



**LAKE TAHOE** airport

## Who Controls and Enforces How Aircraft and Drones Operate in the Airspace Above Lake Tahoe?

*The United States Government has exclusive sovereignty over airspace of the United States pursuant to 49 U.S.C.A. § 40103. The airspace, therefore, is not subject to private ownership nor can the flight of an aircraft within the navigable airspace of the United States constitute a trespass. Unmanned aircraft are aircraft consistent with Subtitle B of Public Law 112-95 and the existing definition of aircraft in Title 49 of the United States Code, 49 U.S.C. 40102.*

U.S. Congress has vested the Federal Aviation Administration (FAA) with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. §§ 40103, 44502, and 44701-44735. Congress has directed the FAA to “develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace.” 49 U.S.C. § 40103(b)(1). Congress has further directed the FAA to “prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes)” for navigating, protecting, and identifying aircraft; protecting individuals and property on the ground; using the navigable airspace efficiently; and preventing collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects. 49 U.S.C. § 40103(b)(2).

A consistent regulatory system for aircraft and use of airspace has the broader effect of ensuring the highest level of safety for all aviation operations. To ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions, FAA has regulatory authority over matters pertaining to aviation safety.

Substantial air safety issues are raised when state or local governments attempt to regulate the operation or flight of aircraft. If one or two municipalities enacted ordinances regulating aircraft in the navigable airspace and a significant number of municipalities followed suit, fractionalized control of the navigable airspace could result. In turn, this ‘patchwork quilt’ of differing restrictions could severely limit the flexibility of FAA in controlling the airspace and flight patterns, and ensuring safety and an efficient air traffic flow. A navigable airspace free from inconsistent state and local restrictions is essential to the maintenance of a safe and sound air transportation system. See *Montalvo v. Spirit Airlines*, 508 F.3d 464 (9th Cir. 2007), and *French v. Pan Am Express, Inc.*, 869 F.2d 1 (1st Cir. 1989); see also *Arizona v. U.S.*, 567 U.S. \_\_\_, 132 S.Ct. 2492, 2502 (2012) (“Where Congress occupies an entire field . . . even complimentary state regulation is impermissible. Field preemption reflects a congressional decision to foreclose any state regulation in the area, even if it is parallel to federal standards.”), and *Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 386-87 (1992).



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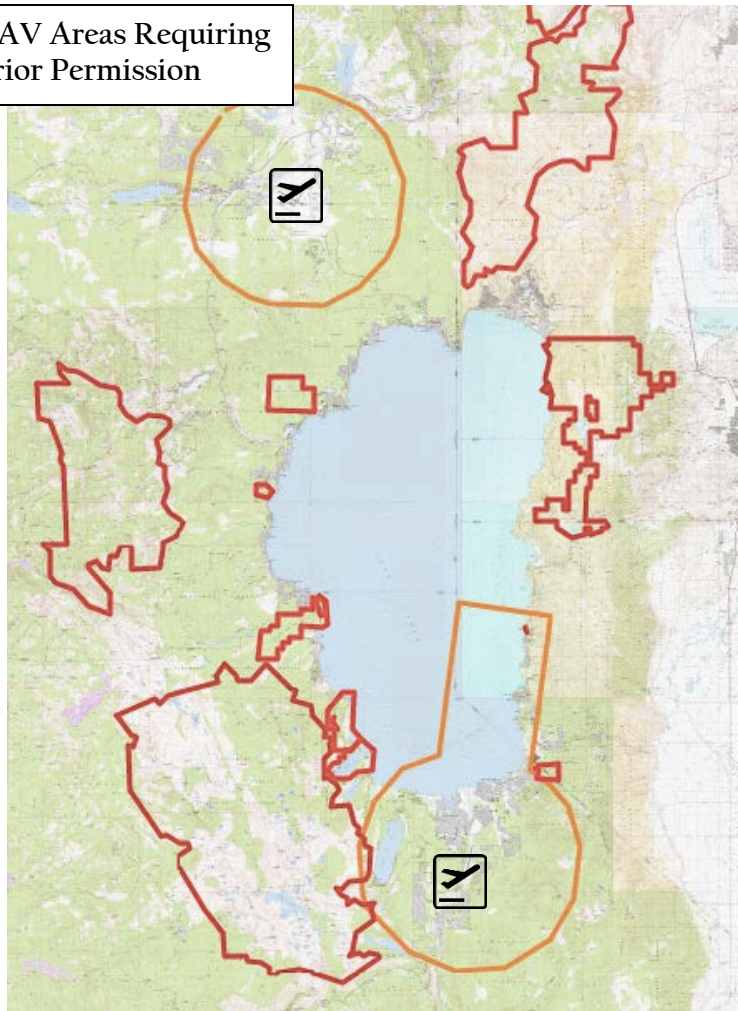
The federal government has exclusive sovereignty of U.S. airspace. Congress delegated to the FAA the ability to define “navigable airspace” and the authority to regulate “navigable airspace” of aircraft by regulation or order. 49 U.S.C. § 40103(b)(1). While it is clear that navigable airspace falls under the purview of the FAA, the boundaries of that airspace remain unclear.

