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Office of the Attorney General

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ATTORNEY GENERAL

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June 20, 1985

John W. Hamilton, Director
South Carolina Aeronautics Commission
Post Office Drawer 1987
Columbia, South Carolina 29202

Dear Mr. Hamilton:

You have asked this Office for an opinion as to whether or not, under State law, employees of the South Carolina Aeronautics Commission are authorized to report airport defects and/or potential safety hazards to the Federal Aviation Administration (hereinafter FAA) so that a NOTAM 1/ can be issued. This Office has been advised that the FAA has instituted a policy of issuing a NOTAM only if the information dictating the NOTAM's issuance is received from the owner or manager of an airport. 2/

It is the opinion of this Office that in South Carolina members of the South Carolina Aeronautics Commission, employees of the Aeronautics Commission and various law enforcement

1/ NOTAM is an acronym which stands for "Notice To Airman." A NOTAM is issued to relay information related to potential safety hazards at a particular airport, i.e. potholes on a runway, broken or burned out lights, etc.

2/ This Office was advised by the FAA Regional Counsel located in Atlanta Georgia that there are no federal regulations governing this action and, thus, there is no issue of federal preemption. FAA Counsel advised that this was a policy not a regulation.


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officials are empowered 3/ to advise the FAA of any potential safety hazard relating to aviation and, thus, can report matters which will result in the issuance of a NOTAM.

Title 55 of the South Carolina Code of Laws (1976, as amended) governs South Carolina's law of aeronautics. The South Carolina Aeronautics Commission "shall foster air commerce within the State" and "shall have supervision over the aeronautical activities and facilities within the State. Such authority shall include supervision and control over all airports, landing fields, landing strips, air instruction, air parking, air beacons and all other air navigation facilities." S.C. Code §55-5-70 (1976, as amended).

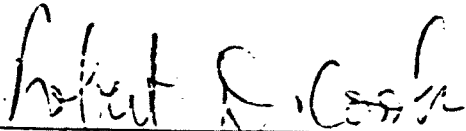
The clear thrust of the above-quoted section and, in fact, the thrust of Chapter 5 of Title 55 of the South Carolina Code, is to appoint the South Carolina Aeronautics Commission as the State's watchdog for aeronautic safety. Certainly, members of the Aeronautics Commission, employees of the Aeronautics Commission and various law enforcement officials have the authority to advise the FAA of any potential safety hazard which may pose a threat to the aviation public.

Sincerely,


Charles W. Gambrell, Jr.
Assistant Attorney General

CWGjr/bm

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

3/ These officials have no duty to report this information but, nevertheless, are authorized to make the report.