

# Frequently Asked Questions (FAQs) NOAA Regulated Overflight Zones of West Coast National Marine Sanctuaries

These FAQs were designed to address National Oceanic and Atmospheric Administration (NOAA) regulations pertaining to low-altitude motorized flight within four national marine sanctuaries on the west coast of the continental United States, including Channel Islands, Monterey Bay, Greater Farallones, and Olympic Coast National Marine Sanctuaries.

## 1) When were west coast national marine sanctuary overflight regulations created and by whom?

**Answer:** The National Oceanic & Atmospheric Administration (NOAA) created federal regulations designed to discourage motorized flights below designated minimum altitudes, shown as above ground level (AGL) below, within discrete zones of the following national marine sanctuaries (NMSs) to protect special wildlife habitats from aerial disturbance.

- Channel Islands NMS (1980) Minimum altitude – 1,000 feet AGL
- Greater Farallones NMS (1981) Minimum altitude – 1,000 feet AGL
- Monterey Bay NMS (1992) Minimum altitude – 1,000 feet AGL
- Olympic Coast NMS (1994) Minimum altitude – 2,000 feet AGL

Note: The designated minimum altitude for overflight zones in Olympic Coast NMS are higher than that for the marine sanctuaries in California. Consult appropriate aeronautical charts covering each sanctuary for specific minimum altitude thresholds within NOAA regulated overflight zones.

In 2012, NOAA took action to standardize overflight rules across the sanctuaries and clarify that the rules are based on wildlife protection authority (not air space regulation authority). The revised rules explicitly allow for rebuttal by someone charged with a wildlife disturbance violation for flying below the designated minimum altitude within a NOAA Regulated Overflight Zone (NROZ). However, the original zones were not changed or expanded.

## 2) Do these overflight regulations apply to the entire area of each relevant west coast national marine sanctuary?

**Answer:**

No.

<https://sanctuaries.noaa.gov/flight/faqs.html>

In Channel Islands NMS, the sanctuary overflight regulations apply over the waters within one nautical mile of San Miguel, Santa Rosa, Santa Cruz, Anacapa and Santa Barbara Islands and offshore rocks. For a general map of the regulated overflight zones, [click here](#).

In Greater Farallones NMS, the sanctuary overflight regulations apply only within seven discrete zones within the sanctuary. For a general map of the four zones, [click here](#).

In Monterey Bay NMS, the sanctuary overflight regulations apply only within four discrete zones. For a general map of the four zones, [click here](#).

In Olympic Coast NMS, the sanctuary overflight regulations apply only within one nautical mile of the coast and offshore rocks and islands. For a general map of the area, [click here](#).

### **3) How can NOAA impose overflight regulations when the Federal Aviation Administration (FAA) is the only agency that can establish flight rules and restricted airspace?**

**Answer:** NOAA recognizes the FAA's authority to regulate airspace and worked closely with the FAA to craft regulations that are explicitly linked to NOAA's statutory authority for natural resource protection. NOAA has established a minimum altitude disturbance threshold for federally protected marine mammal and seabird communities within discrete areas of each relevant west coast national marine sanctuary. Flying motorized aircraft below the 1,000-foot minimum altitude threshold in certain coastal areas of these sanctuaries violates a federal wildlife disturbance prohibition – not an FAA airspace restriction. The FAA, in a 2012 letter to the Aircraft Operators and Pilots Association (AOPA), stated that it does not view NOAA's minimum altitude disturbance thresholds as airspace regulations, nor as an infringement on the FAA's stated authority to regulate airspace.

### **4) Are there any exceptions to the overflight regulations in the relevant west coast national marine sanctuaries?**

**Answer:**

Yes.

Channel Islands NMS overflight prohibitions do not apply to:

- Flights conducted for valid law enforcement purposes;
- Flight operations authorized by a valid sanctuary permit/authorization;
- Activities necessary to respond to emergencies threatening life, property, or the environment, such as aerial search and rescue operations or in-flight emergencies;
- Flights for kelp bed surveys; or
- Flights to transport persons or supplies to or from an island.

<https://sanctuaries.noaa.gov/flight/faqs.html>

Greater Farallones NMS overflight prohibitions do not apply to:

- Flights conducted for valid law enforcement purposes;
- Flights authorized by a valid sanctuary permit;
- Activities necessary to respond to emergencies threatening life, property, or the environment, such as aerial search and rescue operations or in-flight emergencies; or
- Flights for the purpose of transporting authorized personnel or supplies to and from the Farallon Islands.

Monterey Bay NMS overflight prohibitions do not apply to:

- Flights conducted for valid law enforcement purposes;
- Flights authorized by a valid sanctuary permit/authorization; or
- Activities necessary to respond to emergencies threatening life, property, or the environment, such as aerial search and rescue operations or in-flight emergencies.

