

NPA 2017-05(A) comments by Deutscher Modellflieger Verband (DMFV) [German Model Flying Association] 12. September 2017

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General Comments				
1				<p>The German Model Flying Association (Deutscher Modellflieger Verband e.V. [DMFV]) - the largest national interest group for model flying enthusiasts in Europe and the second largest in the world after the USA - represents more than 1.300 model flying clubs and a total of 90.000+ members in Germany. Our 1.300+ clubs are introducing young people into the interesting and challenging subjects of our sport. We provide them with knowledge and skills necessary to build and fly model aircraft, skills and knowledge which are also useful in other areas, especially when heading for jobs in the aviation business. Thanks to its long standing experience the DMFV also serves as a consulting body for authorities and government institutions.</p> <p>On 7th April 2017, the German Regulation on the Operation of Unmanned Aircraft (e.g. covering model aircraft & drones) entered into force. § 21e of the Regulation authorizes the DMFV to issue certificates allowing the applicants to</p> <ul style="list-style-type: none"> • fly model aircrafts/drones heavier than 2 kilograms and/or • fly model aircraft - except multicopter - higher than 100 meters. <p>The new regulations focus on the operation of model aircraft outside of certified model flying fields.</p> <p>The aim of our comments is to ensure the continued safe operation of model aircraft in all countries that are to apply the rules currently under development.</p> <p>We are concerned about the complexity and restrictive nature of the draft rules set out in NPA 2017-05(A). These draft rules limit the exercise of aeromodelling activities to a degree that is disproportionate to the risks posed by such activities, fail to recognise their excellent safety record to date, and impose unnecessary new regulatory burdens and requirements on authorities, model associations, clubs and pilots. Any new restriction on a hobby and sports that is exercised by several hundred thousands of modellers throughout the EU must be proportionate to their objective. The proposed restrictions and rules will reduce the attractiveness of aeromodelling to youth, for whom aeromodelling is an important stepping stone for a future career in aviation or aviation related technology. Moreover, aeromodelling has been at the forefront of the development and deployment of new technologies in the field of aviation, including electrification. Europe's leadership in this area faces increasing international competition. Disproportionate restrictions on aeromodelling will affect Europe's ability to maintain and create jobs and economic growth in the aviation sector generally and in the development and deployment of aviation related technology.</p> <p>Our proposals retain the regulation of sports and recreational model aircraft activities at the national level, as is already recognised and proposed in the NPA. The difference in our proposals is that we propose to continue relying on national regulations from the start. We must avoid the overly complex approach put forward in the draft rules where these activities are first brought within the scope of the draft rules, and are seriously restricted in terms of maximum altitude, location and pilot age, to then allow them to be exempted again through national provisions. While this is likely to lead to a result that in most countries will be similar - if not identical - to the rules currently in place, it imposes a complex bureaucratic process with an uncertain outcome. The result of our proposed text is the same as that proposed in the draft rules, but avoids an overly complex bureaucratic process. A continued reliance on national regulations from the start will avoid an important period of uncertainty for the development of aeromodelling during which national exemptions need to be created. Moreover, it will allow Member States to continue regulating the sport in line with their national requirements and conditions.</p>

