

§ 158.33

(c) The authority to collect the PFC is terminated by the Administrator under subpart E of this part; or

(d) The public agency is determined by the Administrator to be in violation of 49 U.S.C. 47524 and 47526, and the authority to collect the PFC is terminated under that statute's implementing regulations under this title.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34542, May 30, 2000]

§ 158.33 Duration of authority to impose a PFC before project implementation.

(a) A public agency shall not impose a PFC beyond the lesser of the following—

(1) 2 years after approval to use PFC revenue on an approved project if the project has not been implemented, or

(2) 5 years after the charge effective date if an approved project is not implemented.

(b) If, in the Administrator's judgment, the public agency has not made sufficient progress toward implementation of an approved project within the times specified in paragraph (a) of this section, the Administrator begins termination proceedings under subpart E of this part.

(c) The authority to impose a PFC following approval shall automatically expire without further action by the Administrator on the following dates:

(1) 3 years after the charge effective date unless—

(i) The public agency has filed an application for approval to use PFC revenue for an eligible project that is pending before the FAA;

(ii) An application to use PFC revenue has been approved; or

(iii) A request for extension (not to exceed 2 years) to submit an application for project approval, under § 158.35, has been granted; or

(2) 5 years after the charge effective date unless the public agency has obtained project approval.

(d) If the authority to impose a PFC expires under paragraph (c) of this section, the public agency must provide the FAA with a list of the air carriers and foreign air carriers operating at the airport and all other collecting carriers that have remitted PFC revenue

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to the public agency in the preceding 12 months. The FAA notifies each of the listed carriers to terminate PFC collection no later than 30 days after the date of notification by the FAA.

(e) Restriction on reauthorization to impose a PFC. Whenever the authority to impose a PFC has expired or been terminated under this section, the Administrator will not grant new approval to impose a PFC in advance of implementation of an approved project.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

§ 158.35 Extension of time to submit application to use PFC revenue.

(a) A public agency may request an extension of time to submit an application to use PFC revenue after approval of an application to impose PFC's. At least 30 days prior to submitting such request, the public agency shall publish notice of its intention to request an extension in a local newspaper of general circulation and shall request comments. The notice shall include progress on the project, a revised schedule for obtaining project approval and reasons for the delay in submitting the application.

(b) The request shall be submitted at least 120 days prior to the charge expiration date and, unless otherwise authorized by the Administrator, shall be accompanied by the following:

(1) A description of progress on the project application to date.

(2) A revised schedule for submitting the application.

(3) An explanation of the reasons for delay in submitting the application.

(4) A summary financial report depicting the total amount of PFC revenue collected plus interest, the projected amount to be collected during the period of the requested extension, and any public agency funds used on the project for which reimbursement may be sought.

(5) A summary of any further consultation with air carriers and foreign air carriers operating at the airport.

(6) A summary of comments received in response to the local notice.

(c) The Administrator reviews the request for extension and accompanying information, to determine whether—

(1) The public agency has shown good cause for the delay in applying for project approval;

(2) The revised schedule is satisfactory; and

(3) Further collection will not result in excessive accumulation of PFC revenue.

(d) The Administrator, upon determining that the agency has shown good cause for the delay and that other elements of the request are satisfactory, grants the request for extension to the public agency. The Administrator advises the public agency in writing not more than 90 days after receipt of the request. The duration of the extension shall be as specified in §158.33 of this part.

§ 158.37 Amendment of the FAA's decision with respect to an approved PFC.

(a)(1) A public agency may amend the FAA's decision with respect to an approved PFC to:

(i) Increase or decrease the level of PFC the public agency wants to collect from each passenger,

(ii) Increase or decrease the total approved PFC revenue,

(iii) Change the scope of an approved project,

(iv) Delete an approved project, or

(v) Establish a new class of carriers under §158.11 or amend any such class previously approved.

(2) A public agency may not amend the FAA's decision with respect to an approved PFC to add projects, change an approved project to a different facility type, or alter an approved project to accomplish a different purpose.

(b) The public agency must file a request to the Administrator to amend the FAA's decision with respect to an approved PFC. The request must include or demonstrate:

(1)(i) Further consultation with the air carriers and foreign air carriers and seek public comment in accordance with §§158.23 and 158.24 when applying for those requests to:

(A) Amend the approved PFC amount for a project by more than 25 percent of the original approved amount of the project,

(B) Change the scope of a project, or

(C) Increase the PFC level to be collected from each passenger.

(ii) No further consultation with air carriers and foreign air carriers or public comment is required by a public agency in accordance with §§158.23 and 158.24 when applying for an amendment in the following situations:

(A) To institute a decrease in the level of PFC to be collected from each passenger;

(B) To institute a decrease in the total PFC revenue;

(C) To institute an increase of 25 percent or less for any approved PFC project;

(D) To establish a new class of carriers under §158.11 or amend any such class previously approved; or

(E) To delete an approved project.

(2) A copy of any comments received from the processes in paragraph (b)(1)(A) of this section for the carrier consultation and the opportunity for public comment in accordance with §§158.23 and 158.24;

(3) The public agency's reasons for continuing despite any objections;

(4) A description of the proposed amendment;

(5) Justification, if the amendment involves a change in the PFC amount for a project by more than 25 percent of the original approved amount, a change of the approved project scope, or any increase in the approved PFC level to be collected from each passenger;

(6) A description of how each project meets the requirements of §158.17(b), for each project proposed for an increase of the PFC level above \$3.00 at a medium or large hub airport;

(7) A signed statement certifying that the public agency has met the requirements of §158.19, if applicable, for any amendment proposing to increase the PFC level above \$3.00 at a medium or large hub airport; and

(8) Any other information the Administrator may require.

(c) The Administrator will approve, partially approve or disapprove the amendment request and notify the public agency of the decision within 30 days of receipt of the request. If a PFC level of more than \$3.00 is approved, the Administrator must find the project meets the requirements of