



AIRCRAFT OWNERS AND PILOTS ASSOCIATION

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October 17, 2007

Mr. John Carlson, Jr.
Executive Director
Fish and Game Commission
1416 Ninth Street
Box 944209
Sacramento, California 94244-2090

Re: Rule Proposal to Amend Section 630, Title 14, California Code of Regulations

Dear Mr. Carlson:

On behalf of more than 50,000 California members – of more than 413,000 nationwide – of the Aircraft Owners and Pilots Association (AOPA), we are writing to register our opposition to a rule change proposal to the California Code of Regulations, which would seem to interfere with the federal government's pre-emption of the regulation of U.S. airspace. In particular, we are concerned about amendment three to General Regulations Section 630, Title 14, which states

“Amend the general regulation which prohibits operation of aircraft within any ecological reserve to clarify the types of aircraft included in the prohibition; prohibit aircraft from flying over any ecological reserve in any manner that is incompatible with the use or protection of the biological resources of the reserve...”

We respectfully oppose the proposed rule due to the fact that all of the navigable airspace in this country is within the sole domain of federal regulation. Congress has acted to vest the Federal Aviation Administration (FAA) with exclusive responsibility for managing the nation's navigable airspace, and federal courts have upheld this principle on several occasions. Additionally, federal law clearly preempts the regulation of aircraft in flight, and provides that only the FAA may impose limitations, aside from a limited exception for noise abatement by an airport operator. We believe that the proposed rule would violate federal law and we respectfully ask that the Commission withdraw its consideration of adoption.

Please be aware that federal authorities have not ignored the need for pilots to be attentive to the needs of the habitats over which they fly. The FAA has issued an Advisory Circular on Visual Flight Rules (VFR) Flights Near Noise Sensitive Areas. Pilots flying under visual rules are encouraged to avoid flying over noise-sensitive areas, if practical, instead of flying over them at relatively low altitudes. Pilots operating noise producing aircraft over noise-sensitive areas should make every effort to stay at least 2,000 feet above ground level (AGL), weather permitting. By recommending this 2,000 feet minimum AGL, the FAA intended to reduce potential interference with wildlife and complaints of noise disturbances. Additionally, in departing or arriving at an airport, take-offs and landings should avoid prolonged flight at low altitudes near noise-sensitive areas.

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Thank you for your time and consideration of our comments. Should you have any questions or concerns, or should you require any further information, please do not hesitate to contact me or AOPA California Regional Representative, John Pfeifer, at (530) 226-5117.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory Pecoraro', with a long horizontal flourish extending to the right.

Gregory Pecoraro
Vice President
Regional Affairs

cc: Mary Frederick, Chief, Division of Aeronautics
John L. Pfeifer, AOPA California Regional Representative
Wesley J. Lujan, Advocation, Inc.