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Comments on Draft Regulation and Annexes				
Preamble				
23	Preamble	(9) Taking into account the good safety record achieved, dedicated provisions for recreational flight activities conducted in the framework of model clubs and associations should also be laid down.	<p><i>Amend preambular paragraph 9 as follows:</i></p> <p>Taking into account the good safety record <u>of sports and recreational model aircraft activities, such activities should be exempted from the scope of this Regulation. Member States should issue operational conditions to maintain the good safety record of such activities.</u></p>	This change retains the national level regulation of sports and recreational model aircraft activities as proposed in the NPA. It avoids the overly complex situation where these activities are first brought within the scope of the draft rules to then exempt them again through national level regulation. This approach would impose an unnecessary burden on national regulatory procedures and stakeholders. Instead, it proposes to rely on national level regulation from the start. The outcome of the proposed text is thus the same as that proposed in the draft rules, but significantly simplifies procedures to get there.
23	Article 1 Subject, matter, and scope	3. This Regulation does not apply to indoor UAS operations.	<p><i>Amend paragraph 3 as follows:</i></p> <p>This Regulation does not apply to operations of:</p> <ul style="list-style-type: none"> - Indoor UAS; - <u>Tethered or Control Line model aircraft</u> 	Tethered or control line model aircraft operations are by their very nature limited in altitude and location and pose no risk that needs to be addressed by the draft rules.
24	Article 2 Definitions		<p><i>Insert new definition paragraph (p)bis:</i></p> <p>'model aircraft' is usually a remote controlled unmanned aircraft with a maximum take-off mass of up to 25 kg*, which is operated for the sole purpose of leisure or sport, within the unassisted range of sight of its pilot and within operating rules defined by local authorities pursuant to Article 14.</p> <p>Model aircraft weighing more than 25kg (up to 150kg) are already handled differently (airworthiness testing, registration of model and pilot, "pilot licence" etc.)</p>	<p>The draft rules seek to enable the creation of exemptions for model aircraft through, inter alia, Article 14. By failing to define model aircraft and focussing instead on activities in the framework of clubs and associations, the draft rules create two problems.</p> <p>The first is that there is a high risk that model aircraft activities exempted through Article 14 are defined differently at the level of each Member State, creating possible safety risks, but also potential technical barriers to trade for producers and distributors of model aircraft.</p> <p>The second problem is that a definition through focussing on the activities in the framework of clubs</p>

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3				<p>and associations fails to recognise that many model aircraft activities take place outside model airfields and outside the direct control of the management system of clubs and associations. The draft rules will seriously limit such activities, which is disproportionate in view of their safety record and risks.</p> <p>A single EU-wide definition of model aircraft will avoid these problems.</p> <p>*) In order not to exclude Swiss modelers , which currently have a 30kg weight limit, the DMFV would have no objections raising the 25kg limit to 30kg. The impact on the actual “danger level” would be marginal, because at these weights (and below as well), speed is actually the more critical factor.</p>
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.	<i>Amend paragraph 2 as follows:</i> 2. The UAS operator shall register itself and only those specific UA identified by this <u>Regulation</u> 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.	Our proposal retains the obligation for UAS operators to register themselves but removes the blanket obligation to register all UAS. Instead, the proposed text limits the obligation to register UAS to categories specified in the Regulation only. This obligation should only rest on UAS in the specific category. UAS in the open category should not be subject to registration. Registration of all UAS is a burdensome, costly and complex process. For most UAS the possibility to identify the UAS operator through a crash- and fireproof nametag fixed on the UAS is sufficient.
27	Article 4 Open-category UAS operations		The system for the categorisation of open-category UAS Operations is overly complex and restrictive and creates important implementation and application difficulties, endangering its application and enforcement in practice. We strongly support a simplification of the categorisation system, for example along the lines of the Member States' Proposal reflected on page 14 of the NPA. Important is that any categorisation avoids unnecessary age	

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			<p>limitations on pilots, and defines the distance from people on the basis of “crowds” and not “uninvolved persons”. Moreover, technical requirements and electronic geofencing or identification requirements should recognise the special nature of model aircraft.</p>	
4 31	<p>Article 12 Airspace areas or special zones for UAS operations</p>		<p><i>Insert new sub-paragraph 1(d)bis:</i> where UAS operations are subject to altitude restrictions;</p>	<p>The draft rules set a blanket altitude restriction for open category UAS of 120m, and allow exemptions for this through Article 12(1)(e) for areas to be defined by the Member State.</p> <p>Such blanket altitude restriction, to be followed by explicit exemptions is disproportionately cumbersome and bureaucratic. A general altitude restriction fails to recognise that many Member States have areas in which model aircraft activities can safely be exercised without altitude restrictions, for example in alpine regions. Moreover, a general restriction to 120m will shut down a range of aeromodelling activities that take place at altitudes higher than 120m, but have an excellent safety record.</p> <p>Altitude restrictions may be justified for specific areas, for example near airports and important infrastructure. Many Member States already have such altitude restrictions in place. The change we propose allows Member States to apply altitude restrictions where needed. Importantly, it avoids a system where Member States will first need to impose an altitude restriction and then go through a process of creating exemptions for specific areas. Our proposal avoids an unnecessary burden on authorities, uncertainty for the future of aeromodelling and allows aeromodelling to be exercised safely and without disproportionate restrictions.</p>

