

# NPRM Submission Form



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| NPRM No. 14-01  | Title: Part 102 Unmanned Aircraft Operator Certification       |  |
| Date of your submission: 20 Jan 2015  | Comment close-off date (as specified in the NPRM): 30 Jan 2015 |  |
| Please return this submission form to the Docket Clerk by comment close-off date<br>Email: <a href="mailto:docket@caa.govt.nz">docket@caa.govt.nz</a> |  |  |

Please indicate your acceptance or otherwise of the proposal by placing an "X" in the appropriate box below. Any additional constructive comments, suggested amendments or alternative action will be welcome and may be provided in this form, or by separate correspondence.

The proposal is **acceptable without change**.

The proposal is **acceptable but would be improved if the following changes were made:**

The proposal is **not acceptable but would be acceptable if the following changes were made:**  
(Please provide explanatory comment and use additional pages if required)

20 January 2015  
Civil Aviation Authority  
P O Box 3555  
Wellington



## **Response to NPRM 14-01 4 December 2014**

1. Model Flying New Zealand (MFNZ) would like to acknowledge the open and constructive process that has surrounded the development of a new rule set to cater for the wider deployment of Remotely Piloted Aircraft (RPA) as a part of the broad spectrum of aviation.
2. We would like, first, to register a general point that underlies much of the process, which is that, in many individual countries and internationally, there is a clear distinction between recreation and aerial work. This same distinction is also made within the general aviation sector and the adoption of a different baseline for RPA may cause unexpected results in many areas. As an example, our clubs, testing scheme and insurance policy are all based upon recreational use of model aircraft. To introduce into that scene, new operators who wish to take advantage of our organisation to gain training, experience and qualification for purely commercial reasons poses a whole series of questions that cannot yet be answered. The removal of the distinction between recreation and aerial work leads to the operators being defined in a different way which may be summarised as "those who can operate within CAA Part 101, and the remainder, who must have a more

detailed rule set (CAA Part 102). This is the “risk based assessment”. The difficulty arises from likely developments in RPA. Most model aircraft clubs are in remote/rural areas and non-club fliers tend to use private land or public parks. The market is now being filled with small to medium sized RPA that are sold as “no flying skill required, aerial camera platforms”. These are most likely to be used (either for recreation or commercial activity), not in fields, but in towns. The use of a rule set designed for another purpose is almost certain to lead to problems, especially when the decision as to whether to comply with the “easy, 101 rules” or the “hard, 102 rules” is left to perception of the operator. At this stage in the process, it is not clear whether the adoption of a risk based as opposed to a use based definition is a trailblazing concept or a blind alley that will leave us out of step with all of the partner countries with whom our regulations are harmonised.

3. RPA users may be identified as belonging to one of three distinct groups. The traditional hobbyist is a mostly club based flyer with a well-developed set of rules and practices that are largely enforced by peer pressure and incidents requiring CAA intervention are extremely rare. The community based hobby association has its own insurance scheme with a very good claim history indicating a low level of incidents occasioning damage or injury. The second, newer group is the commercial users of RPA. These operators depend upon the use of RPA for their livelihood and therefore have a strong interest in compliance and safety. They have formed an industry body, are subject to CAA controls and are developing an insurance claims history. It is in their interest to act responsibly and to ensure that their colleagues do likewise. The third group are the new users largely devoted to aerial camera platforms. They are not traditional aviation enthusiasts like the hobbyists; they do not operate from controlled environments such as model clubs; are not subject to the mentoring and peer pressure of clubmates; do not have any knowledge of aviation legislation and may discard their aerial camera platform as easily as they have acquired it. This third group will, in the opinion of MFNZ, provide the greatest challenge to educate and control. If Phase 1 of the process defines the procedures to manage groups one and two, Phase 2 must address the more difficult issues of individuals within group three becoming a threat to safety through ignorance or wilful disregard for the rules.
  
4. Our detailed response to the NPRM is set out below:
  - a. Page 6 paragraph 2.1 lists a number actual/potential RPA activities, most of which are rural and may be relatively easy to manage. The much more difficult topic is the use of RPA in urban areas and this General summary seems to underplay this aspect.
  
  - b. On page 8, reference is made to “Minor” changes to CAA Part 101. Whilst this may be the intention, the current draft is a radical and far reaching change. However, that may alter in reaction to our later comments.
  
