



Airspace

Kaplan Kirsch & Rockwell's airspace-related work involves representation of airports, communities, and private sector interests who need to understand the scope and implications of FAA airspace regulation.

Although airspace regulation lies within the exclusive purview of FAA, airport sponsors and others call on us to assist in understanding their rights and obligations—and where necessary, challenging FAA decisions which could adversely affect their interests. We have assisted in the preparation of, review of, or litigation over environmental documentation for airspace matters, including airspace redesigns for Seattle, Phoenix, the New York-New Jersey-Philadelphia area, Las Vegas, the Los Angeles area, and southern Florida.

In the context of FAA's introduction of NextGen navigation procedures, we represent airport proprietors in understanding the implications of FAA's introduction of new flight paths, especially when those paths change established patterns and run counter to the airport's noise planning efforts. These representations require a wide range of our areas of expertise—from legislative drafting and lobbying to litigation, and from advising of regulatory compliance to working cooperatively with FAA officials—to modify proposed rules and procedures.

Combining the project development and aviation experience of our attorneys, we also advise our clients, work with federal agencies, and undertake cutting-edge litigation regarding the effects of wind turbines, transmission facilities, and solar projects on aircraft and airspace. In addition to common concerns about wind tower height near airports, the litigation and representation has addressed the effects that wind turbines may have on radar and other air navigation facilities.

Clients frequently call upon us to monitor and participate in formal and informal rulemakings concerning protection of certain airspace surfaces (such as one-engine-inoperative procedures), in the designation of new classes of airspace, and in revisions to Part 77 procedures concerning protection of approach and departure surfaces for aircraft landing and takeoff.

Representative Cases

Town of Barnstable, Mass. v. FAA, 740 F. 3d 681 (D.C. Cir. 2014) (challenged FAA finding that wind turbines would not interfere with busy general aviation traffic corridor off the coast of Cape Cod)

Town of Barnstable, Mass. v. FAA, 659 F. 3d 28 (D.C. Cir. 2011) (challenged FAA finding that wind turbines would not interfere with busy general aviation traffic corridor off the coast of Cape Cod)

Clark County, Nev. v. FAA, 522 F. 3d 437 (D.C. Cir. 2008) (challenged FAA finding of no hazard to navigation from construction of new wind farm along departure path for a proposed new international airport)

Vacation Village v. Clark County, 244 Fed. Appx. 785 (9th Cir. 2007), *cert. denied* 128 S.Ct. 2956 (2008) (defended challenge to Clark County's height restrictions designed to protect airport from commercial, residential, and industrial encroachment into airport approach and departure)

Representative Projects

- Represented a large southwestern city in FAA's implementation of new departure flight tracks from its airport that changed settled community expectations about noise and overflights. The work included policy-related representation before Congress and senior federal officials, participation in the administrative decision-making process, and in litigation before the United States Court of Appeals.



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- Represented one of the largest airports in the nation in working with FAA to make modifications to departure flight patterns in the face of intense community concern (and eventually litigation) about any changes in flight paths. We worked with the same client on protection of one-engine-inoperative procedures for a major international carrier and in the design and protection of airspace for a proposed new commercial service airport.
- Advised several south Florida airports for more than two decades in the design and redesign of flight patterns in the highly congested, complex regional airspace. These engagements have included proposal work and advocacy for new noise abatement departure procedures for both commercial service and general aviation airports, design of pattern-flying procedures for helicopter training, coordination of flight patterns for several airports in close proximity to each other, and in negotiation with communities and local governments to optimize flight patterns for noise and efficiency purposes.
- Successfully represented a community and local government that hosted a large Midwestern hub airport in negotiations over the establishment of new flight tracks for a new air carrier runway. This engagement, which resulted in a series of compromises among the airport, FAA, principal airline, and local governments, required participation in politically charged community meetings, quiet negotiations with the affected parties, and development of a compromise position that avoided litigation and brought closure to a long-standing dispute between the airport and nearby communities.