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<b>Title</b>	Implementing Rules for Pilot Licensing - Explanatory Note and Appendices
<b>NPA Number</b>	NPA 2008-17a

**European Gliding Union (EGU)** has placed **13** unique comments on this NPA:

<b>Cmt#</b>	<b>Segment description</b>	<b>Page</b>	<b>Comment</b>	<b>Attachments</b>
344	(General Comments)	0	The comments in this response to NPA17a represent the formal response of the European Gliding Union. EGU represents the national gliding organisations of 25 countries (Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, The Netherlands, Norway, Poland, Serbia, Spain, Slovakia, Slovenia, Sweden, Switzerland & UK)	
345	(General Comments)	0	General comment: "The EGU, which represents approximately 82,000 glider pilots throughout the EU, strongly supports the FCL proposal to introduce two EU glider pilot licences which are identical in all respects other than the differential medical standards and medical validation processes. The EGU is emphatically supportive of the principles embodied in the LPL medical standards, which will enable a significant number of glider pilots to exercise their right to fly, or continue to fly, with absolutely minimal risk to others. This principle is in accordance with the Commission's stated view, endorsed by the Transport Committee of the EU Parliament, of the need for proportionate regulation relative to risk."	
346	A. Explanatory Note - IV. Content of the draft opinion and decision - Background	4 - 7	Para 9 bullet 4 "To allow assessment bodies to issue a new category of licences, the leisure pilot licence ...."  Comment: The EGU as well as the whole sporting aviation movement has objected many times to the designation "leisure pilot licence" which may be seen as a "second class" licence.  We prefer the designation "Light Aircraft Pilot Licence", which covers the segment of pilots at the	

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			<p>lower end perfectly. We know that this will require a change to the basic regulation and we hope to get it changed, as promised by the previous Rulemaking Director, in the next round of extension to the Basic Regulation before the licensing rules become effective. This point has been made by our Europe Air Sports colleague to the Commission and in a presentation to an EU Parliament hearing in September 2008. We understand that one reason for the non-adoption of the 'LAPL' acronym is because of its unfortunate meaning in one EU language.</p> <p>EGU Proposal: If this is so ('LAPL' not acceptable), then alternative suggestion that EGU's and EAS have made is '(Private) Pilot Licence for Light Aircraft' or '(P)PLLA'.</p>	
347	A. Explanatory Note - IV. Content of the draft opinion and decision - Background	4 - 7	<p>Para 11 "The conduct of oversight by competent authorities, based on appropriate JAA JIP's (Joint Implementation Procedures) and harmonised with similar provisions included in other implementing rules."</p> <p>Comment: The EGU believes that the JAA Joint Implementation Procedures xxxxx have been written from the perspective of regulating commercial/professional training schools for aeroplane licences and are not adapted to gliding, where the training is mainly done in gliding clubs or gliding centres by instructors who are club members and work volunteers. Since the proposal of having assessment bodies who are allowed to issue certificates has been turned down by the Parliament, we ask EASA to develop a more adequate regulation, allowing a competent authority to delegate to a national gliding body such as a gliding Federation.</p> <p>EGU will elaborate about this in their comments to NPA 2008-22</p>	
348	A. Explanatory Note - IV. Content of the draft opinion and decision - Background	4 - 7	<p>Page 7 first bullet: "Medical certificates are issued by aeromedical centres or aeromedical examiners and, additionally, for the leisure pilot licence 10 , a general medical practitioner, if so permitted by national law."</p> <p>Comment: The EGU agrees and strongly supports this approach.</p>	OPS 1.pdf (10.6kb) 

