

## § 158.17

with less than 50 percent of the annual passenger boardings at an airport, a project for constructing gates and related areas may include structural foundations and floor systems, exterior building walls and load-bearing interior columns or walls, windows, door, and roof systems, building utilities (including heating, air conditioning, ventilation, plumbing, and electrical service), and aircraft fueling facilities adjacent to the gate.

(c) An eligible project must be adequately justified to qualify for PFC funding.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991; Amdt. 158-2, 65 FR 34541, May 30, 2000]

### § 158.17 Project eligibility at PFC levels of \$4 or \$4.50.

(a) A project for any airport is eligible for PFC funding at levels of \$4 or \$4.50 if—

(1) The project meets the eligibility requirements of § 158.15;

(2) The project costs requested for collection at \$4 or \$4.50 cannot be paid for from funds reasonably expected to be available for the programs referred to in 49 U.S.C. 48103; and

(3) In the case of a surface transportation or terminal project, the public agency has made adequate provision for financing the airside needs of the airport, including runways, taxiways, aprons, and aircraft gates.

(b) In addition, a project for a medium or large airport is only eligible for PFC funding at levels of \$4 or \$4.50 if the project will make a significant contribution to improving air safety and security, increasing competition among air carriers, reducing current or anticipated congestion, or reducing the impact of aviation noise on people living near the airport.

[Doc. No. FAA-2000-7402, 65 FR 34541, May 30, 2000]

### § 158.19 Requirement for competition plans.

(a) Beginning in fiscal year 2001, no public agency may impose a PFC with respect to a covered airport unless the public agency has submitted a written competition plan. This requirement does not apply to PFC authority approved prior to April 5, 2000.

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(b) The Administrator will review any plan submitted under paragraph (a) of this section to ensure that it meets the requirements of 49 U.S.C. 47106(f) and periodically will review its implementation to ensure that each covered airport successfully implements its plan.

[Doc. No. FAA-2000-7402, 65 FR 34541, May 30, 2000]

## Subpart B—Application and Approval

### § 158.21 General.

This subpart specifies the consultation and application requirements under which a public agency may obtain approval to impose a PFC and use PFC revenue on a project. This subpart also establishes the procedure for the Administrator's review and approval of applications and amendments and establishes requirements for use of excess PFC revenue.

### § 158.23 Consultation with air carriers and foreign air carriers.

(a) *Notice by public agency.* A public agency must provide written notice to air carriers and foreign air carriers having a significant business interest at the airport where the PFC is proposed. A public agency must provide this notice before the public agency files an application with the FAA for authority to impose a PFC under § 158.25(b). In addition, public agencies must provide this notice before filing an application with the FAA for authority to use PFC revenue under § 158.25(c). Public agencies must also provide this notice before filing a notice of intent to impose and/or use a PFC under § 158.30. Finally, a public agency must provide this notice before filing a request to amend the FAA's decision with respect to an approved PFC as discussed in § 158.37(b)(1). The notice shall include:

(1) Descriptions of projects being considered for funding by PFC's;

(2) The PFC level for each project, the proposed charge effective date, the estimated charge expiration date, and the estimated total PFC revenue;