



U.S. Department of Transportation
Docket Operations, M-30
West Building, Ground Floor
Room W12-140
1200 New Jersey Avenue SE
Washington, DC 20590

RE: Interpretation of the Special Rule for Model Aircraft, Docket No. FAA-2014-0396

To Whom It May Concern:

EAA (the Experimental Aircraft Association) is the world leader in recreational aviation. With an international membership of more than 180,000 people in over 100 nations, EAA brings together pilots, aircraft builders, owners, and aviation enthusiasts who are dedicated to sharing *the Spirit of Aviation* by promoting the continued growth of aviation, the preservation of its history and a commitment to its future.

EAA is commenting on the FAA's Interpretation of the Special Rule for Model Aircraft, published in the Federal Register as 79 FR 36172 and recognized as Docket Number FAA-2014-0396.

EAA recognizes the need for rulemaking regarding unmanned aerial systems (UAS). We understand that the FAA must draw a clear line between UAS and model aircraft before such rulemaking can be created and implemented. UAS operations are a growing safety concern to the manned aviation community, and EAA is committed to a UAS regulatory system that protects manned aircraft from collisions and ensures unhampered access to all airspace by manned aircraft. In order to protect manned aircraft, certain unmanned aircraft must be regulated. EAA applauds the FAA's ongoing commitment to ensuring the safety of the national airspace.

However, we are concerned that the FAA's current interpretation of Public Law 112-95, section 336 exempting "model aircraft" meeting enumerated criteria from FAA regulation, could have negative and unintended consequences for the model aircraft community. This is an important community for EAA because 1) a significant portion of our membership participates in model aviation, and 2) model aviation is a key aviation low-cost "pathway" to participation in traditional recreational aviation and personal flight. The FAA's proposed interpretation, if implemented as currently presented, would have wide-ranging and universally negative effects on the model aviation community.

EAA offers the following comments:

1) The model aircraft community has been safely and successfully self-regulated for approximately 90 years. The largest community-based organization in model aviation, the Academy of Model Aeronautics (AMA), was founded in 1936 and has established a clear and effective set of guidelines that govern model aircraft flying at AMA-sanctioned events.

These rules, combined with the FAA's AC 91-57 and common sense, are traditionally recognized by the model aircraft community for all operations, sanctioned or not, and have been tremendously successful in fostering and sustaining model aviation's notable safety record. EAA is very concerned that the FAA's proposed interpretation on the special rule for model aircraft will have the unintended effect of unraveling trust and reliance upon community-based organization guidelines by subjecting model aircraft operators to a host of regulations that are completely unfamiliar to the community, including but not limited to airspace restrictions.

2) EAA is concerned that many traditional and accepted facets of the model aviation industry might be suddenly and unnecessarily jeopardized by this proposed interpretation. The FAA's interpretation suggests that any flight operations that have a financial compensation element are not conducted "strictly for hobby or recreational use" and would fall outside the rubric of "model aviation." EAA strongly disagrees with that narrow and novel interpretation.

For decades, model aircraft manufacturers and distributors have had the ability to demonstrate their products for the purpose of promotion and sales at community events and trade shows without scrutiny or regulation. Demonstration flights by staff members of manufacturers and distributors educate the community about emergent safety techniques, products, and technology. Furthermore, many individual model aircraft operators are sponsored by manufacturers and/or distributors. EAA is concerned that their sponsored operations might be construed as "commercial" in nature and therefore jeopardized by this proposed interpretation. EAA is concerned that a prohibition of these operations, or a requirement that these sponsored operators have an "airworthy aircraft" plus airman and medical certificates, would cause great damage to the model aircraft community without any responding to any demonstrated need or offering any public safety benefit. EAA also notes that many people can and do earn compensation from "hobbies," for example, woodworking, painting, or sculpting. Therefore, sponsored and manufacturer-staffed operations are not in contravention of Congress' mandate that model aircraft be operated by a "hobbyist."

3) FAA's insistence that model aircraft are "aircraft that fall within the statutory and regulatory definitions of an aircraft, as they are contrivances or devices that are 'invented, used, or designed to navigate, or fly in, the air'" is troublesome to EAA because the standard of "designed to fly in the air" is overly broad and not supported by historical precedence for the purpose of FAA oversight and enforcement. EAA believes that the definition of "aircraft" found in 14 CFR 1.1 was never intended to include model aircraft.

