

Federal Aviation Administration, DOT

§ 158.25

carrier is considered to have certified its agreement.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158-2, 65 FR 34541, May 30, 2000; Amdt. 158-3, 70 FR 14934, Mar. 23, 2005]

§ 158.24 Notice and opportunity for public comment.

(a)(1) *Notice by public agency.* A public agency must provide written notice and an opportunity for public comment before:

(i) Filing an application with the FAA for authority to impose a PFC under § 158.25(b);

(ii) Filing an application with the FAA for authority to use PFC revenue under § 158.25(c);

(iii) Filing a notice of intent to impose and/or use a PFC under § 158.30; and

(iv) Filing a request to amend a previously approved PFC as discussed in § 158.37(b)(1).

(2) The notice must allow the public to file comments for at least 30 days, but no more than 45 days, after the date of publication of the notice or posting on the public agency's Web site, as applicable.

(b)(1) *Notice contents.* The notice required by § 158.24(a) must include:

(i) A description of the project(s) the public agency is considering for funding by PFC's;

(ii) A brief justification for each project the public agency is considering for funding by PFC's;

(iii) The PFC level for each project;

(iv) The estimated total PFC revenue the public agency will use for each project;

(v) The proposed charge effective date for the application or notice of intent;

(vi) The estimated charge expiration date for the application or notice of intent;

(vii) The estimated total PFC revenue the public agency will collect for the application or notice of intent; and

(viii) The name of and contact information for the person within the public agency to whom comments should be sent.

(2) The public agency must make available a more detailed project justification or the justification documents to the public upon request.

(c) *Distribution of notice.* The public agency must make the notice available to the public and interested agencies through one or more of the following methods:

(1) Publication in local newspapers of general circulation;

(2) Publication in other local media;

(3) Posting the notice on the public agency's Internet Web site; or

(4) Any other method acceptable to the Administrator.

[Doc. No. FAA-2004-17999, 70 FR 14934, Mar. 23, 2005]

§ 158.25 Applications.

(a) *General.* This section specifies the information the public agency must file when applying for authority to impose a PFC and for authority to use PFC revenue on a project. A public agency may apply for such authority at any commercial service airport it controls. The public agency must use the proposed PFC to finance airport-related projects at that airport or at any existing or proposed airport that the public agency controls. A public agency may apply for authority to impose a PFC before or concurrent with an application to use PFC revenue. If a public agency chooses to apply, it must do so by using FAA Form 5500-1, PFC Application (latest edition) and all applicable Attachments. The public agency must provide the information required under paragraphs (b) or (c), or both, of this section.

(b) *Application for authority to impose a PFC.* This paragraph sets forth the information to be submitted by all public agencies seeking authority to impose a PFC. A separate application shall be submitted for each airport at which a PFC is to be imposed. The application shall be signed by an authorized official of the public agency, and, unless otherwise authorized by the Administrator, must include the following:

(1) The name and address of the public agency.

(2) The name and telephone number of the official submitting the application on behalf of the public agency.

(3) The official name of the airport at which the PFC is to be imposed.

(4) The official name of the airport at which a project is proposed.

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(5) A copy of the airport capital plan or other documentation of planned improvements for each airport at which a PFC financed project is proposed.

(6) A description of each project proposed.

(7) The project justification, including the extent to which the project achieves one or more of the objectives set forth in §158.15(a) and (if a PFC level above \$3 is requested) the requirements of §158.17. In addition—

(i) For any project for terminal development, including gates and related areas, the public agency shall discuss any existing conditions that limit competition between and among air carriers and foreign air carriers at the airport, any initiatives it proposes to foster opportunities for enhanced competition between and among such carriers, and the expected results of such initiatives; or

(ii) For any terminal development project at a covered airport, the public agency shall submit a competition plan in accordance with §158.19.

(8) The charge to be imposed for each project.

(9) The proposed charge effective date.

(10) The estimated charge expiration date.

(11) Information on the consultation with air carriers and foreign air carriers having a significant business interest at the airport and the public comment process, including:

(i) A list of such carriers and those notified;

(ii) A list of carriers that acknowledged receipt of the notice provided under §158.23(a);

(iii) Lists of carriers that certified agreement and that certified disagreement with the project;

(iv) Information on which method under §158.24(b) the public agency used to meet the public notice requirement; and

(v) A summary of substantive comments by carriers contained in any certifications of disagreement with each project and disagreements with each project provided by the public, and the public agency's reasons for continuing despite such disagreements.