Olympic Coast NMS overflight prohibitions do not apply to:

- Flights conducted for valid law enforcement purposes;
- Flights authorized by a valid sanctuary permit/authorization;
- Flights necessary to respond to emergencies threatening life, property, or the environment, such as aerial search and rescue operations or in-flight emergencies;
- Flights related to tribal timber operations conducted on reservation lands; or
- Flights to transport persons or supplies to or from reservation lands as authorized by a governing body of an Indian tribe.

Note: Takeoff and landings from the Copalis Beach airstrip. To be in compliance with Olympic Coast NMS overflight prohibitions, pilots traveling north from Copalis Airport and flying along the shoreline should ascend to 2,000' as soon as it is safe and practicable.

## **5) If a pilot reduces altitude below the designated minimum altitude within a NOAA regulated overflight zone to remain compliant with visual flight rules (VFR) requirements or for other flight safety reasons, would that be considered a violation by NOAA?**

**Answer:** When investigating suspected regulatory violations, NOAA can consider mitigating factors, such as weather conditions, emergencies, flight rules, and flight controller instructions. Such factors are evaluated on a case-by-case basis, in combination with other information unique to an incident. Shifting marine fog conditions are a common occurrence along the West Coast. Pilots should plan ahead to avoid situations that would require descending into NOAA regulated overflight zones to maintain VFR.

## **6) Do national marine sanctuary overflight regulations conflict with VFR and instrument flight rules (IFR) approach/departure procedures?**

**Answer:** No. In establishing the overflight prohibition zones, NOAA made a deliberate effort to avoid interference with normal airport operations, including approaches and departures. NOAA has consulted with the FAA on this issue and is not aware of any conflicts between current published airport approach/departure procedures and NOAA regulated overflight zones.

## **7) The Sanctuary overflight regulation states that failure to maintain a specified minimum altitude in certain areas of a sanctuary is presumed to disturb marine mammals or seabirds. What does that mean?**

**Answer:** It means that if NOAA can establish that a pilot operated a motorized aircraft below 1,000 feet AGL within any NOAA regulated overflight zone, the pilot could be charged with a wildlife disturbance violation simply by the act of flying below the minimum altitude threshold. In other words, disturbance is presumed to have occurred, unless proven otherwise. The burden of proof that no disturbance occurred would rest upon the pilot. "Rebuttable presumption" is a principle that has been applied in law for centuries.

## **8) What evidence might NOAA use to determine the altitude of an aircraft in potential violation of a sanctuary minimum altitude threshold?**

**Answer:** NOAA may use a range of enforcement tools, such as aerial reconnaissance, radar, photography, fixed-point observations, and other available methods, data sources, and technologies.

## **9) Does NOAA have evidence that sanctuary overflight regulations are necessary?**

**Answer:** Yes. The administrative records establishing NOAA regulated overflight zones describe the need to protect near-shore and offshore resources from unnecessary disturbance, and explain how low-altitude overflights can disrupt various marine mammal and seabird behavior patterns, including breeding, feeding and nesting activities. Low overflights in these areas pose a risk of harmful disturbance to marine mammals and seabirds, including movement and evacuation in response to low overflights where the young (pups, chicks, eggs) are crushed during an evacuation or exposed to predation as a consequence of loss of parental protection.

## 10) Besides posting the overflight prohibitions on FAA aeronautical charts, what else has NOAA done to inform the flying community about west coast national marine sanctuary overflight regulations?

**Answer:** NOAA's Office of National Marine Sanctuaries has conducted pro-active pilot outreach along the central California coast for several years. Some of these activities include:

- **Websites:** The Seabird Protection Network (Network) conducts proactive outreach to pilots. The Network web page, hosted by the Greater Farallones National Marine Sanctuary, includes information on regulations that pertain to low overflights within all California sanctuary waters. In addition, each relevant [west coast national marine sanctuary website](#) includes information and maps about its NOAA regulated overflight zones.
- **FAA eBlasts:** The FAA periodically distributes electronic courtesy messages to the aviation community about NOAA regulated overflight zones and flight safety issues associated with flying low in the vicinity of seabird colonies.
- **Annual Mailing:** The Seabird Protection Network annually distributes a pilot packet that includes a letter and materials concerning laws and regulations pertaining to seabird disturbance. Since 2009, over 3,500 letters have been sent to individual pilots and airport managers.
- **Presentations:** Since 2003, the Seabird Protection Network and National Marine Sanctuaries in California have provided over 150 presentations to pilot organizations, including pilot clubs and associations about the benefits of flying higher near seabird colonies.
- **Display Booths:** The Seabird Protection Network staffs outreach tables and booths each year at air shows and fly-in events across the state of California and maintains an annual presence at Pacific Coast Dream Machines at Half Moon Bay Airport.
- **Pilot Posters:** The Seabird Protection Network distributes informative posters to flight schools, airports, pilot associations, private businesses and military units throughout central California. These posters include tips for avoiding seabirds, and a summary of NOAA regulated overflight zones. Posters have been distributed at every airport with indoor facilities in California.