According to Federal Aviation Regulations, “navigable airspace” is defined as “airspace at and above the minimum flight altitudes prescribed by or under this chapter, including airspace needed for safe takeoff and landing.” 14 C.F.R. § 1.1. For airplanes, the minimum flight altitude while flying over congested areas or open air assemblies of persons is 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet. 14 C.F.R. § 91.119(b).

Over uncongested areas, airplanes can operate at an altitude of 500 feet above the surface. However, airplanes can operate even lower when over “open water or sparsely populated areas.” When flying over those areas, aircraft may not operate closer than 500 feet to any person, vehicle, or structure provided that if the airplane’s engines fail, an emergency landing will not create an undue hazard. 14 C.F.R. § 91.119(a) and (c). Two exceptions exist for when a person may operate an aircraft below these altitudes: (1) when necessary for takeoff or landing; or (2) in an in-flight emergency requiring immediate action. 14 C.F.R. § 91.119(a); 14 C.F.R. § 91.3(b).

Minimum safe altitudes for helicopters differ from other aircraft. Specifically, “If the operation is conducted without hazard to persons or property on the surface . . . A helicopter may be operated at less than the minimums prescribed [for fixed wing aircraft], provided each person operating the helicopter complies with any routes or altitudes specifically prescribed for helicopters by the FAA.” 14 C.F.R. § 91.119(d)(1).

UAV Areas Requiring Prior Permission



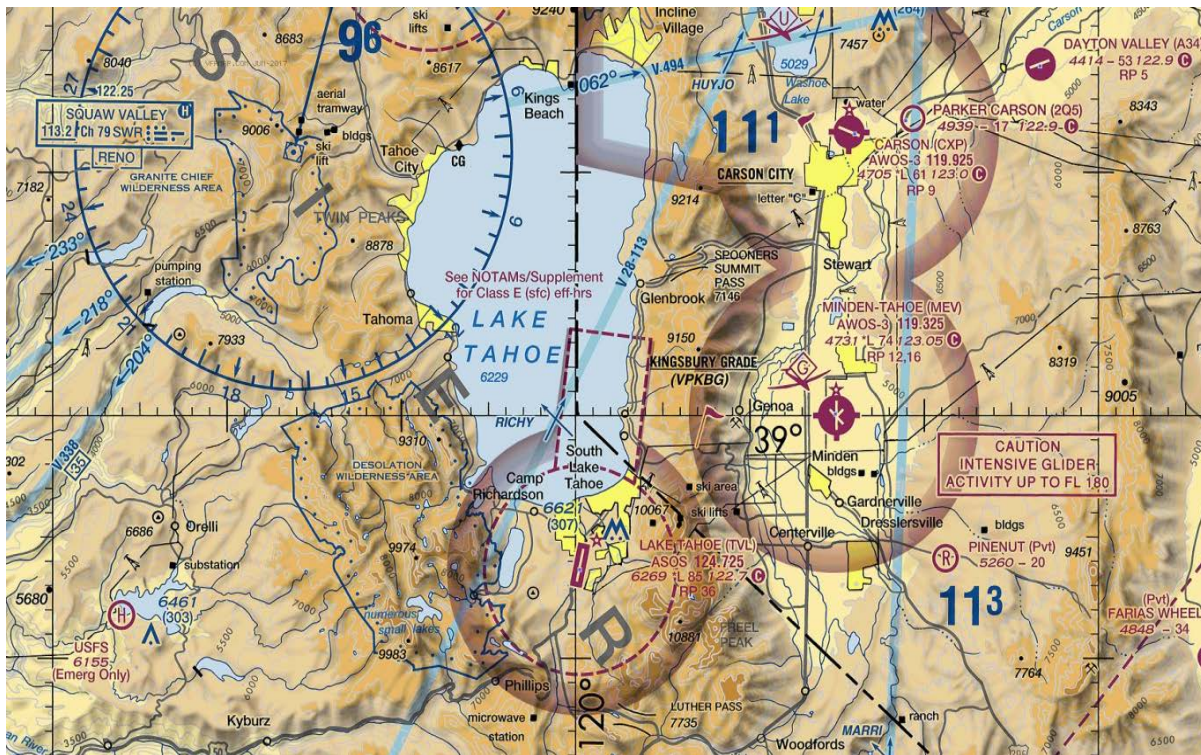
*Many areas around Lake Tahoe restrict UAV operations unless permit or prior permission is given by Park Ranger, FAA, or Airport Management*



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For those operating unmanned aerial vehicles (UAV) commonly referred as “drones” under F.A.R Part 107 the allowable altitude is from surface to 400 feet above ground level and the UAV must be within line of sight of the operator at all times. All UAV operators must contact the Airport Manager or local Federal Aviation Administration Air Traffic Control Tower for permission to fly within 5 nautical miles of an airport. Without prior permission a UAV is not permitted to fly in exclusion zones around airports.