Many things are designed to fly in the air but have never been considered "aircraft" or subject to FAA regulation, e.g. toy balsa gliders, boomerangs, model aircraft, and paper airplanes. Even ultralights, regulated under 14 CFR 103, which are clearly invented to fly in the air carrying the operator onboard are determined by historical precedent not to be "aircraft" but rather recreational "vehicles." EAA is concerned that if the FAA regards model aircraft and other

devices “invented, used, or designed to navigate, or fly in, the air” as legitimate “aircraft,” operators of these articles will be subject to the broad sweep of FAA regulation including airspace designation, equipment and communication requirements, ATC clearances, minimum altitudes, Temporary Flight Restrictions, and VFR weather minimums to name a few. EAA believes that claiming a toy airplane is an “aircraft” in the same way a Cessna 172 is an “aircraft” makes little sense, and Congress did not express intent for this stance. Subjecting model aircraft operators to regulations designed for manned aircraft defies common sense.

4) The proposed interpretation explicitly states that “the rulemaking prohibition [found in P.L. 112-95, section 336(a)] would not apply in the case of general rules that the FAA may issue or modify that apply to all aircraft, such as rules addressing the use of airspace (e.g., the 2008 rule governing VFR operations in the Washington, DC area) for safety or security reasons.” If this is truly the case, then the FAA is alleging, in the case of the example provided, that any child who wishes to operate a toy remote-control helicopter in a park within 60 miles of the nation’s Capital must take “special awareness training” for acting as “pilot in command” of an aircraft flying under visual flight rules. No reasonable person would support this interpretation and the risible consequences it suggests. EAA believes that the FAA’s interpretation, if consistently applied, opens the door to the potential of enforcement action being levied against any “aircraft” operator the agency sees fit, Congressional intent or not.

On a related note, EAA is very concerned that the FAA’s broad interpretation of what constitutes an “aircraft,” combined with the interpretation’s assertion that the FAA can indeed regulate model aircraft operations so long as the applicable regulations “apply to all aircraft,” might result in individuals holding airman certificates being subject to certificate action for model aircraft operations. Under this interpretation, it is conceivable that the FAA could pursue enforcement action against a pilot for flying a model airplane within a TFR, resulting in that pilot’s airman certificate being suspended or revoked for an infraction that does not involve flight in a manned aircraft.

5) EAA disagrees with the FAA’s proposed interpretation of “visual line of sight” (referenced in P.L. 112-95, section 336(c)(2)) that excludes so-called “first-person view” (FPV) operations. We believe that FPV operations, when conducted under the guidance of AMA Document 550, are a completely acceptable and safe use of model aircraft. EAA offers that the “visual line of sight” requirement is intended as a clause to limit distance of the model aircraft from its operator, rather than a literal mandate that the model aircraft operator have his own eyes focused on the model airplane. EAA believes that the FAA’s interpretation adds nothing to public safety while harming the model aviation community by disallowing the responsible use of exciting new technology. If a spotter is used to maintain visual line of sight and see-and-avoid protections, as is mandated by AMA Document 550, then the distance from the operator intent of the law’s language is met.

With these comments in mind, EAA recommends that:

- 1) The FAA define “model aircraft” as an unmanned device, operated in the atmosphere and maintaining “see-and-avoid” separation from manned aircraft, and operated within visual line and distance of sight of either the operator or the operator’s spotter;

- 2) The FAA follow the plainly intended spirit and intent of P.L. 112-95 section 336 and refrain from imposing any regulations on operators of model aircraft or the model aircraft themselves, even if those regulations otherwise apply to “all aircraft;”
- 3) The FAA explicitly confirm the right of manufacturers, distributors and sponsored pilots to continue to operate model aircraft without regulatory oversight.

Once again, we thank the FAA for engaging the complex issue of UAS integration in its ongoing commitment to aviation safety and preservation of the National Airspace System. EAA appreciates the opportunity to offer comments on the FAA’s proposed interpretation, and we welcome any questions or requests for amplification of any point made above.

Respectfully Submitted,

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