  - c. On Page 11, “it is proposed that all persons operating an aircraft under Part 101 must have a basic knowledge of restrictions that might apply.....” Model aircraft are sold in tens of thousands every Christmas as toys. Many do not survive into the New Year but neither the 5 year old nor his dad can be expected to have a full knowledge of CAA regulations when he leaves the toy shop. There must be some

strategy to ensure that the obligations of the RPA operator are made clear at the point of purchase and a concept of how this rule could be enforced. Without these measures, this change is just words.

- d. Also on page 11 under the heading Hazardous operations, the paragraph states that the risk of injury or damage is mitigated by having the property owners' permission. Having permission in no way mitigates the risk of an incident. Underlying this statement is the radical change to the basic concept of model aircraft flying in New Zealand. Currently, one can fly a model anywhere in the country (less than 400 feet and 4km away from an airport). Clubs have permission for their runway area but not the whole of the flying area which generally covers a circle with a radius of 1000 metres. There is also an implicit permission to fly in places like public parks unless the council ban it with a Bylaw. This new regulation makes the whole country a no fly zone unless the landowners' permission is obtained and in many cases, the easy answer will be "No". The question, "can I do something which CAA says is risky" almost guarantees the answer. In the case of MFNZ clubs, this change would require them not only to have permission from the landowner of their runway area but all surrounding property owners, the Transport Agency, Power companies, any telecommunications companies with assets in the area etc. etc. At a typical model club, the footprint of flying might cover as many as 40 properties. There is no evidence of a threat from a model aircraft legally flying at 1000 feet within a CAA approved danger area posing a risk that would be mitigated by the laboriously obtained permission of every property owner. Similarly, users of RPA doing linear tasks like surveying rivers would be seriously constrained by having to obtain the consent of every property owner along the way. What is proposed here is a solution to the problem of the Real estate agent or foolhardy "third grouper" in town, penalising the users of safe flying locations. For MFNZ members to not give full cognisance to this rule would give our Insurers possible reason to reject any claim.
- e. On page 13, the paper states that RPA over 25kg can only operate under Part 102. This is the planned situation, currently, they operate under Part 19.
- f. On page 15, under 4.2 sub 12.1 General, incidents to RPA operating under Part 101 are not required to be reported. This grouping includes a club modeller breaking a propeller on the airstrip and a commercial real estate photographer dropping his drone through the neighbours' front window. We would like to see more of the drafting to cover these incidents.
- g. On page 17, we will amend our qualification scheme and information to clubs to ensure that fliers are aware of airspace restrictions.
- h. Also on page 17, under the topic 101.13 Hazard and risk minimisation. Sub paragraph (a) is unnecessary, the heading already requires the minimization of risk persons and we feel that anyone contemplating flying above persons uninvolved in the flying activity should be a Part 102 operator. We strongly oppose the concept of sub paragraph (b) in the context of traditional model aircraft flying. We guard vigorously the ability to enjoy flying a model aeroplane on a beach or from a remote hillside as well as from registered flying sites.

5. MFNZ has a subgroup dedicated to the flying of large model aircraft. These include models 15kg - 25kg which are managed by ourselves under designated powers from the Director CAA and models 25kg -100 kg managed jointly by ourselves and CAA. The introduction of Part 102 changes this situation somewhat and it is envisaged that MFNZ would register as a Part 102 Operator in order to continue to assist with the management of these model aircraft. We are currently developing our response to the requirements of Part 102 to examine how our current procedures can satisfy the Director that we are a competent body. MFNZ acceptance as a Part 102 operator would relieve CAA of some workload.

### Summary

Our detailed response should not detract from our overall support for the process. The reason that MFNZ members have a good record of safety and compliance is because there is a structure of rules and flying site layouts, designed for that purpose. To imagine that the third group may achieve the same simply by “going for it” may be over optimistic. We seek to avoid a situation where a five year old needs a knowledge of CAA regulations and Council permission to throw a foam glider in the park. The pace of RPA development is breath-taking and pieces of technology that were inconceivable 10 years ago move rapidly from exotic to affordable to commonplace in toys, sometimes within the space of a single year. We wish to preserve the good reputation of Part 101 operators by ensuring all those who operate under them are aware of their responsibilities.

**The proposal is *not acceptable under any circumstance:***  
*(Explanatory comment must be provided using additional pages if required)*

| <b>Individual Details</b><br>(complete if you are submitting personally) |      | <b>Organisation Details</b><br>(complete if you are submitting on behalf of your organisation) |      |
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|  | <input checked="" type="checkbox"/> | Email |