

Federal Aviation Administration, DOT

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engine used at a commercial service airport to low-emission technology certified or verified by the Environmental Protection Agency to reduce emissions or to use cleaner burning conventional fuels; or

(ii) Acquiring for use at a commercial service airport vehicles eligible under §158.15(b)(1) and, subject to §158.13(c), ground support equipment that include low-emission technology or use cleaner burning fuels.

(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; Amdt. 158-4, 72 FR 28848, May 23, 2007]

§ 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]

§ 158.18 Use of PFC revenue to pay for debt service for non-eligible projects.

(a) The FAA may authorize a public agency to impose a PFC to make payments for debt service on indebtedness incurred to carry out at the airport a project that is not eligible if the FAA

determines it is necessary because of the financial need of the airport. The FAA defines financial need in §158.3.

(b) A public agency may request authority to impose a PFC and use PFC revenue under this section using the PFC application procedures in §158.25. The public agency must document its financial position and explain its financial recovery plan that uses all available resources.

(c) The FAA reviews the application using the procedures in §158.27. The FAA will issue its decision on the public agency's request under §158.29.

[Doc. No. FAA-2006-23730, 72 FR 28848, May 23, 2007]

§ 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.

(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

§ 158.20 Submission of required documents.

(a) Letters and reports required by this part may be transmitted to the appropriate recipient (the public agency, air carrier, and/or the FAA) via e-mail, courier, facsimile, or U.S. Postal Service.

(1) Documents sent electronically to the FAA must be prepared in a format readable by the FAA. Interested parties can obtain the format at their local FAA Airports Office.

(2) Any transmission to FAA Headquarters, using regular U.S. Postal Service, is subject to inspection that

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may result in delay and damage due to the security process.

(b) Once the database development is completed with air carrier capability, public agencies and air carriers may use the FAA's national PFC database to post their required quarterly reports, and, in that case, do not have to distribute the reports in any other way.

[Doc. No. FAA-2006-23730, 72 FR 28848, May 23, 2007]

§ 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;
- (3) For a request by a public agency that any class or classes of carriers not be required to collect the PFC—

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(i) The designation of each such class,

(ii) The names of the carriers belonging to each such class, to the extent the names are known,

(iii) The estimated number of passengers enplaned annually by each such class, and

(iv) The public agency's reasons for requesting that carriers in each such class not be required to collect the PFC; and

(4) Except as provided in §158.25(c)(2), the date and location of a meeting at which the public agency will present such projects to air carriers and foreign air carriers operating at the airport.

(b) *Meeting.* The meeting required by paragraph (a)(4) of this section shall be held no sooner than 30 days nor later than 45 days after issuance of the written notice required by paragraph (a) of this section. At or before the meeting, the public agency shall provide air carriers and foreign air carriers with—

- (1) A description of projects;
- (2) An explanation of the need for the projects; and
- (3) A detailed financial plan for the projects, including—
 - (i) The estimated allowable project costs allocated to major project elements;
 - (ii) The anticipated total amount of PFC revenue that will be used to finance the projects; and
 - (iii) The source and amount of other funds, if any, needed to finance the projects.

(c) *Requirements of air carriers and foreign air carriers.* (1) Within 30 days following issuance of the notice required by paragraph (a) of this section, each carrier must provide the public agency with a written acknowledgement that it received the notice.

(2) Within 30 days following the meeting, each carrier must provide the public agency with a written certification of its agreement or disagreement with the proposed project. A certification of disagreement shall contain the reasons for such disagreement. The absence of such reasons shall void a certification of disagreement.