

## Frequently Asked Questions (FAQs)

### NOAA Regulated Overflight Zones of West Coast National Marine Sanctuaries

- 1) Q. When were Central California National Marine Sanctuary overflight regulations created and by whom? Has a new rule been imposed?**
- A. The National Oceanic & Atmospheric Administration (NOAA) created federal regulations in 1981 in Greater Farallones National Marine Sanctuary (GFNMS), and in 1992 in Monterey Bay National Marine Sanctuary (MBNMS) prohibiting motorized flights below 1,000 feet AGL within selected zones of the sanctuaries in order to protect special wildlife habitats from aerial disturbance. In 2012, NOAA took action to clarify the 20+ year-old rules and explicitly allow for rebuttal by someone charged with a violation, but the basic prohibition and zones were not changed or expanded.
- 2) Q. Do these overflight regulations apply to the entire Monterey Bay and Greater Farallones National Marine Sanctuaries?**
- A. No. In MBNMS, the sanctuary overflight regulations apply only within four discrete zones. The zone boundaries have not changed since 1992. For a general map of the four zones, see <http://montereybay.noaa.gov/materials/mappages/overflightmap.html>
- A. No. In GFNMS, the sanctuary overflight regulations apply only within seven discrete zones within the sanctuary.
- 3) Q. What was the reason for the 2012 action to revise west coast aeronautical charts regarding national marine sanctuary overflight zones?**
- A. NOAA regulated overflight zones established by NOAA in west coast national marine sanctuaries had not been depicted on previous aeronautical charts. The 2012 regulatory clarifications by NOAA and subsequent charting actions by the Federal Aviation Administration (FAA) were designed to provide clear chart notices that low-altitude flight operations within NOAA regulated overflight zones are presumed to disturb federally protected wildlife species and violate NOAA natural resource regulations.
- 4) Q. Where can I get more detailed information about the aeronautical chart changes?**
- A. Find additional details about chart changes online at <http://sanctuaries.noaa.gov/flight/welcome.html> or contact the main office of MBNMS at (831) 647-4201 or the main office of GFNMS at (415) 561-6622.
- 5) Q. How can NOAA impose overflight regulations when the Federal Aviation Administration (FAA) is the only agency that can establish flight rules?**
- A. NOAA recognizes the FAA's authority to regulate airspace and has 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 the MBNMS and GFNMS. 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.
- 6) Q. Are there any exceptions to the overflight regulations in the central California sanctuaries?**
- A. Yes, MBNMS overflight prohibitions do not apply to:
- Flights conducted for valid law enforcement purposes;
  - Flight operations 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.



- A. Yes, GFNMS overflight prohibitions do not apply to:
- Flights conducted for valid law enforcement purposes;
  - Flight operations 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.

**7) Q. If a pilot reduces altitude below 1,000 feet AGL within a NOAA regulated overflight zone to remain compliant with VFR requirements or for other flight safety reasons, would that be considered a violation by NOAA?**

- A. 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 Central California coast. Pilots should plan ahead to avoid situations that would require descending into NOAA regulated overflight zones to maintain VFR.

**8) Q. Do MBNMS and GFNMS overflight regulations conflict with VFR and IFR approach/departure procedures?**

- A. 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.

**9) Q. Are model aircraft and Unmanned Aircraft System (drone) operations subject to NOAA regulated overflight zones?**

- A. Yes. Model aircraft and Unmanned Aircraft Systems (drones) propelled by motors qualify as motorized aircraft under regulations of the sanctuaries, and therefore must adhere to sanctuary regulated overflight zones. As with traditional aircraft, UAS could operate above the sanctuaries' minimum altitude limits, provided Federal Aviation Administration (FAA) regulations allow them to fly at such altitudes. Current FAA rules impose altitude limitations on model aircraft and other Unmanned Aircraft Systems.