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32	Article 14 UAS operations conducted in the framework of model clubs and associations	For UAS operations conducted in the framework of model clubs or associations, the following applies: 1. the competent authority may issue an operational authorisation to a model club or association without further demonstration of compliance, on the basis of the model club's or association's established procedures, organisational structure, and management system; and 2. operational authorisations granted under this Article shall include the conditions and limitations of, as well as the deviations from, the requirements of Annex I to this Regulation.	<i>Replace Article 14 with the following text:</i> Model aircraft activities are exempted from the scope of this Regulation. The competent authority shall issue operational conditions for model aircraft activities. This may include agreements with model associations or clubs, on the basis of the association or club's established procedures, organisational structure, and management system.	The NPA explicitly recognises the good safety record of model aircraft and aims for a continued regulation of such activities at the level of Member States. The Draft Rules however create an artificial construction whereby such activities are first brought into the scope of the Draft Rules, only to allow Member States to exempt them again through Article 14. Regulating an activity with the intention to have it again exempted from regulation does not make sense. This approach would impose an unnecessary burden on national regulatory procedures and stakeholders. The NPA justifies this approach mainly on the basis of difficulties to define model aircraft activities within the Draft Rules. Definitional complexities are no ground for over-regulation. Moreover, the Draft Rules shift those definitional difficulties to the Member State level, potentially creating legal uncertainty and definitional differences between Member States, hindering model aircraft sales and activities within the EU. Our proposal retains the national level regulation of sports and recreational model aircraft activities as proposed in the NPA. It avoids the overly complex situation where these activities are first brought within the scope of the draft rules to then exempt them again through national level regulation. Instead, it proposes to rely on national level regulation from the start. The outcome of the proposed text is thus the same as that proposed in the draft rules, but significantly simplifies process to get there.
32	Article 15 Applicability	7. For three years after entry into force of this Regulation [estimate 2021], model clubs and associations are not required to comply with this Regulation. By three years after entry into force of this Regulation, [estimate 2021] model	<i>Delete paragraph 7</i>	Paragraph 7 is redundant in view of the proposed changes to Articles 12 and 14.