Around the Lake Tahoe Basin state parks and national wildlife refuges have similarly passed ordinances banning the use of UAV without prior permission. These may include paying a fee and obtaining a permit from the Park Ranger responsible for the area in question. These areas of exclusion are shown in the map on the previous page in red outline. Meanwhile areas around airports that require prior permission are outlined in orange. UAVs are typically not allowed to operate during periods of darkness unless specially equipped with aircraft hazard lighting beacons.



Aeronautical Chart Showing Airspace and Low Level Aircraft Flight Routes in Lake Tahoe Basin and Carson Valley



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The Lake Tahoe Airport is located in Class “E” airspace and starts at the surface of the ground with an upper limit of 18,000 feet above mean sea level. The airspace resembles a “key hole” that encompasses almost all of the south shore. The control of aircraft in the Tahoe basin is completed by Oakland Center Air Route Traffic Control Center (ZOA).



Map Showing Delineation of FAA Air Traffic Control Centers in United States.

## Federal Statute Granting Federal Aviation Administration Power to Enact and Enforce Rules Governing the Operation of Aircraft in Flight

49 U.S.C. §§ 40103, 44502, and 44701- 44735 (former Federal Aviation Act of 1958, as amended and recodified).

## Authorities Granted to the Federal Aviation Administration by Case Law

### The U.S. Supreme Court

“Congress has recognized the national responsibility for regulating air commerce. Federal control is intensive and exclusive. Planes do not wander about in the sky like vagrant clouds. They move only by federal permission, subject to federal inspection, in the hands of federally certified personnel and under an intricate system of federal commands. The moment a ship taxis onto a runway it is caught up in an elaborate and detailed system of controls. It takes off only by instruction from the control tower, it travels on prescribed beams, it may be diverted from its intended landing, and it obeys signals and orders. Its privileges, rights, and protection, so far as transit is concerned, it owes to the Federal Government alone and not to any state government.” *Northwest Airlines v. State of Minnesota*, 322 U.S. 292, 303 (1944)(Jackson, R., concurring).

“If we were to uphold the Burbank ordinance [which placed an 11 p.m. to 7 a.m. curfew on jet flights from the Burbank Airport] and a significant number of municipalities followed suit, it is obvious that fractionalized control of the timing of takeoffs and landings would severely limit the flexibility of FAA in controlling air traffic flow. The difficulties of scheduling flights to avoid



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congestion and the concomitant decrease in safety would be compounded.” *Burbank v. Lockheed Air Terminal Inc.*, 411 U.S. 624, 639 (1973).

“The Federal Aviation Act requires a delicate balance between safety and efficiency, and the protection of persons on the ground ... The interdependence of these factors requires a uniform and exclusive system of federal regulation if the congressional objectives underlying the Federal Aviation Act are to be fulfilled.” *Burbank* at 638-639.

“The paramount substantive concerns of Congress [in enacting the FAA Act] were to regulate federally all aspects of air safety ... and, once aircraft were in ‘flight,’ airspace management....” *Burbank* at 644 (Rehnquist, J. dissenting).

### The U.S. Court of Appeals

“Air traffic must be regulated at the national level. Without uniform equipment specifications, takeoff and landing rules, and safety standards, it would be impossible to operate a national air transportation system.” *Gustafson v. City of Lake Angeles*, 76 F.3d 778, 792-793 (6th Cir. 1996) (Jones, N., concurring).

“The purpose, history, and language of the FAA [Act] lead us to conclude that Congress intended to have a single, uniform system for regulating aviation safety. The catalytic events leading to the enactment of the FAA [Act] helped generate this intent. The FAA [Act] was drafted in response to a series of fatal air crashes between civil and military aircraft operating under separate flight rules .... In discussing the impetus for the FAA [Act], the Supreme Court has also noted that regulating the aviation industry requires a delicate balance between safety and efficiency. It is precisely because of ‘the interdependence of these factors’ that Congress enacted ‘a uniform and exclusive system of federal regulation.’” *Montalvo v. Spirit Airlines*, 508 F.3d 464, 471 (9th Cir. 2007), citing *City of Burbank v. Lockheed Air Terminal Inc.*, 411 U.S. 624, 638-39 (1973).

