

PFC Program Update

May 2005

PFC PROGRAM CHANGES EFFECTIVE MAY 2005

For the past decade and a half, passenger facility charges (PFCs) have become an integral part of funding airport capital projects. During that time, Congress and the Federal Aviation Administration (FAA) have periodically made changes to the PFC program.



Effective May 9, 2005, the FAA has put into place a number of changes that are part of a larger, ongoing effort to streamline the PFC program. The purpose of this PFC program update is to help airport operators effectively navigate through the changes.

Highlights include:

- **Consultation with limited number of air carriers**—Airport operators now only have to consult with air carriers that have a "significant business interest" at the airport before submitting an application to the FAA.
- **Less paperwork for use authority applications**—Applications for use authority (after receiving impose-only authority) are now included as a supplement to the original application instead of being a separate submittal, and are therefore shorter and simpler.
- **Change in public notice**—Airport operators are now required to facilitate public notice and comment before filing PFC applications. Posting in the Federal Register by the FAA for a 30-day period is now optional.
- **Shorter PFC collection notification period**—Airport operators now only need to give airlines 30 days' notice of a change in PFC levels, once all other prescribed steps are taken. (The previous requirement was 60 days' notice.)

- **Increased limits on approved project amounts**—Airport operators can unilaterally increase the amount of PFCs to be used for approved projects by up to 25%; before, the limit was 15% on a total application.
- **Nonhub pilot program**—*Vision 100* created a 3-year pilot program to streamline the PFC application process for nonhub airport operators.

The changes are expected to (1) reduce the paperwork required for airport operators, and (2) shift the responsibility for public notice and comment procedures related to PFC applications and amendments from the FAA to airport operators.



NEW PFC DATABASE

In the summer of 2004, the FAA initiated steps to implement the next component of its System of Airports Reporting (SOAR). The same contractor that implemented web-based access to FAA systems with regard to the AIP Program will provide web-based access to the PFC program.

The web-based system will be used as a national repository of quarterly PFC data. The system will give airport operators the option of preparing and filing quarterly reports, as is done currently, or entering the data directly into the FAA's new automated system.

The database will include all application, amendment, and collection data, including historical as well as current information. Milestones regarding project implementation will be identified and projected charge dates will be automatically calculated based on current rates of collection.

An airport operator will be able to review, update, and generate reports of its own data by using its unique user name and password. Access to information regarding other airports is also expected to be available on an aggregated basis, such as size of hub, regional, or national totals.

Access to the PFC program will be implemented in three phases:

- **Phase 1: FAA internal use**—Training has begun, with the system scheduled to "go live" by the end of May 2005.
- **Phase 2: Access for airport operators and other public agencies**—This phase is currently in development, with completion scheduled for the end of calendar year 2005.
- **Phase 3: Access to air carriers**—This phase is currently under design.

Ultimately, airport operators who choose to enter and update their quarterly data in the system will be relieved of the requirement to mail quarterly reports to air carriers.

PFC PROGRAM CHANGES FOR ALL AIRPORTS

On December 12, 2003, President Bush signed the *Vision 100-Century of Aviation Reauthorization Act (Vision 100)* into law. The act outlined mandated changes to the PFC program. The March 23, 2005 Final Rule, published in the Federal Register and summarized below, responds to the *Vision 100* mandate, and is the third amendment to 14 CFR Part 158, the Passenger Facility Program. The new ruling, effective May 9, 2005, is designed to streamline the PFC application process, and announces a pilot program for non-hub airports to test new PFC application and approval procedures. The new rule is effective for all new and existing PFC programs. Other minor administrative changes in addition to those listed below have been made to the PFC program, including changing the application format based on requirements in *Vision 100*.

