

ORIGINAL

UNITED STATES COURT OF APPEALS
 FOR DISTRICT OF COLUMBIA CIRCUIT

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UNITED STATES COURT OF APPEALS
 FOR THE DISTRICT OF COLUMBIA CIRCUIT

THE ACADEMY OF MODEL AERONAUTICS, INC.,)

Petitioner,)

v.)

FEDERAL AVIATION ADMINISTRATION,)

Respondent)

14-1158

Case No. _____

PETITION FOR REVIEW

Pursuant to Rule 15(a) of the Federal Rules of Appellate Procedure and 49 U.S.C. § 46110, The Academy of Model Aeronautics, Inc. (“AMA”) respectfully petitions this Court for review of an order of the Federal Aviation Administration (“FAA”) entitled “Interpretation of the Special Rule for Model Aircraft,” 79 Fed. Reg. 36,172 (June 25, 2014) (the “Order”). A copy of the Order is attached as Exhibit 1. This Petition is being timely filed with the Court within sixty days of the issuance and effective date of the Order.

The AMA is the world’s largest model aircraft association, with more than 170,000 members in the United States from every walk of life, income level and

age group. Founded in 1936, the AMA is a self-supporting, non-profit community based organization whose purpose is to promote development of model aviation as a recognized sport and worthwhile recreational and educational activity. Model aircraft hobbyists often take what they learn in their hobby and apply it to future endeavors in aerospace and science fields that benefit the country. In 2011, for example, the AMA was the recipient of the National Aeronautic Association's Brewer Award for "significant contributions of enduring value to aerospace education in the United States."

The AMA itself operates a dedicated model aircraft flying facility located on 1,100 acres of its own land in Muncie, Indiana, and organizes, authorizes and/or supervises over 2,000 model aircraft events and competitions at its own facility and at others every year, including the National Aeromodeling Championships. The AMA also provides educational outreach to teachers in math, science and technology and awards scholarships and grants for students totaling \$40,000 total each year to foster study in aerospace engineering and other aviation-related disciplines.

Model aircraft have long been used by the AMA and its members without any aviation regulatory restrictions. Petitioner has standing to apply for review of the Order because of its own and its members' substantial interest in the agency's

new directive that purports to impose regulations and restrictions upon hobbyists and recreational model aircraft operators that have never before applied.

The Order has been attached by the FAA to a new national enforcement policy, effective July 14, 2014, and circulated to its employees nationwide. A copy of this enforcement policy is attached as Exhibit 2.

Although AMA has worked cooperatively with the FAA in the past, and hopes to continue to do so, the AMA brings this Petition for review, within 60 days of issuance of the FAA Interpretation, by necessity, in order to assert its legal rights.

As a result of the Order, the FAA has imposed, and will continue to impose, direct and immediate hardship upon the very hobby itself, which has existed in the United States for nearly 100 years, has never been subject to aviation regulations, and which Congress mandated in 2012 the FAA not regulate. In addition, the Order has disrupted the AMA's function of managing and leading the national hobbyist community as a result of the purported regulatory impact on model aircraft events, flying sites, and the AMA's Safety Code.

The 2012 FAA Modernization and Reform Act, Pub. Law 112-95 (the "2012 Statute"), urged the FAA to create new regulations for unmanned aircraft systems pursuant to notice-and-comment rulemaking, but also created an

exemption from future regulation for model aircraft. The statute states in pertinent part that “the Federal Aviation Administration may not promulgate any rule or regulation regarding a model aircraft, or an aircraft being developed as a model aircraft, if . . . the aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization.” Contrary to the 2012 Statute, the FAA Order purports to impose new rules and regulations upon model aircraft hobbyists operating within the scope of the AMA’s programming, including but not limited to requirements of seeking air traffic control clearance, restrictions on the use of “first person view” systems to control model aircraft, and restrictions on the use of private property at low altitudes (in non-navigable airspace) for aeromodeling activities.

The Order also purports to prohibit payments to persons conducting model aircraft aerobatic demonstrations and to prohibit experienced members from receiving payments for time spent teaching newcomers how to operate model aircraft safely -- for recreational purposes -- in accordance with the AMA’s Safety Code. Model aircraft demonstrations, model aircraft research and development, competition prizes, product reviews (with photographs of models in flight) and product advertising, conducted by employees of companies in the industry, by the AMA, or by hobbyists, have long been integral parts of the model aircraft hobby.

Prohibiting the use of a model aircraft in any way that is “incidental” to a business threatens the very existence of the hobby, as well as AMA as an organization. In this and other ways, the Order imposes a direct and immediate hardship upon the AMA and upon its members, and directly contradicts the mandates of the 2012 statute.

As will be set out more specifically in briefing that will follow, the Order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, in excess of statutory jurisdiction, authority, or limitations, and without observance of procedure required by law. This Petition should be granted, and the Order should be set aside, vacated, and/or reversed.

Date: August 22, 2014

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