



# Federal Aviation Administration

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## Memorandum

Date: **MAY 09 2019**

To: Regional Airports Directors, 610 Managers, and ADO Managers

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Programming, APP-1

Subject: INFORMATION: PFC Update, PFC 72-19

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### **PFC 72-19. Changes to the Passenger Facility Charge (PFC) Levels Above \$3.**

The FAA Reauthorization Act of 2018 (H.R. 302, Pub. L. 115-254) (Reauthorization) was signed on October 5, 2018. This law amends 49 U.S.C. §40117 (b)(4), among other provisions<sup>1</sup>, by removing the Airport Improvement Program (AIP) funds reasonability determination and the significant contribution requirement. In light of this legislation, FAA personnel should no longer apply these requirements in reviewing PFC applications.

Chapter 10 of the FAA's PFC Order (FAA Order 5500.1) provides guidance to FAA personnel in administering the PFC program. Among other things, Chapter 10 includes guidance on the FAA's review and approval of PFC applications for AIP funds reasonability, significant contribution, and PFC collection at a level above \$3. However, because Reauthorization changes the considerations involved in determining the PFC collection level above \$3, some language contained in Chapter 10 is no longer applicable. Specific program changes are discussed below.<sup>2</sup>

### **AIP Funds Reasonability**

Reauthorization removed the AIP funding reasonability determination for projects approved for collection at a level above \$3. Previously, a PFC project could not be approved at a higher collection level if the FAA determined that AIP funding was

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<sup>1</sup> This PFC Update does not yet address expansion of the streamlining program. That will be the subject of subsequent communications.

<sup>2</sup> Attachment B will be updated to reflect these changes when renewed pursuant to the Paperwork Reduction Act and with due consideration of expansion of the streamlining provision. In the interim, public agencies should be advised to insert the following (or similar) language when completing Attachment B, "Due to statutory change, this section is no longer required."

reasonably available for the project. The FAA no longer uses this determination of AIP funding to set the collection level for which the project is approved.

### **Significant Contribution for Large and Medium Hub Airports**

Reauthorization eliminated the significant contribution determination. Previously, a PFC project at a large or medium hub airport could not be approved at a collection level higher than \$3 unless FAA determined the project made a significant contribution to:

- improving air safety and security;
- increasing air carrier competition;
- reducing congestion; or
- reducing the impact of aviation noise on nearby residences.

The FAA will no longer use significant contribution to determine the collection level for which a project is approved. Accordingly, the FAA no longer requires public agencies to submit information related to significant contribution. For any PFC applications submitted prior to publication of this PFC Update, if the agency included such information, the FAA will no longer review it due to the statutory change.

### **Retain Airside Needs Requirement**

Reauthorization retains the airside needs requirement under 49 U.S.C. 40117(d)(4), which provides that in the case of an eligible surface transportation or terminal project, a PFC project cannot be approved at a collection level higher than \$3 unless the FAA determines that the public agency has made adequate provision for financing the airside needs of the airport. For reference, please see paragraph 10-8 of the FAA Order 5500.1.

### **PFC Collection Level Amendments**

Prior to Reauthorization, public agencies could collect PFCs at the \$4 or \$4.50 level for the entire authorized collection period for an application even though some projects may have qualified at the lower \$3 level.

For those PFC applications currently approved at a collection level of \$4 or \$4.50 based on significant contribution, that PFC level will remain in effect. The public agency will not need to take further action to continue collecting at that level. However, any public agency desiring to raise the PFC collection level above the currently approved level must request an amendment, and consult with the air carriers and the public on the proposed change in collection level in accordance with 14 CFR 158.37. As a reminder, consultation to amend PFC projects is limited to the scope of the amendment requested by the public agency.

Please contact APP-510, at (202) 267-3831, for further information.