The changes to the PFC Program affecting all airports, regardless of hub size, include:

Consultation with Air Carriers and Foreign Air Carriers (Section 158.23)

The prior regulation required airport operators to consult with all air carriers and foreign air carriers that operated at the airport during

the previous calendar year. *Vision 100* limits the pool of air carriers the PFC applicant must contact during the consultation process to carriers with a "significant business interest" at the airport. The FAA classifies a carrier with a "significant business interest" as an air carrier or foreign air carrier that (1) had at least 1.0 % or more of enplaned passengers or at least 25,000 enplaned passengers at the airport during the prior calendar year, or (2) currently provides scheduled service at the airport.

Notice and Opportunity for Public Comment (Section 158.24)

Public agencies must now publish a notice and provide an opportunity for the public to comment on the proposed PFC application or on those amendments requiring consultation. The information required for the public notice is similar to the information required for the written notice to air carriers, and must include:

- A project description
- A brief project justification
- Proposed PFC level
- Estimated PFC revenue to be used for each project
- Proposed charge effective date
- Estimated charge expiration date

- Estimated total PFC revenue to be collected under the application or amendment
- Name and contact information for the person to whom the public should submit comments

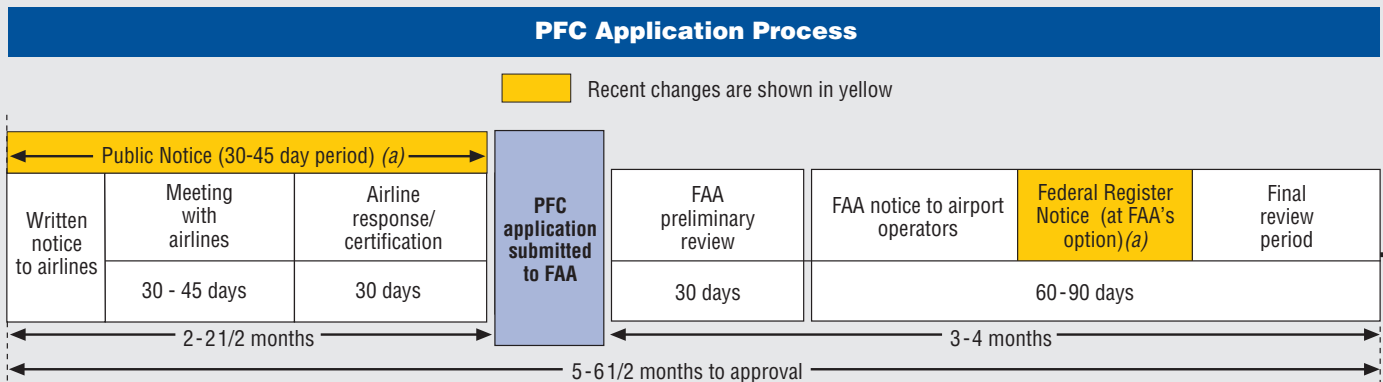
The public notice process can occur concurrently with the airline consultation process and should not increase the timeline for the PFC application process. The public notice may be distributed through local newspapers, other local media, the public agency's website, or any other method coordinated with the FAA.

FAA officials have stated that reasonable public notice should not require duplicate processes and would allow a public agency to use its master planning or environmental comment process as its PFC public comment period. To consolidate public notice processes, the public notice must contain the necessary PFC information and occur within 6 months of the submittal of the application.

Requirements for Terminal Projects (Section 158.25)

Vision 100 and the new FAA regulations still require operators of large- and medium-hub airports where one or two

ESTIMATED PFC PROJECT TIMELINES UNDER NEW RULING



(a) These changes were required by *Vision 100* and are specified in the Final Rule by the FAA on March 23, 2005.
 (b) The charge effective date any change in the approved PFC level is now the first day of a month that is at least 30 days (previously 60) after notification to the carriers (e.g., increase from \$3.00 to \$4.50). If an agency has been collecting PFCs and the PFC level will not change, this does not apply.
 (c) Unless a public agency has been granted an extension to submit a PFC application. Extensions may not exceed 2 years.
 (d) If either (1) the agency does not have previously approved PFC applications or (2) the charge expiration date of a previous PFC approval coincides with the charge effective date for current application, the application to use PFC revenue must be submitted within 3 years from PFC charge effective date and projects must be implemented within 5 years of PFC Charge Effective Date.

