

THE LEGALITY AND LIABILITY ISSUES OF LANDING ON PUBLIC LAND AND PUBLIC AIRSTRIPS

The Recreational Airstrip Committee has looked into the legality of landing on off-airport locations and also the liability aspect of landing on public airstrips for recreational purposes. The research for both is listed below.



An off-airport landing in Montana on BLM administered land.

LEGALITY OF LANDING ON OFF-AIRPORT LOCATIONS

The following is taken directly from the NOAA Airport/Facility Directory:

AIRCRAFT LANDING RESTRICTIONS

Landing of aircraft at locations other than public use airports may be a violation of Federal or local law. All land and water areas are owned and controlled by private individuals or organizations, states, cities, local governments, or U.S. Government agencies. Except in emergency, prior permission should be obtained before landing at any location that is not a designated public use airport or seaplane base.

Landing of aircraft is prohibited on lands or waters administered by the National park Service, U.S. Fish and Wildlife Service, U.S. Forest Service, and on many areas controlled by the U.S. Army Corps of Engineers, unless prior authorization is obtained from the respective agency.

(It is notable that lands administered by the Bureau of Land Management (BLM) are not included in the above listing.)

The following is taken from a Sectional Aeronautical Chart. It offers a little more guidance:

**REGULATIONS REGARDING FLIGHTS OVER CHARTED NATIONAL PARK SERVICE AREAS,
U.S. FISH AND WILDLIFE SERVICE AREAS, AND U.S. FOREST SERVICE AREAS**

The landing of aircraft is prohibited on lands or waters administered by the National Park Service, U.S. Fish and Wildlife Service or U.S. Forest Service without authorization from the respective agency.

Exceptions include:

- 1) when forced to land due to an emergency beyond the control of the operator*
- 2) at officially designated landing sites, or*
- 3) on approved official business of the Federal Government.*

*All aircraft are **requested** to maintain a minimum altitude of 2000 feet above the surface of the following: National Parks, Monuments, Seashores, Lakeshores, recreation Areas and Scenic Riverways administered by the National Park Service; National Wildlife Refuges, Big Game Refuges, Game Ranges and Wildlife Ranges administered by the U.S. Fish and Wildlife Service; and Wilderness and Primitive areas administered by the U.S. Forest Service. FAA Advisory Circular (AC) 91-36C, "Visual Flight Rules (VFR) Flight Near Noise-Sensitive Areas," defines the surface as: the highest terrain within 2000 feet laterally of the route of flight, or the upper-most rim of a canyon or valley.*

Federal regulations also prohibit airdrops by parachute or other means of persons, cargo, or objects from aircraft on lands administered by the three agencies without authorization from the respective agency.

Exceptions include:

- 1) emergencies involving the safety of human life, or*
- 2) threat of serious property loss.*

Bold italics added.

MONTANA STATE LAW CONCERNING LANDING ON PUBLIC ROADS

The following is taken directly from the Montana Code; MCA 67-1-204 (3) Lawfulness of Flight and Landings:

Aircraft landings and takeoffs from public roads in this state are lawful if proper safety precautions, as approved by the governing jurisdiction of the roads, are taken prior to the landing or takeoff, except as otherwise provided in this section. However, the local governing jurisdiction may not incur liability as a result of an approval under this subsection.