(12) If the public agency is also filing a request under §158.11—

(i) The request;

(ii) A copy of the information provided to the carriers under §158.23(a)(3);

(iii) A copy of the carriers' comments with respect to such information;

(iv) A list of any class or classes of carriers that would not be required to collect a PFC if the request is approved; and

(v) The public agency's reasons for submitting the request in the face of opposing comments.

(13) A copy of information regarding the financing of the project presented to the carriers and foreign air carriers under §158.23 of this part and as revised during the consultation.

(14) A copy of all comments received as a result of the carrier consultation and public comment processes.

(15) For an application not accompanied by a concurrent application for authority to use PFC revenue:

(i) A description of any alternative methods being considered by the public agency to accomplish the objectives of the project;

(ii) A description of alternative uses of the PFC revenue to ensure such revenue will be used only on eligible projects in the event the proposed project is not ultimately approved for use of PFC revenue;

(iii) A timetable with projected dates for completion of project formulation activities and submission of an application to use PFC revenue; and

(iv) A projected date of project implementation and completion.

(16) A signed statement certifying that the public agency will comply with the assurances set forth in Appendix A to this part.

(17) Such additional information as the Administrator may require.

(c) *Application for authority to use PFC revenue.* A public agency may use PFC revenue only for projects approved under this paragraph. This paragraph sets forth the information that a public agency shall submit, unless otherwise authorized by the Administrator, when applying for the authority to use PFC revenue to finance specific projects.

(1) An application submitted concurrently with an application for the authority to impose a PFC, must include:

(i) The information required under paragraphs (b)(1) through (15) of this section;

(ii) An FAA Form 5500-1, Attachment G, Airport Layout Plan, Airspace, and Environmental Findings (latest edition) providing the following information:

(A) For projects required to be shown on an ALP, the ALP depicting the project has been approved by the FAA and the date of such approval;

(B) All environmental reviews required by the National Environmental Policy Act (NEPA) of 1969 have been completed and a copy of the final FAA environmental determination with respect to the project has been approved, and the date of such approval, if such determination is required; and

(C) The final FAA airspace determination with respect to the project has been completed, and the date of such determination, if an airspace study is required.

(iii) The information required by §§ 158.25(b)(16) and 158.25(b)(17).

(2) An application where the authority to impose a PFC has been previously approved:

(i) Must not be filed until the public agency conducts further consultation with air carriers and foreign air carriers under § 158.23. However, the meeting required under § 158.23(a)(4) is optional if there are no changes to the projects after approval of the impose authority and further opportunity for public comment under § 158.24; and

(ii) Must include a summary of further air carrier consultation and the public agency's response to any disagreements submitted under the air carrier consultation and public comment processes conducted under paragraph (c)(2)(i) of this section;

(iii) Must include the following, updated and changed where appropriate:

(A) FAA Form 5500-1 without attachments except as required below;

(B) For any projects where there have been no changes since the FAA approved authority to impose a PFC for those projects, a list of projects included in this application for use authority. The FAA will consider the information on these projects, filed with the impose authority application, incorporated by reference; and

(C) For any project that has changed since receiving impose authority, the public agency must file an Attachment B for that project clearly describing the changes to the project.

(iv) An FAA Form 5500-1, Attachment G, Airport Layout Plan, Airspace, and Environmental Findings (latest edition) providing the following information:

(A) For projects required to be shown on an ALP, the ALP depicting the project has been approved by the FAA and the date of such approval;

(B) All environmental reviews required by the National Environmental Policy Act (NEPA) of 1969 have been completed and a copy of the final FAA environmental determination with respect to the project has been approved, and the date of such approval, if such determination is required; and

(C) The final FAA airspace determination with respect to the project has been completed, and the date of such determination, if an airspace study is required; and

(v) The information required by §§ 158.25(b)(16) and 158.25(b)(17).

[Doc. No. FAA-2004-17999, 70 FR 14935, Mar. 23, 2005]

§ 158.27 Review of applications.

(a) *General.* This section describes the process for review of all applications filed under § 158.25 of this part.

(b) *Determination of completeness.* Within 30 days after receipt of an application by the FAA Airports office, the Administrator determines whether the application substantially complies with the requirements of § 158.25.

(c) *Process for substantially complete application.* If the Administrator determines the application is substantially complete, the following procedures apply:

(1) The Administrator advises the public agency by letter that its application is substantially complete.

(2) The Administrator may opt to publish a notice in the FEDERAL REGISTER advising that the Administrator intends to rule on the application and inviting public comment, as set forth in paragraph (e) of this section. If the Administrator publishes a notice, the Administrator will provide a copy of the notice to the public agency.