**10) Q. Does the term “rebuttable presumption” in the sanctuary overflight regulation mean that a pilot is presumed to have violated the minimum altitude limit of an overflight zone simply because someone reported that he/she did so?**

- A. No. Use of the term “rebuttable presumption” in the regulation does not mean that a pilot is presumed guilty simply by an unsubstantiated witness accusation that he/she violated a sanctuary altitude threshold. Before charging a pilot with violation of an overflight regulation, NOAA will first collect evidence to substantiate such a charge. If NOAA can establish that a pilot did in fact operate a motorized aircraft below 1,000 feet AGL within any NOAA regulated overflight zone, then a “rebuttable presumption” will apply that the flight operations resulted in the disturbance of marine mammals or seabirds. This means that the pilot could be charged with a wildlife disturbance violation simply by the act of flying below the minimum altitude threshold. This presumption of disturbance could be overcome by contrary evidence that disturbance did not, in fact, occur (*e.g.*, evidence that no marine mammals or seabirds were present in the area at the time of the low overflight). The burden of proof that no disturbance occurred would rest upon the pilot. “Rebuttable presumption” is a legal principle that has been applied in various areas of law for centuries.

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

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



**12) Q. Does NOAA have evidence that sanctuary overflight regulations are necessary?**

- A. 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 and nesting activities. Low overflights in these areas clearly 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. Additional documentation supporting the need for overflight regulations in order to reduce the risk of harmful disturbance to marine mammals and seabirds was submitted during the 2009 public comment period and can be found at <http://www.regulations.gov/#!searchResults:rpp=25;po=0;dkid=NOAA-NOS-2009-0237>.

**13) Q. Are there overflight regulations in other national marine sanctuaries along the west coast?**

- A. Yes. In addition to GFNMS and MBNMS, NOAA regulated overflight zones exist in areas of the Olympic Coast National Marine Sanctuary in Washington and Channel Islands National Marine Sanctuary in southern California. Minimum altitude regulations vary by sanctuary. Consult appropriate aeronautical charts covering each sanctuary for specific altitude limitations.

**14) Q. How did NOAA inform pilots about the 2012 amended regulations and chart changes?**

- A. The primary means of informing pilots about sanctuary overflight regulations are the aeronautical charts themselves – a primary source for flight planning information. The revised chart notices include a web address where pilots can obtain more detailed information. In addition, NOAA will continue to collaborate with FAA to educate pilots on the overflight regulations for sanctuaries. Such coordination may include working with local FAA safety program managers to get the word out to pilot associations. Past outreach strategies, have included press releases, website updates, presentations to flight clubs, articles in general aviation magazines and informational posters at local airports.

**15) Q. Besides posting the overflight prohibitions on FAA aeronautical charts, what else has NOAA done to inform the flying community about central California's sanctuary overflight regulations?**

- A. 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:
- **Pilot Guide:** The foldable map-based insert was designed for placement in the "Blue Book" Pilot Guide to California Airports. The Guide includes a list of overflight regulations; maps of NOAA regulated overflight zones and seabird colonies. Over 5,000 Pilot Guides have been sent to airports, pilot associations, flight schools, private pilots, private businesses, military, law enforcement officers, and media. Such entities include Vertical Challenge, Aeroadventures, Half Moon Bay and San Carlos airports, Santa Cruz Flying Club, several EAA Chapters, Ahart Aviation, California International Airshow, Specialized Helicopters, Watsonville Airport, Watsonville Pilots Association, Novato Airport and Moffett Federal Airfield.
  - **Annual Mailing:** The pilot packet includes a letter notifying pilots of the 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, over 95 presentations have been provided to pilot organizations, including pilot clubs and associations.
  - **Display Booths:** At air shows, including Pacific Coast Dream Machines (Half Moon Bay, CA), Watsonville Fly-In, Wings over Wine Country (Santa Rosa, CA), California International Air show (Salinas, CA) and Golden West EAA Fly-In (Marysville, CA).
  - **Pilot 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 the overflight regulations. Over 150 posters have been distributed.
  - **Website:** 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 sanctuary website includes information and maps about its NOAA regulated overflight zones.
  - **NOAA Enforcement:** Personnel have issued verbal and written warnings to approximately 100 pilots in central California since 2003 for low overflight violations.