“[W]hen we look to the historical impetus for the FAA, its legislative history, and the language of the [FAA] Act, it is clear that Congress intended to invest the Administrator of the Federal Aviation Administration with the authority to enact exclusive air safety standards. Moreover, the Administrator has chosen to exercise this authority by issuing such pervasive regulations that we can infer a preemptive intent to displace all state law on the subject of air safety.” *Montalvo* at 472.

“We similarly hold that federal law occupies the entire field of aviation safety. Congress' intent to displace state law is implicit in the pervasiveness of the federal regulations, the dominance of the federal interest in this area, and the legislative goal of establishing a single, uniform system of control over air safety. This holding is fully consistent with our decision in *Sky sign International, Inc. v. Honolulu*, 276 F.3d 1109 (9th Cir. 2002), where we considered whether



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federal law preempted state regulation of aerial advertising that was distracting and potentially dangerous to persons on the ground. In upholding the state regulations, we held that federal law has not ‘preempt[ed] altogether any state regulation purporting to reach into the navigable airspace.’ While Congress may not have acted to occupy exclusively all of air commerce, it has clearly indicated its intent to be the sole regulator of aviation safety. The FAA, together with federal air safety regulations, establish complete and thorough safety standards for interstate and international air transportation that are not subject to supplementation by, or variation among, states.” Montalvo at 473-474.

“[W]e remark the Supreme Court's reasoning regarding the need for uniformity [concerning] the regulation of aviation noise, see *City of Burbank v. Lockheed Air Terminal*, 411 U.S. 624 (1973), and suggest that the same rationale applies here. In Burbank, the Court struck down a municipal anti-noise ordinance placing a curfew on jet flights from a regional airport. Citing the ‘pervasive nature of the scheme of federal regulation,’ the majority ruled that aircraft noise was wholly subject to federal hegemony, thereby preempting state or local enactments in the field. In our view, the pervasiveness of the federal web is as apparent in the matter of pilot qualification as in the matter of aircraft noise. If we upheld the Rhode Island statute as applied to airline pilots, ‘and a significant number of [states] followed suit, it is obvious that fractionalized control ... would severely limit the flexibility of the F.A.A ...’ [citing Burbank] Moreover, a patchwork of state laws in this airspace, some in conflict with each other, would create a crazy quilt effect ... The regulation of interstate flight-and flyers-must of necessity be monolithic. Its very nature permits no other conclusion. In the area of pilot fitness as in the area of aviation noise, the [FAA] Act as we read it ‘leave[s] no room for ... local controls.’ [citing Burbank]. *French v. Pan Am Express, Inc.*, 869 F.2d 1, 6 (1st Cir. 1989).

## Contact Information for Oakland Center, Provides Air Traffic Control over Lake Tahoe Basin

Watch Desk (24/7):  
Operations Manager  
510-745-3331 (24 hours/day—7 days/week)

Oakland ARTCC Domestic Airspace & Procedures  
Support Manager  
Jeff Hubert  
510-745-3744

## Contact Information for Questions Regarding Federal Control of the National Airspace System in California & Nevada.

Western-Pacific Region Office of the Regional Counsel  
P.O. Box 92007 Los Angeles, CA 90009  
Tel: (310) 725-7100 (AZ, CA, HI, NV)



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## Contact Information for Filing a Complaint about a Pilot Flying an Aircraft/Drone in an Unsafe Manner

Reno Flight Standards District Office  
5466 Longley Lane  
Reno, Nevada 89511  
Tel: (775) 858-7700  
Fax: (775) 858-7737

## Contact Lake Tahoe Airport (South Lake Tahoe, California) to File a Noise Complaint

If a citizen wishes to file a complaint for aircraft noise in South Lake Tahoe, please email [mgibbs@cityofslt.us](mailto:mgibbs@cityofslt.us) or call (530) 542-6182

Please provide the following information:

1. Date & time of the noise event
2. Description of the aircraft/helicopter (if visible)
3. Location where the noise was observed (address or cross streets)
4. Duration of event

### Investigating Noise Events

The City of South Lake Tahoe using supplied data will determine whether the event in question violated any established noise abatement procedures at the Lake Tahoe Airport. If the violating aircraft originated from the Lake Tahoe Airport, the aircraft owner will be contacted regarding the event and every attempt will be made to educate said owner on the Noise Abatement Procedures. The Lake Tahoe Airport will keep tallies for noise complaints and uses this information to make an annual determination on if additional measures are necessary to address aviation noise.

### Response to Citizens

When making a complaint, if you request a call back or more information, you will receive a response from the Airport Manager. If you wish to be contacted by telephone, two attempts will be made to reach you and at least one message is left, if possible during normal business hours (Monday–Friday 7:00 am to 4:00 pm).