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		clubs and associations shall receive an operational authorisation issued by the competent authority in compliance with Article 14 of this Regulation unless the Member State has chosen to create airspace areas or special zones where UAS operations are exempted from one or more of the open-category requirements of this Regulation in accordance with Article 12 of this Regulation.		
ANNEX I (UAS operations in the open and specific category)				
34				<p>General comments:</p> <ul style="list-style-type: none"> • <i>Complexity of categorisation system:</i> See remarks in relation to Article 4 above, urging a simplification of the overly complex categorisation system. • <i>“uninvolved persons”:</i> the system of “uninvolved persons” is unworkable. We support the use of the concept of “crowds” the Member States’ proposal, and a requirement to keep a safe distance from persons (whether involved in the UAV operation or not). While UAV pilots can ensure that they operate their UAVs away from crowds, they cannot guarantee that no “uninvolved persons” are around. This is for instance the case when UAVs are operated in places where hikers, cyclists, farmers and other persons occasionally pass through. • <i>25kg weight limit:</i> In order not to exclude some Swiss modelers, which currently have a 30kg weight limit, the DMFV would have no objections raising the 25kg limit to 30kg. The impact on the actual “danger level” would be marginal, because at these weights (and below as well), speed is actually the more critical factor. • <i>Age of the remote pilot:</i> as already noted in the Member States’ alternative proposal, there is no correlation between the age of the UAS pilot and risks of the UAS operation. In addition, parental supervision of junior pilots is covered through general parental supervision and responsibility requirements in the laws of each Member State. Limits on the age of pilots or supervision requirements risk access of lower age groups to aeromodelling activities, which in turn risks reducing their interest in aviation related education and professions, affecting the future of this sector, as well as economic growth in Europe. Model aircraft sports and recreational activities should not be subject to a minimum age or supervision requirement. • <i>Training and testing of pilots:</i> there is no need for a complex system of online training and testing in a manner and format established by EASA. While a compulsory training with training certificate may be beneficial, such training is to be developed at national level in accordance with national priorities and conditions. Once such training has been absolved there is no need for renewal (most Member States don’t have a renewal requirement for drivers licences). Testing of pilots is not required. In Germany a revised regulation (Luftverkehrsordnung - LuftVO) entered into force in April 2017. Associations like the DMFV are authorized by the government to issue certificates to those pilots, who want to fly model aircraft or drones heavier than 2kg or higher than 100m outside certified model flying fields. A dedicated Online-Tool (http://kenntnisnachweisonline.dmfv.aero) called “Kenntnisnachweis” provides the applicant with the essential information and knowledge to provide adequate safety awareness when operating model aircraft/drones. Multicopter pilots require an additional exemption by the competent regional authority if they want to fly higher than 100 meters.
35	UAS.OPEN.20 Registration	(a) to (e)	<i>Remove the registration requirement for UAS in the open category and replace it with a requirement for the UAS to carry a robust and fire-proof nametag with name</i>	While we accept the registration requirement for UAS operators, the registration requirement for UAS is disproportionate and unnecessary. It will require large investments in IT infrastructure and regular

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			<i>and contact details of the UAS operator.</i>	updating to be accurate and reliable. The requirement for UAS in the open category to carry a robust and fire-proof nametag fulfils the same purpose at much lower costs and with much less bureaucracy. Note that UAV but in particular also model aircraft pilots often own a considerable number of aircraft, not all of which are in regular use, and many of which may regularly change in character and specifications as they are rebuilt or adjusted to specific conditions, or indeed be sold on to other owners.
35	UAS.OPEN.20 Registration	(f) The registration shall remain valid for three years and shall be renewable.	<i>Amend paragraph (f) as follows:</i> The registration shall remain valid for <u>five</u> years and shall be renewable.	Three years are too short, this length of the validity period only adds to administration, not to safety. Five years is a much more reasonable time period.
37	UAS.OPEN.35 Maximum height of UAS operations in the open category	(a) and (b)	<i>Delete these maximum height provisions for the open category and replace with a requirement to respect height restrictions imposed pursuant to Article 12.</i>	See comments on Article 12 above. No general height restriction for open category UAS is required. Rather, Member States should have the possibility to define zones in which height restrictions apply, and which should be respected.
37	UAS.OPEN.40, 50, 60 and 70		<i>Amend text in line with proposals and general comments above, in particular:</i> <ul style="list-style-type: none"> - <i>removing all age and supervision related requirements</i> - <i>removing need to absolve any kind of test and holding a certificate to prove this (other than a requirement to follow online training)</i> 	See general comments above. There is no correlation between the age of the UAS pilot and risks of the UAS operation and testing of pilots is disproportionate.
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); (c) if an operation or flight exceeds the conditions and limitations	<i>Amend paragraph (b) to (d) as follows:</i> (b) <u>assist their members in achieving</u> 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 achieving the minimum competence required to operate their model aircraft and model aircraft pilots have a good safety record, it is unreasonable to hold clubs and associations responsible for <u>ensuring</u> that their members have the minimum

