



U.S. Department
of Transportation
**Federal Aviation
Administration**

Memorandum

Subject: PFC Update, PFC 45-04

Date: April 27, 2004

From: Manager, Financial Analysis
and Passenger Facility Charge Branch

Reply to
Attn. of:

To: All Regional Airports Division Managers
and AMA-620
Attention: PFC Contacts

PFC 04-45.1. Status of Vision 100 rulemaking efforts.

There are numerous changes to the PFC program in the Vision 100 – Century of Aviation Reauthorization Act (Pub. L. 108-176, December 12, 2003). Although some of the provisions noted below can be instituted without rulemaking, all of the provisions, including those discussed in this update letter will eventually be incorporated into Part 158 through rulemakings. The Vision 100 provisions are being split into two separate rulemaking actions to assure the statutory deadlines for the non-hub pilot program is met.

The first notice of proposed rulemaking will cover the non-hub pilot program, the change to the air carrier consultation rules, the new public comment period, and the change to the Federal Register requirements. In addition, we are modifying the use application and amendment rules as a part of this first rulemaking. Vision 100 requires the FAA to issue a proposed rule on the non-hub pilot program within 180 days of enactment of the Vision 100 statute and we are working hard to meet that goal. Other provisions are included in the first NPRM to assure consistency of FAA procedures with the objective of the pilot program.

The second rulemaking will include the remaining Vision 100 provisions, including debt service, low emission vehicles, and air carrier financial management, as well as other non-statutory changes to Part 158. The team that was formed to work on the Vision 100 rulemaking has already drafted several of the regulatory changes and we plan to start the formal rulemaking process in the near future, once the first NPRM is published.

Questions and comments regarding the rulemaking process should be directed to Sheryl Scarborough at (202) 267-8825. Other Airports members of the rulemaking team are Joe Hebert, Jim Castleberry, and Bob Huber.

PFC-04-45.2. Use of PFC Revenue for Debt Service.

Section 122 of Vision 100 includes a provision that allows PFC revenue to be used for making payments for debt service on debt incurred to carry out a project that is not an eligible airport-related project when the FAA has been determined that such use is necessary due to the financial need of the airport. On April 19th, the FAA published a notice in the Federal Register providing information on how this provision will be implemented administratively. A copy of this notice is attached. Please provide a copy of this Federal Register notice to any public agency that expresses an interest in this provision.

In accordance with the Federal Register notice, the FAA will be making its decision on each application after examining the particular financial situation of the individual public agency submitting the PFC application. Therefore, decisions on applications that include requests submitted under §122 of Vision 100 will be setting the FAA's policy with regard to this provision and must be issued by APP-510 and signed by ARP-1 after full review by AGC-600.

Any field office receiving an application or draft application with a §122 request should forward a copy of that application or draft application immediately to the appropriate analyst in APP-510 so that any additional information needed can be identified early, before an application is found substantially complete. By Court Order, the FAA cannot ask for information which would have a bearing on its PFC decision after it has found an application substantially complete and published a Federal Register notice on that application. Any comments or questions regarding this guidance should be directed to Joe Hebert at (202) 267-8902 or Sheryl Scarborough at (202) 267-8825.

PFC 04-45.3. Applicability of PFC's to Military Charters.

Section 123(c) of Vision 100 includes a clarification on the applicability of PFC's to military charters. Specifically, this provision prohibits the collection of PFC's on passengers where the enplanement was due to charter arrangements and payment by the Department of Defense. This prohibition went into effect on December 12, 2003, when Vision 100 was signed into law. Section 158.9 will be modified in a future rulemaking to reflect this statutory change. Any questions regarding this provision should be directed to Sheryl Scarborough at (202) 267-8825.

PFC 04-45.4. Low Emission Vehicles.

Section 121 of Vision 100 makes certain types of low emission vehicles eligible for PFC funding. However, §121(d) specifically requires that the FAA/DOT and Environmental Protection Agency (EPA) issue joint guidance for determining project eligibility and how benefits to air quality must be demonstrated before any request for PFC funding under this section can be approved. The earliest we expect this guidance is September 2004. Please advise any public agencies seeking to fund low emission vehicles with PFC's that we cannot accept any applications with these types of projects until the FAA/EPA guidance is issued. If an application with one of these projects is submitted before the guidance is issued, the public agency should be encouraged to withdraw the project. APP-510 does not recommend holding the application or deferring a decision on such an application because we do not know what type of information the FAA/EPA guidance may require to be submitted in order to gain project approval. By Court Order, the FAA cannot ask for information which would have a bearing on its PFC decision after it has found an application substantially complete and published a Federal Register notice on that application. Any questions regarding this provision should be directed to Sheryl Scarborough at (202) 267-8825.

PFC 04-45.5. Methods of transmittal of PFC documents and reports.

There have been many inquiries as to whether consultation notices, certifications of agreement or disagreement, quarterly reports, and other PFC documents could be sent electronically. Based on a review of Part 158, APP-510 found no regulatory language to preclude electronic submission of PFC documents and is providing the language below that can be given to public agencies and other interested parties. APP-510 also notes that quarterly report functions are being designed for the PFC database system currently under development that will allow interested public agencies to meet their quarterly report obligation through entries into this new system (input of air carrier quarterly reports is planned for a future system upgrade if air carriers indicate an interest in this service).

Letters and reports required by Part 158, such as requests to extend the duration of collection, quarterly reports, consultation notices and air carrier certifications of agreement or disagreement, may be transmitted to the appropriate recipient (i.e. the public agency, air carrier, and/or FAA) via Email, courier, U.S. Mail, or hand-carried. (Please note that any transmission to FAA Headquarters using regular U.S. Mail services is not advised. Regular U.S. Mail sent to FAA Headquarters is subject to inspection and decontamination treatment for hazardous materials. This treatment results in lengthy delays in delivery of the mail and has also resulted in severe damage to the transmittal.)

The FAA prefers Email. Proposals sent electronically must be prepared in Microsoft's Word, PowerPoint, or Excel software and, if the file size is large, must

be compressed using WinZip. Please note that the FAA is currently using Windows 2000 and Office Professional 2000.

If you have any questions on this guidance, please contact Sheryl Scarborough at (202) 267-8825.

PFC 04-45.6. Change in Carrier Compensation Rate.

Just a reminder - the compensation rate paid to air carriers for collecting, handling, and remitting PFC's changes on May 1, 2004 from the current \$0.08 per PFC remitted to \$0.11 per PFC collected. A copy of the final rule, which was published in the Federal Register on March 18, 2004, was previously sent electronically to each region. Any questions regarding this rulemaking should be directed to Joe Hebert at (202) 267-8902.

Original signed by

JoAnn Horne

Attachments