

## **FAA ISSUES PROPOSED POLICY ON RESIDENTIAL THROUGH-THE-FENCE**

September 8, 2010

### ***What's at Issue***

On September 7, 2010, the Federal Aviation Administration (FAA) released a preliminary version of its [proposed policy on residential through-the-fence](#) (RTTF) activities at federally obligated airports.

### ***Why it's Important***

This proposed RTTF policy will affect the way the FAA deals with airport sponsors that have allowed or are planning to allow for RTTF access to the airfield. There has been significant controversy surrounding the FAA's stance on RTTF access since the agency issued draft guidance on through-the-fence access late last year.

### ***Major Provisions***

Residential through-the-fence access is defined as the right of the owner of a particular off-airport residential property to use an airport access point to taxi an aircraft between the airport and that residential property. This proposed policy only applies to public-use airports receiving federal funds for airport development through the Airport Improvement Program or airports subject to federal obligations due to a federal surplus property grant. Private airports are unaffected by this proposed policy.

The FAA's proposed policy addresses RTTF access by dividing it into three categories: new, additional and existing.

#### **New RTTF**

This policy proposes to modify the federal grant assurances to prohibit new RTTF agreements. This modification is necessary to provide clarification on the status of new RTTF agreements. The FAA currently considers new RTTF to be a violation of existing grant assurances.

#### **Existing RTTF**

Due to the impracticability, and in some cases impossibility, of voiding existing RTTF agreements, the FAA is proposing to certify airport sponsors with existing RTTF agreements as compliant if certain conditions are met. Those conditions include the submission and FAA approval of a "Through-the-Fence Access Plan" that ensures the following:

- The sponsor retains general authority for control of airport land and access
- RTTF users are required to comply with all airport rules and regulations
- The sponsor must charge fees for RTTF use that are comparable to fees for on-airport tenants
- The sponsor must ensure protection of the airport airspace
- The sponsor must minimize the potential for incompatible land use adjacent to the airport

## **(Major Provisions Continued)**

The FAA has recognized that the sponsors' authority varies by airport and will address the requirements for a TTF Access Plan on a case-by-case basis. The FAA did note that conditions at certain airports might prohibit full compliance with these requirements and could lead to reduced or eliminated federal funding of those airports.

### **Additional RTTF**

Additional RTTF access is defined as the establishment of a new access point to the airport for the holder of an existing RTTF agreement, or the extension or renewal of an existing RTTF agreement. This proposed policy would require the approval of any additional RTTF access prior to its implementation by the airport sponsor. Additional RTTF agreements would have to meet stricter standards than existing RTTF agreements. Once approved by the FAA, an additional RTTF access point becomes an existing RTTF access point.

### **NATA Position**

NATA agrees with the FAA that the primary issue surrounding RTTF access is the future utility of federally funded airports. Investments in airports, made through the Airport Improvement Program or through federal surplus property grants, are intended to enhance the flexibility of airports to meet the future needs, in both capacity and type of operations, of the National Airspace System. Due to the intrinsic nature of residential properties, as compared to commercial properties, RTTF agreements limit the flexibility of airport sponsors to meet future needs. NATA believes that the FAA has made an overwhelming case for prohibiting new RTTF agreements and supports this proposal.

Additionally, NATA is pleased to see the FAA consider the realities of existing RTTF. NATA will thoroughly review the requirements for existing and additional RTTF access to ensure that they provide the best balance between future airport utility and existing RTTF users, and will submit comments to the FAA.

### **Status**

The [proposed FAA policy on RTTF access](#) is expected to be published in the *Federal Register* later this week, and will be open for public comment for 45 days from that publication.

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