



Aviation Group Client Update

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FAA ISSUES POLICY STATEMENT REGARDING THROUGH-THE-FENCE AGREEMENTS

FAA issued a proposed policy statement on “through the fence” access to airports from residential properties on [July 30, 2012](#). As a result of provisions in the FAA Modernization and Reform Act of 2012 (FMRA) (specifically, section 136), the FAA is proposing to revise to its interim policy published on March 18, 2011. The proposed policy permits publicly-owned general aviation airports and sponsors to enter into residential through-the-fence agreements with property owners or associations, but sponsors must comply with specific terms and conditions. The airport sponsor must show a written agreement that requires the property owner to:

- Pay access charges that the sponsor determines to be comparable to those fees charged to tenants and operators on-airport making similar use of the airport;
- Bear the cost of building and maintaining the infrastructure the sponsor determines is necessary to provide access to the airfield from property located adjacent to or near the airport;
- Maintain the property for residential, noncommercial use for the duration of the agreement;
- Prohibit access to the airport from other properties through the property of the property owner; and
- Prohibit any aircraft refueling from occurring on the property.

Airport sponsors with existing residential through-the-fence agreements must provide evidence of compliance not later than September 30, 2013. Beginning in fiscal year 2014, commercial service airports with existing through-the fence access agreements must comply with the FAA’s proposed policy, including obtaining FAA approval of an airport plan depicting access points and a master plan in order to be eligible for Airport Improvement Plan funds. Accordingly, in order to implement this law, the FAA has amended the sponsor assurances.

FAA is accepting comments on its proposed policy until **August 29, 2012**. If you have any questions or would like assistance with the preparation and submission of comments, please contact our office.

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