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		<p>defined in the operational authorisation, take action and, if necessary, inform the competent authority; and</p> <p>(d) provide upon request of the competent authority required documentation for oversight and monitoring purposes.</p>	<p>(c) <i>delete paragraph</i></p> <p>(d) <i>delete paragraph</i></p>	<p>competence required. Not only would this create extra burdens and costs, but the text, as formulated, may 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 responsibility of the individual pilot.</p> <p>For the same reason, paragraphs c and d should be deleted. Aeromodelling's good safety record results from the fact that this sector has a good track record of self-regulation, without overly burdensome responsibilities for clubs and associations. A duty to take action and to document all flights that exceed the conditions and limitations will undermine this track record by imposing additional burdensome and costly requirements on those clubs and associations and on national authorities. Moreover, such extra requirements are inconsistent with Art. 14 which states that the competent authority may issue an operational authorisation to a model club or association, on the basis of the model club's or association's established procedures, organisational structure, and management system. (see also our remarks on Art. 14 above)</p> <p>Note that it is unclear why this section is in the "Specific Category" and not in the "Open Category".</p>
Draft acceptable means of compliance and guidance material (Draft EASA decision)				
93	Various AMC/GM to the draft cover Regulation Article 7		<i>Delete or simplify AMC/GM, including: 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</i>	AMC/GM is disproportionately prescriptive, detailed and complex, more flexibility required for competent authorities
95	GM1 Article 14 Hobbyist flights		<i>Simplify and redraft in line with comments and proposals above</i>	
96	AMC1 UAS.OPEN		<i>Simplify and redraft in line with comments</i>	See comments above, in particular in removing the

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			<i>and proposals above</i>	registration requirement for open category UAS. In addition, the proposal is too is disproportionately prescriptive, detailed and complex. Also note for instance that model aircraft may operate with different types and capacities of batteries, depending on conditions under which the aircraft is operated, or as a result of changes to the aircraft
9 100	AMC1 UAS.OPEN.40(b)(5)(i) and UAS.OPEN.60(e)(1) Basic competence of the remote pilot to operate in Subcategory A1 and A3		<i>Simplify and redraft in line with comments and proposals above. In particular delete: (a)(2)(ii) a specific code of conduct in case of encountering other traffic and (iv) using a UA observer</i>	Rules are disproportionately prescriptive, detailed and complex. Member States should be allowed to prioritise issues on which UAV pilots need training. Note that not all UAV operations will need to use a UA observer or a specific “code of conduct” on what to do when encountering other traffic.
101	AMC1 and GM1 UAS.OPEN.50(e)(1) Competences required for the remote pilot to obtain the certificate of competence		<i>Delete section</i>	See comments on UAS.OPEN.50 above, no certificate of competence should be required for the open category
102	GM1 and AMC1 UAS.OPEN.50(b) and UAS.OPEN.60(b) Uninvolved persons		<i>Delete section</i>	See comments on categorisation generally and UAS.OPEN above. The concept of “uninvolved persons” is unworkable in practice. We support using the approach proposed by the alternative Member States’ Proposal based on proximity to or over crowds
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	<i>Replace text with the following:</i> When a model club or association is informed that a member exceeded the operational conditions for model aircraft set by the competent authority, appropriate measures should be taken in accordance with model club or association’s established procedures, organisational structure, and	We need to avoid a disproportionate and overly cumbersome reporting and liability system. Minor injuries (scratches, bruises) or small property damages (damage to crops, agricultural structures, trees) can be amicably arranged and do not need to be reported. Events that result in significant damage or injuries by their very nature involve relevant authorities. No new reporting structures need to be put in place for these. Importantly, a model club or

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		<p>should decide if the competent authority should be informed. In any case, occurrences that caused an injury to any 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</p>	<p>management system. Considering the level of risk, the model association or club should decide if the competent authority should be informed.</p>	<p>association cannot <u>ensure</u> that a similar event will not happen again, but can take measures through its established procedures, organisational structure and management system to help prevent this.</p> <p>For decades, the DMFV handles smaller damage events of its members autonomously, i.e. the reports get checked and directly processed with the insurance company. We take data protection and privacy very serious and therefore reject a general reporting requirement.</p> <p>We also run annual damage statistics. The figures indicate that despite growing memberships, the number of incidents and accidents is actually going down.</p>
106	AMC1 UAS.SPEC.20 Registration of model aircraft		<i>Delete in view of comments and proposals above</i>	See comments above, registration of open category UAV is not necessary and disproportionate.