§ 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.


§ 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 after the decision 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 car-
riers that have remitted PFC revenue
to the public agency in the preceding 12
months. The FAA notifies each of the
listed carriers to terminate PFC collect-
tion 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 Ad-
ministrator will not grant new ap-
proval 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; Amdt. 158–4, 72 FR
28849, May 23, 2007]

§ 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 applica-
tion 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 ex-
tension in a local newspaper of general
circulation and shall request com-
ments. 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 expi-
ration date and, unless otherwise au-
thorized 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 de-
picting the total amount of PFC rev-
e nue collected plus interest, the pro-
jected 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 con-
sultation 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 re-
quest 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 satisfac-
tory; and

(3) Further collection will not result
in excessive accumulation of PFC rev-
ene.

(d) The Administrator, upon deter-
mining that the agency has shown good
cause for the delay and that other ele-
ments of the request are satisfactory,
grants the request for extension to the
public agency. The Administrator ad-
vises 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 approved PFC.

(a)(1) A public agency may amend the
FAA’s decision with respect to an ap-
proved 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 ap-
proved 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 facil-
ity type, or alter an approved project
to accomplish a different purpose.

(b) The public agency must file a re-
quest to the Administrator to amend
the FAA’s decision with respect to an
approved PFC. The request must in-
clude 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