



Federal Aviation Administration

Memorandum

Date: March 11, 2010

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

From: Manager, Financial Analysis and Passenger Facility Charge Branch, APP-510

Subject: PFC Update, PFC 62-10



PFC 10-62.1. Passenger Facility Charge Delegation of Authority. Recently, APP-500 has become involved in situations where the application of PFC policy and guidance on delegation of authority has been misunderstood. This update clarifies the circumstances in which PFC decisions are not delegated to Regional Offices.

On October 28, 1996, the Associate Administrator for Airports delegated to FAA Regional Airports Division Managers on a limited basis the authority to sign approvals and disapprovals of certain PFC applications submitted under Part 158. This delegation is outlined in Paragraph 1-17 of FAA Order 5500.1

Additionally, paragraph 5-6 outlines the process for determining the delegation status of a PFC application including the submittal of an application summary to APP-510 (cited as APP-530 below). This process also notes the types of applications that are retained for Headquarters processing and not delegated to Regional Offices.

Paragraph 5-6(b) of Order 5500.1 provides that applications retained by Headquarters are those which involve:

- (1) Significant policy precedent, meaning that the decision could establish or change the FAA's policy on a project or issue;
- (2) Significant legal issues, as determined by either the Assistant Chief Counsel or FAA Airports office, particularly if the issues can be expected to result in litigation;
- (3) Significant controversy, as evidenced by opposition expressed in the public agency's consultation with air carriers. Adverse comments received in response to the Federal Register notice constitute significant controversy, unless the category of controversy is specifically exempted in writing by FAA Headquarters. In addition, factors such as significant AIP discretionary funding requirements, environmental controversy,

and/or congressional interest shall be considered in determining whether coordination with APP-530 is required for any given PFC application.

(4) Multi-modal or intermodal projects;

(5) Significant airport noise, access issues, including compliance with 49 U.S.C. 47521 et seq., (formerly known as ANCA) and 49 U.S.C. 47111(e) (Action on Grant Assurances Concerning Airport Revenue);

(6) Termination protection language; and/or

(7) Case-by-case eligibility determinations as per the latest edition of the AIP Handbook and PGL's.

It should be noted that the FAA no longer routinely issues Federal Register notices for PFC applications. Since a Federal Register notice is typically not issued, FAA Airports Offices need to pay close attention to the air carrier and public comments included in the public agency's application as well as the public agency's resolution of these comments. This will serve as the primary indicator of potential controversy for the application.

There are two additions to the items noted above that have altered or expanded the list of applications reserved for Headquarters processing. The additions include blended PFC decisions and PFC applications requesting funding for debt service for ineligible projects.

Blended PFC decisions (also noted in Order 5500.1 as "commingled authority" in paragraph 10-21) involve a complicated process and multiple unique analyses and determinations. Paragraph 10-21 outlines considerations needed in the issuance of a blended PFC Final Agency Decision. These reviews are unique and require complex analyses. In consideration of the limited national experience in issuing blended FADs, this authority is retained at Headquarters.

Additionally, PFC decisions for debt service for ineligible projects (made eligible for PFC funding in Vision 100 legislation and in a May 23, 2007 change to 14 CFR Part 158) are not delegated. This is due to the specialized financial review required by the FAA to determine whether such an application meets the needs requirement of the legislation and regulation.

It is expected that FAA Airports Offices will exercise careful judgment in determining the delegation status of a PFC application. Any questions about the delegation status should be directed to APP-510 for assistance and resolution. Additionally, please contact APP-510 early in the review process when (within 10 days after reviewing the application), it is determined that the final agency decision on the application should be made in Headquarters.