airlines enplane more than 50% of all passengers to submit competition plans. Even if not required to submit a competition plan, airport operators that want to use PFCs to fund terminal development are now required to discuss the following in their applications:

- Any existing conditions that limit air carrier competition at the airport
- Any initiatives they propose to foster opportunity for enhanced competition
- The expected results of those initiatives

**Review of Applications—
Federal Register Notice**
(Section 158.27)

Publication by the FAA of a PFC application in the Federal Register is now optional. The FAA will consider all available information, not just air carrier consultation or public comments, to determine whether it will publish a Federal Register notice. The Federal Register process takes approximately 30 days.

If the FAA determines that a Federal Register notice is not necessary, a final decision approving or disapproving the application could be issued as soon as 90 days after submittal.

Amendment of Approved PFC
(Section 158.37)

The new ruling includes three primary changes intended to streamline PFC amendment procedures and shorten the timeline for processing amendments:

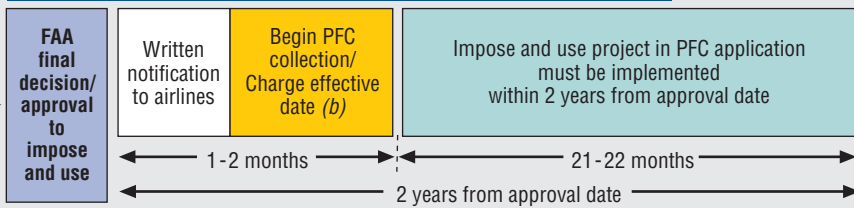
- Airport operators previously had to give airlines 60 days' notice before a change in the PFC level could be effective (e.g. from \$3.00 to \$4.50). Under the new ruling, only 30 days' notice to airlines is required.
- Under the prior regulation, amendments not requiring consultation could be done by notice to the FAA and carriers. Under the new regulation, an airport operator must file a request to amend the FAA's decision for all amendments. The FAA is required to approve or disapprove all amendment requests and will process all amendments within 30 days of receipt.
- The new ruling also changes the criteria for amendments requiring consultation with air carriers and a public notice process. Airport operators must now conduct airline consultation and public comment processes for any amendment at or above a 25% change to individual project cost(s). The previous rule of 15% was based on an application's total amount. The new 25% threshold has

been identified as a common contracting practice that allows up to a 25% increase in the total contract cost or the total cost of any major contract item.

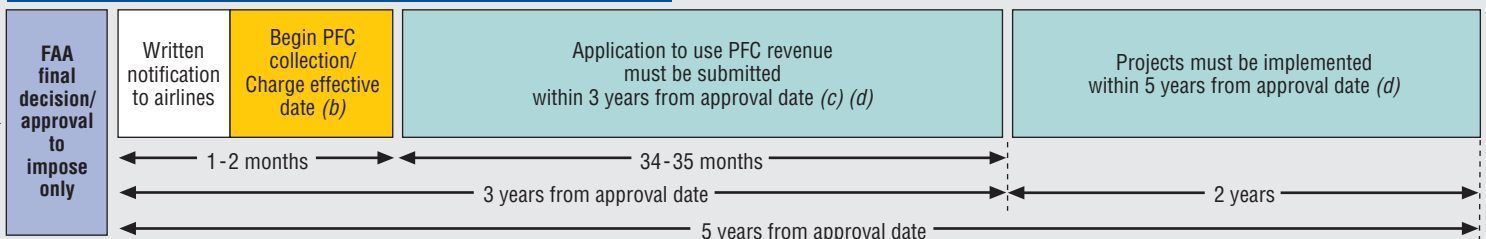
For example, if an airport operator wishes to amend the PFC approvals on a \$10 million project that was part of a \$100 million application to \$20 million for the project, then the airline consultation and public comment processes are required, since the increase in the individual project cost is 100%, more than the 25% threshold. Under the prior regulations, no consultation was required because the \$10 million increase would be only 10% of the \$100 million application, less than the prior 15% threshold.

