A2 and A3 (same as the minimum age required sub-category A1 for UAS class C1). From our experience, we consider that 14 years is sufficient to satisfy properly the remote-pilot competence and that 16 years is unnecessarily restrictive. What does the agency take 'supervised' to mean in this case? Is close physical proximity required or just knowledge of the activity taking place? The minimum age requirement may be a problem when model flying will be done within the subcategory A3 and may have a negative impact on junior competition classes and associated training activities. This requirement only concerns the case of a "remote pilot" (as such Control Line and Free Flight model aircraft should be outside the scope of these regulations). For Free Flight activities, the pilot must not be considered as a "remote-pilot" considering that the model aircraft flies autonomously with no use of a radio-control system (other than in some instance where radio-control may be used solely for the purpose of terminating the flight). We would appreciate clarification of this point in an AMC UAS.OPEN.60.
39	UAS.OPEN.70 Duration and validity of remote pilot competence		Three years as validity of the remote pilot competence is a short period which will increase administration work for checking with no real added value. So, we propose that the remote pilot competence remains valid for five years instead of three. Even then, the requirement for model flyers is unnecessary and excessive in comparison to manned aviation. As there is no evidence to support this requirement for model flying, it is not risk based regulation.
40	UAS.SPEC.15 Responsibilities of model clubs and associations	(b) ensure that all members have the minimum competence required to operate the UAS safely in accordance with the procedures defined in point (a);	While model clubs and associations traditionally play an important role in assisting their members to achieve the competence required to operate their model aircraft which contribute to the good safety record achieved for model flying, it is unreasonable to hold clubs and associations (usually run by volunteers) responsible for ensuring that their members have the minimum competence required. Not only this may create extra burdens and costs, but the text, as formulated, seems to imply a legal responsibility of clubs and associations if a member without the required competence causes damage. The competence of individual model aircraft pilots is and should remain the individual responsibility of the model flyer.

			Some members join clubs or associations for social reasons and are for, whatever reason, incapable of flying. So, we propose to amend as follows: (b) assist their members in achieving the minimum competence required to operate the UAS safely in accordance with the procedures defined in point (a);
57	Appendix I.6 Product requirements for UAS components 1.6.a – Geofencing System	A geofencing system should include the following functionalities and performance characteristics so as to provide: (a) an interface to update data containing information on airspace limitations and requirements, as well as to ensure the integrity and validity of this data; (b) information about the airspace limitations and requirements where the UA operates, as well as the position and movement of the UA relative to those limitations; and (c) information on the status of the system as well as on the validity of its position or navigation data.	The geofencing data used by UAV's at present is not under the control of any Member State, so its source or validity cannot necessarily be guaranteed in accordance with this requirement. The concept of using geofencing to provide a safety benefit relies on the data itself being valid and of high integrity. The security and verification of the data should be taken very seriously to prevent, for example, London Heathrow or Frankfurt Main airports being deleted/moved in a database either by operator error or deliberate hacking. A way of promulgating the 'official' data will need to be defined, as there will need to be a mechanism for authorities to alter airspace and add temporary restricted areas The agency should investigate producing a Europe-wide common database, or at least define a common data structure that would allow the geofencing data to be common in each member state. In addition, we propose to amend 1.6.a as follows: "A geofencing system should include the following functionalities and performance characteristics so as to use electronic data, which is compliant with standards acceptable to the Agency, to provide: ……"
93	AMC's to Article 7		In order to keep guidance to the regulation simple as possible, some AMC's may be deleted, such as for example: AMC1 Article 7 Oversight (d) and (e) AMC2 Article 7 Oversight programme AMC3 Article 7 Oversight programme – audit and inspection AMC4 Article 7 Oversight programme – follow-up
105	AMC1 UAS.SPEC.15(c) Action in case of operations/flights exceeding the conditions and limitations defined in the operational authorisation	When the model club and/or association is informed that a member exceeded the conditions and limitations defined in the operational authorisation, appropriate measures should be taken, proportionate to the risk posed, to make sure that a similar event will not happen again. Considering the level of risk, the model club and/or association should decide if the competent authority should be informed. In any case, occurrences that caused an injury to any	Minor injuries or small property damages can be amicably resolved and do not need to be reported. So, it is suggested to modify the AMC1 as follows: "When the model club and/or association is informed that a member exceeded the conditions and limitations defined in the operational authorisation, appropriate measures should be taken, proportionate to the risk posed, to make sure that a similar event will not happen again. Considering the level of risk, the model club and/or association should decide if the competent authority should be informed. In any case, occurrences that caused a significant injury to any person other than the UAS operator or significant damage to any property, vehicle, or aircraft involved other than UA, as

		person or damage to any property, vehicle, or aircraft involved other than UA, as defined in Article 125 of Regulation (EU) 2017/XXX, should be reported.	defined in Article 125 of Regulation (EU) 2017/XXX, should be reported."

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