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			<p>It is recognised, that authorising GMPs to issue medical certificates is controversial in many countries. However, this arises by reason of commercial interests rather than any evidence of safety outcomes. The Basic Law 216/2008 clearly recognises (Article 7, para 2) that the advantage of the GMP is their knowledge of the applicant. As will be re-stated in later comments, that essential principle in 216/2008 has been lost in this NPA. All European nations have developed health care systems, children are examined, vision tested and glasses prescribed when needed, diseases are diagnosed and treated. All this will be recorded somewhere. The British Gliding Association (UK national governing body for gliding) initiated the practice of requiring a GMP with access to previous records to endorse the medical history of the applicant after an accident in the 1960s in which an epileptic gliding instructor killed himself and a pupil. The instructor's PPL(A) had been obtained without disclosure of his disease. Honesty has not improved as was shown in a recent report [1] from the USA. In the scientific literature, undeclared and disqualifying therapies have been reported. [2] It has been the BGA's experience that validation by a GMP offers greater security than following examination by an AME, who must rely upon the unsupported self-declaration provided by the applicant. A GMP is not a second rate AME. Assurance of pilot fitness is obtained through a different methodology. Alternative systems are in use in other EU countries. For example, in Belgium a limited number of GMPs (corps of 50 doctors with a broad geographical distribution) is recognized and, preferably with additional training in sport medicine (to comply with the sports federation legislation). These GMPs can rely on an appropriate manual prescribing the medical criteria cfr. ICAO Class II, instructions on the conduct of examinations, administration (use of forms and completion) and record keeping. A system that has worked without problems for 50 years and is affordable for everyone (+/- 30,00 €/examination)!</p> <p>EGU Proposal: Where adequate records exist, a GMP should be permitted to certify pilots without further</p>	

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			<p>examination. This follows, in principle, the arrangements for the continuing airworthiness of aircraft where either a continuing relationship can be established with a maintenance organisation or a full and independent survey conducted. As will be commented later in 17c, the proposals for the LPL are far too complex and the medical form in use by the New Zealand Gliding Association is recommended [3]. This offers an option of either examination or approval from records. It must be confirmed that certificates issued by GMPs will be recognised outside their national borders, whatever the national law in the country visited.</p> <p>EGU strongly recommends that EASA should not ignore proven best practice in several EU countries, abandoning systems and processes that have proven over many years to work, just for the sake of EU standardisation. If 'Acceptable Means (plural) of Compliance' is to have its true meaning, then there should be more than one acceptable means of demonstrating compliance with the medical standards.</p> <p>References:</p> <ol style="list-style-type: none"> <li>1. United States House of Representatives; Committee, on Transportation and Infrastructure. FAA oversight of falsifications on airmen medical certificate applications. released March 27, 2007.</li> <li>2. Ahmet Sen, Ahmet Akin, Dennis V Cranfield and Arvin K, Medical histories of 61 aviation accident pilots with post mortem SSRI antidepressant residues. Aviat Space Environ Med 2007; 78:1055-59. <a href="http://www.gliding.co.nz/sites/gliding.co.nz/downloads/MOAP/Forms/OPS/OPS%201.pdf">http://www.gliding.co.nz/sites/gliding.co.nz/downloads/MOAP/Forms/OPS/OPS%201.pdf</a></li> </ol>	
349	A. Explanatory Note - IV. Content of the draft opinion and decision - Structure	7 - 13	<p>Para 32. "The Agency would also like to highlight that to help stakeholders in their day to day activity and to facilitate the use of the new structure and requirements, it has initiated an activity to develop tools providing for an easy identification of the requirements applicable to each licence or activity. It has still not been decided what form these tools will take, but it will most probably be an internet based application."</p>	