Another example is where an airport operator wishes to amend the PFC approvals on a \$40 million project that was part of a \$55 million application to \$50 million. In this case, airline consultation and public comment processes are not required, since the increase in the individual project cost is 25%, i.e. not greater than the 25% threshold. Under the prior regulations, consultation was required because the \$10 million increase would be 18% of the \$55 million application, higher than the prior 15% threshold.

Impose and Use Project Implementation



Impose Only Project Implementation



PFC PILOT PROGRAM FOR NONHUB AIRPORTS

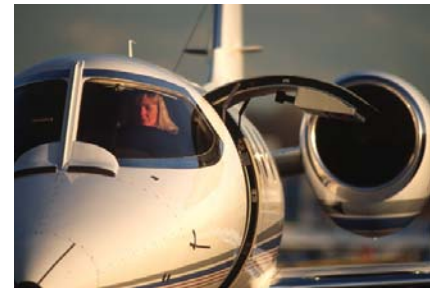
Vision 100 required the FAA to propose regulations establishing a pilot program to evaluate opportunities to streamline the PFC process. In response, the FAA has initiated a 3-year pilot program to test new application and approval procedures for the PFC program.

The streamlined PFC authorization process reduces the amount of information required, by allowing operators of nonhub airports to simply submit a notice of intent to the FAA, rather than a PFC application. A separate notice of intent must be submitted for each airport at which the operator intends to impose a PFC. Changes in the approval process allow nonhub airport operators to collect the PFC and use PFCs for projects

proposed when the FAA acknowledges receipt of the notice of intent, provided the FAA does not object to the PFC within 30 days after receipt of the notice. Within the 30 days, the FAA will issue an acknowledgement concurring with all, part, or none of the proposed projects or changes.

According to the FAA, operators of large-, medium-, or small-hub airports that also operate nonhub airports may not apply to use PFCs at the nonhub airport pursuant to the streamlined pilot program process.

The FAA reminds airport operators to follow all requirements of the PFC regulation (except for Section 158.25), and to continue to provide adequate notice to carriers to start PFC collections.



The FAA plans to monitor the implementation of the nonhub pilot program closely and to identify those provisions of the program that work well and could potentially be expanded to larger airports. The FAA will also identify those provisions that may need to be revised to better meet the intent of the statute.

JACOBS CONSULTANCY has assisted airport operators in developing and managing PFC programs, preparing PFC applications, structuring PFC-supported financings, and preparing FAA-required competition plans.

Jacobs Consultancy's 60 consultants have extensive practical experience in all of the disciplines necessary for the planning and management of airports, including financial analyses and planning, economics and air traffic forecasting, commercial and concession planning, airport management and operation, facilities planning and design, ground transportation and access, noise and other environmental analyses, operations research, and systems analysis. The consulting staff is supported by dedicated staff who provide computer-aided design, simulation modeling, video animation, editing, and administrative services.

Please contact Cindy Nichol, Sylvia Ambrogio, or Nora Richardson for additional information about PFC-related topics.

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Additional information:

FAA FINANCIAL ANALYSIS AND PASSENGER FACILITY CHARGE PROGRAM BRANCH
<http://www.faa.gov/arp/510home.cfm>

PFC regulations, forms, application, statistics on collections and approved projects, audit guides, advisory circulars, guidance on higher PFC levels, etc.

FAA AIRPORTS
<http://www.faa.gov/arp>

Information regarding financial assistance including AIP funding; Airport Capital Improvement, planning; design, engineering and construction; certification, etc.

AMERICAN ASSOCIATION OF AIRPORT EXECUTIVES
<http://aaae.org/>

Information on *Vision 100*, AIR-21, and other aviation-related legislation, reports, hearings, data, and press releases.

JACOBS CONSULTANCY
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Information on changes to the PFC program in connection with *Vision 100* and AIR-21, requirements, funding security with PFCs, different approaches to leveraging PFC revenues, FAA termination waivers, and the first lien sufficiency test.