

U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

**JUL 07 2016**

Mr. Dave Mathewson  
Executive Director  
Academy of Model Aeronautics  
5161 E. Memorial Drive  
Muncie, IN 47302

Dear Mr. Mathewson:

This letter addresses whether unmanned aircraft flown under the model aircraft provisions of Section 336 of the 2012 FAA Modernization and Reform Act must be operated below 400 feet above ground level (AGL). As stated in the FAA's Interpretation of the Special Rule for Model Aircraft<sup>2</sup> and in historical references below, the 400 foot altitude limit is recommended and not a requirement of Section 336. Model aircraft may be flown consistently with Section 336 and agency guidance at altitudes above 400 feet when following a community-based organization's safety guidelines.

The FAA has a long history of guidance advising model aircraft operators to fly below 400 feet AGL to minimize hazard to full-scale aircraft in flight. In 1981 the FAA published Advisory Circular (AC) 91-57 which "outline[d], and encourage[d] voluntary compliance with, safety standards for model aircraft operators" for the stated purpose of reducing the potential for model aircraft posing a hazard to full-scale aircraft in flight and people and property on the ground.<sup>3</sup> In that AC the FAA cautioned: "Do not fly model aircraft higher than 400 feet above the surface."<sup>4</sup>

The FAA reiterated these recommendations in a 2007 Federal Register notice discussing unmanned aircraft operations. The notice stated "[m]odel aircraft should be flown below 400 feet above the surface to avoid other aircraft in flight."<sup>5</sup> Finally, in a 2015 update to AC 91-57 the FAA advised model aircraft operators to "follow best practices including limiting operations to 400 feet [AOL]."<sup>6</sup>

Section 336, the provision specifically addressing model aircraft in the 2012 FAA Modernization and Reform Act, does not contain a definitive altitude limitation for model aircraft operations. Rather, it requires operation of model aircraft "in accordance with a community-based set of safety guidelines . . . ."<sup>7</sup> Community-based organizations, such as

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<sup>1</sup> Pub. L. 112-95.

<sup>2</sup> 79 Fed. Reg. 36172, 36172 (June 25, 2014).

<sup>3</sup> AC 91-57, Model Aircraft Operating Standards (June 9, 1981).

<sup>4</sup> *Id*

<sup>5</sup> Unmanned Aircraft Operations in the National Airspace System, 72 Fed. Reg. 6689, 6690 (Feb. 13, 2007).

<sup>6</sup> AC 91-57A, Model Aircraft Operating Standards (Sept. 2, 2015).

<sup>7</sup> Pub. L. 112-95, Sec. 336(a)(2).

the Academy of Model Aeronautics, may establish altitude limitations in their safety guidelines that exceed the FAA's 400 foot AGL altitude recommendation.

Although such safety guidelines may provide for flight above 400 feet AGL, Section 336 also protects the safety of manned aircraft operations by requiring that model aircraft not interfere with and give way to manned aircraft.<sup>8</sup> The statute also explicitly affirms that the FAA may pursue enforcement action against model aircraft operators who endanger the safety of the NAS.<sup>9</sup>

Sincerely,

A stylized, handwritten signature in black ink, appearing to read 'E. Lawrence'.

Earl Lawrence  
Director  
Unmanned Aircraft Systems Integration Office

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<sup>8</sup> Pub. L. 112-95, Sec. 336(a)(4).

<sup>9</sup> Pub. L. 112-95, Sec. 336(b).