

Finally, the FAA will review all comments filed during the air carrier consultation and public comment processes.

(e) *FAA acknowledgment of notices of intent.* Within 30 days of receipt of the public agency's notice of intent about its PFC program, the FAA will issue a written acknowledgment of the public agency's notice. The FAA's acknowledgment may concur with all proposed projects, may object to some or all proposed projects, or may object to the notice of intent in its entirety. The FAA's acknowledgment will include the reason(s) for any objection(s).

(f) Public agency actions following issuance of FAA acknowledgment letter. If the FAA does not object to either a project or the notice of intent in its entirety, the public agency may implement its PFC program. The public agency's implementation must follow the information specified in its notice of intent. If the FAA objects to a project, the public agency may not collect or use PFC revenue on that project. If the FAA objects to the notice of intent in its entirety, the public agency may not implement the PFC program proposed in that notice. When implementing a PFC under this section, except for § 158.25, a public agency must comply with all sections of part 158.

(g) *Acknowledgment not an order.* An FAA acknowledgment issued under this section is not considered an order issued by the Secretary for purposes of 49 U.S.C. 46110 (Judicial Review).

(h) *Sunset provision.* This section will expire May 9, 2008.

[Doc. No. FAA-2004-17999, 70 FR 14936, Mar. 23, 2005]

**§ 158.31 Duration of authority to impose a PFC after project implementation.**

A public agency that has begun implementing an approved project may impose a PFC until—

(a) The charge expiration date is reached;

(b) The total PFC revenue collected plus interest earned thereon equals the allowable cost of the approved project;

(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; Amdt. 158-4, 72 FR 28849, May 23, 2007]

**§ 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; or

(3) 5 years after the FAA's decision on the application (if the charge effective date is more than 60 days after the decision 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; or 3 years after the FAA's decision on the application if the charge effective date is more than 60 days after the decision 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; or 5 years after the FAA's decision on the application (if the charge effective date is more than 60 days