

Congress of the United States
Washington, DC 20515

April 22, 2024

The Honorable Sam Graves
Chairman
Transportation and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member
Transportation and Infrastructure Committee
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Garrett Graves
Chairman
Subcommittee on Aviation
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Steve Cohen
Ranking Member
Subcommittee on Aviation
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Graves, Ranking Member Larsen, Chairman Graves, and Ranking Member Cohen,

We are writing to advocate for the inclusion of the Backcountry Aviation Protection Act in the final version of this year's Federal Aviation Administration (FAA) Reauthorization. This commonsense language seeks to provide regulatory clarity for backcountry or bush pilots who commonly engage in off-airport operations to ensure they can take steps, particularly inspection passes over remote landing sites, to protect both themselves and their passengers without the fear of undue enforcement action.

FAA regulations (14 C.F.R. § 91.119) set the minimum flight altitudes for aircraft and generally require aircraft to be 500 feet above the ground in uncongested areas or 500 feet in any direction from a person, vessel, vehicle, or structure in sparsely populated areas and over open water.¹ As you may know, "except when necessary for takeoff and landing" is the only listed exception to these minimum altitude regulations. Inspecting a landing area is vital in determining whether it is safe to land in any given location, yet the term "necessary" remains undefined under federal regulations. As a result, a recent FAA enforcement ruling in which a pilot had his certificate suspended for violating minimum altitude regulations to perform an inspection pass has provided cause for concern.²

¹ <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-F/part-91/subpart-B/subject-group-ECFR4c59b5f5506932/section-91.119>

² <https://www.aopa.org/news-and-media/all-news/2023/april/19/trent-palmer-battles-faa-over-word-necessary>

We worry that the FAA's restrictive interpretation of the regulatory language may lead to a negative precedent where pilots performing inspection passes and other common safety training maneuvers where there is not always an intent to land are met with punishment. A precedent of this magnitude could have significant ramifications on bush flying which is essential for transporting people, medicine, and food and conducting rescue operations in remote locations. Bush pilots are often required to takeoff and land from sites that are neither well-defined nor properly maintained, if at all.

It is also important to highlight that the FAA's position throughout this case conflicts with its official "Off Airport Ops Guide" publication which advises pilots to conduct at least one low-level inspection pass to help them assess the viability of a potential landing area.³ This publication even goes as far as to recommend pilots to "roll one tire for a few feet to get a feel for the landing surface" which must clearly be done at an altitude below the established limit in 91.119. The guidance then states that if a pilot, after conducting an inspection pass, is uncomfortable with the site, they should "abandon the site and seek a more suitable landing area."

Excluding inspection passes, "go-arounds", practice approaches, and instrument approaches from the minimum altitude regulations is a simple fix that eliminates any ambiguity in the regulatory framework and provides bush pilots with a guarantee that they can take appropriate safety maneuvers to best protect the safety of their aircraft and passengers. These changes will also ensure that pilots can continue practicing essential safety procedures that help them prepare for any potential worst-case scenarios.

This language also includes technical advice from the FAA and has been met with support from numerous pilot organizations including the Aircraft Owners and Pilots Association, Experimental Aircraft Association, Vertical Aviation International, Alaska Airmen's Association, Arizona Pilots Association, Colorado Pilots Association, Idaho Aviation Association, Idaho Aviation Foundation, Montana Pilots Association, New Mexico Pilots Association, Oregon Pilots Association, Reno-Tahoe Aviation Group, and the Washington Pilots Association. Lastly, this effort has received bipartisan and bicameral support in Congress.

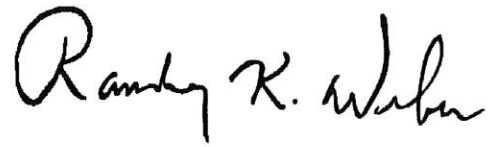
With all of this being said, we strongly encourage the inclusion of this language in any final FAA Reauthorization to ensure we are creating a clear regulatory environment that guarantees the safety of all pilots along with both their passengers and aircraft. Thank you for your continued attention and consideration of this important matter.

Sincerely,

³ https://www.faasafety.gov/files/notices/2015/Oct/AOAG_Web.pdf

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Harriet M. Hageman
Member of Congress

A handwritten signature in black ink, reading "Randy K. Weber". The signature is cursive, with the first name being the most prominent.

Randy K. Weber
Member of Congress

A handwritten signature in black ink, reading "Doug LaMalfa". The signature is cursive, with the first name being the most prominent.

Doug LaMalfa
Member of Congress

A handwritten signature in black ink, reading "Adrian Smith". The signature is cursive, with the first name being the most prominent.

Adrian Smith
Member of Congress