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			<p>Comment:</p> <p>According to the European Court (see the foot note 16 page 8) "rules should be clear and precise, so that individuals may ascertain unequivocally what their rights and obligations are and may take steps accordingly" This is certainly not the case of the implementing rules proposed here. The JAR-like structure adopted makes it difficult to understand the rules and relations between the different requirements given in the rule. Different aspects of one regulated item are given in different text passages without cross-referencing, due to the requirement to regulate every item once. The result is that the user has to search through many pages for the requirements which apply to his particular day to day activity. Therefore, the understanding and acceptance of this regulation will be diminished.</p> <p>EGU proposal: The EGU believes that the requirement to regulate every item once should be abandoned. For example, the common requirements at the beginning of subparts B , C and J should be duplicated in each section devoted to a specific category of aircraft. Also, Subparts J and K should be divided into sections devoted to the requirements for each category of aircraft. In this way, each section would become a stand-alone document and it would become easier to collect them in a booklet summarizing all the rules the users of a given category of aircraft really need to know. Of course, this would increase the thickness of the rule book slightly and oblige the rulemaker to make changes in several locations when these common rules need to be changed. But this is a small drawback for the regulator compared to the advantage of facilitating access to the rules for the many thousands of users. Additionally, with this approach, there would be no need to develop tools providing for an easy identification of the applicable requirements.</p> <p>Facilitating user access to the rules is not only a matter of user convenience but also a matter of safety!</p>	

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350	A. Explanatory Note - IV. Content of the draft opinion and decision - Transition measures	16 - 18	<p>Para 46 "The agency intends to propose that any licences and certificates issued by Member States in accordance with JAR-FCL requirements and associated procedures are considered as having been issued in accordance with the implementing rules."</p> <p>Para 48 "As for licences for other categories of aircraft, the conversion could be made on the basis of a conversion report developed by the national authorities."</p> <p>Comment: Since the SPL is based on ICAO requirements, the EGU believes that glider pilot licences issued by Member States in accordance with ICAO requirements should be deemed as having been issued in accordance with the implementing rules. Additionally, the SPL and LPL(S) only differ by the fact that the LPL medical requirements are different (Sub ICAO), therefore glider pilot licences issued by Member States in accordance with ICAO requirements should also be recognized as equivalent to the LPL(S) Such recognition would guarantee a smooth transition for all the holders of ICAO compliant certificates and would not require any action on their part</p> <p>EGU Proposal: Glider pilot licences issued by Member States in accordance with ICAO requirements shall be deemed as having been issued in accordance with the implementing rules and recognized either as SPL or LPL(S), depending solely upon the applicable medical standard met.</p>	
351	Appendix I: Explanatory Memorandum to Part-FCL - Subpart B	21 - 23	<p>Para 19 "As mentioned before for the other aircraft categories, a regular proficiency check is required every 6 years"</p> <p>Comment: The EGU believes that the 6 year proficiency check with an examiner is over-burdensome in that it requires an examiner rather than an instructor. So far, the common practice in most European Member States has been a flight with an instructor at the</p>	

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			<p>beginning of every flying season. We do not see why gliding, which is a sporting activity, should have to comply with the stringent rules derived from JAR-FCL, which have been established for pilots wanting to start a career in commercial aviation.</p> <p>EGU Proposal: biennial (i.e. every two years) flight with an instructor (not an examiner).</p>	
352	Appendix I: Explanatory Memorandum to Part-FCL - Subpart I	28 - 29	<p>Para 48 " Finally the Agency considers it necessary to refer here to the more general issue of . . . .(IMC). . . .The Agency decided furthermore not to develop a specific cloud flying rating for sailplanes which exists in several Member States. . . . .It is envisaged to include this issue when drafting the ToR for the new task mentioned here above (ie: FCL008)".</p> <p>Comment: Cloud Flying ratings for glider pilots exist in many Member States (Germany, UK, Ireland, Denmark, Sweden, Switzerland, Poland, Finland). There has never been any safety case justifying a removal of this privilege. We have the feeling that this rating has been removed from the initial proposals for purely political reasons because EASA does not want to develop a specific IMC rating for the LPL(A) licence. We would like to insist on the fact that the glider cloud flying rating has nothing to do with the IMC rating for instrument flying with powered aircraft. The removal of the cloud flying rating will have a serious impact on gliding and especially in the Northern European weather conditions. The removal of the privilege to fly close to, or where appropriate or necessary in cloud will have negative consequences on safety, operations and the economic viability of the sport. Therefore, the EGU asks EASA to reinstate the specific cloud flying rating in the implementing rules. The EGU acknowledges that this issue is now being addressed in FCL.008. The EGU hopes that a positive outcome will emerge from the FCL.008 process and that the necessary changes to the Implementing Rules will be made on a timely basis to ensure that transition arrangements from national licences to EU licences can be all-embracing and not divided between 'non-cloud flying' and 'cloud flying'.</p>	

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353	Appendix II: Explanatory Memorandum to Part-Medical - Subpart A	33 - 34	<p>Section 2 Para 9</p> <p>“ The validity periods for the LPL medical do not comply with ICAO standards until the pilot reaches age 60, from which moment on the validity period is 24 months”</p> <p>Comment: EGU fully agrees with the proposed periodicity.</p>	
354	Appendix II: Explanatory Memorandum to Part-Medical - Subpart B	34 - 36	<p>Section 3 Para 17</p> <p>“The self declaration option was soon discarded since the basic regulation clearly requires a medical certificate for the LPL and this could not be based on a self declaration alone”</p> <p>Comment: EGU believes this is an interpretation that must be challenged. The word “examination” used in the Basic Regulations should have the flexibility to interpret between examination of medical records and a physical examination. What form the “examination” takes should be at the discretion of the doctor. EGU believes that EASA has taken a narrow and singular interpretation of the word ‘examination’. An examination of a licence applicant’s medical records (where available) will confirm the pilot’s self-declaration statement. If that examination of records does not support the self-declaration, then the doctor has recourse to other means of determining whether the applicant can meet the medical standards, including a physical examination.</p> <p>It should also be mentioned that there is no safety case in using self declaration. Between 1967 and 2003, for solo flying, the British Gliding Association (BGA) only required a self declaration to private driving licence standard. Accident analysis showed no evidence that this is unsafe. By way of comparison, in the USA, only a valid driver's licence is required for the Sport Pilot Licence which also permits the carriage of passengers and, because motor licences are issued by State, there is even less commonality than in Europe where driving licences are controlled by a Directive [1]. In addition, the medical requirements for French micro-light pilots are based upon self declaration and a recent investigation by the French DGAC [2] demonstrates that the rate of accidents, due to medical incapacitation, is no higher</p>	

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			<p>for micro-light pilots than for conventional light aircraft pilots.</p> <p>References:            1. Council Directive 91/439/EEC of 29 July 1991.            2. Rapport DGAC sur la sécurité de l'activité vol Moteur N° 004780-01 April 2007</p>	
355	Appendix II: Explanatory Memorandum to Part-Medical - Subpart B	34 - 36	<p>Section 3 Para 17</p> <p>“ The FCL.001 Medical Subgroup received from MDM032 Licensing subgroup a proposal where the possibility of an ICAO class 2 Medical certificate was not considered appropriate, and which presented specific requirements for medical certificates for a LPL below ICAO standards and tailored to the risk involved in private flying”</p> <p>Comment:            The EGU fully supports the Sub ICAO approach for the LPL. However, the EGU sees no reason why a mechanism of self declaration supported by a GMP assessment - through either recent medical records OR physical examination should such records not be available - would not be sufficient and would ask that serious consideration be given to the continuation of this very proven process for glider pilots.</p>	
356	Appendix II: Explanatory Memorandum to Part-Medical - Subpart D	36 - 37	<p>Para 22            “The training of the GMP .... And to draw the necessary conclusions on fitness”</p> <p>Comment:            EGU has the feeling that the draft requirements for authorising a GMP to issue medical certificates for LPL pilots have been set too high. It should be borne in mind that they are assessing the fitness of private leisure pilots, not astronauts or career pilots responsible for highly-sophisticated military aircraft or airliners.            A regular visit to one's GMP – even for something minor – gives a much more detailed overall picture of medical fitness/situation than examination by an AME (who often will not know the applicant at all) every 2 or 5 years.</p>	