

Regional Guidance Letter

Airports Division, FAA Southern Region

Number: RGL 00-2 (For Public Distribution)
Line of Business: Passenger Facility Charge
Date: June 2, 2000
Subject: Informal Resolution - Extensions to Project Implementation Dates

Purpose

The purpose of this RGL is to define our policy on extensions to project implementation dates under the Passenger Facility Charge (PFC) Program.

Background

Part 158 clearly establishes that a project approved for PFC use must be commenced within two years of Federal Aviation Administration (FAA) approval. Moreover, Part 158 makes no provisions for the FAA to make administrative extensions to this implementation date. Instead, if the Administrator determines that significant progress toward implementation has not been made in the two year time frame, the FAA is to begin termination proceedings under Subpart E of Part 158. Subpart E requires that the FAA first pursue informal resolution with the public agency. Formal termination proceedings would begin only if the Administrator determines that informal resolution has not been successful.

Termination is disruptive to public agency and air carrier planning, and can undermine the confidence of the financial community in the reliability of PFC funds as a source of funding for debt instruments. Accordingly, the FAA has relied heavily on informal resolution, and, in some cases, has continued in informal resolution for excessive periods of time, even after the failure of a public agency to meet one or more implementation schedules agreed to in the informal resolution process.

The bond community is now satisfied that the FAA will not abruptly terminate PFC collections. Therefore, we will take action to follow the regulation and no longer continue in informal resolution indefinitely.

Cancellation

None

Policy

Failure by an airport owner to implement the project within two years of FAA approval requires that the FAA initiate informal resolution procedures. As an acceptable remedy for informal resolution for an airport operator that fails to issue a Notice To Proceed (NTP) for a project within two years of FAA approval, the FAA may accept a revised implementation date only **one**-time and under the following terms:

- The airport owner provides sufficient justification why a revised implementation date is necessary.
- A firm schedule including milestones is established for meeting the revised date.
- The airport owner agrees to withdraw the project should it fail to meet the revised implementation schedule/and agreed upon milestones.
- The revised date is no further than nine months (and at the extreme limit one year) in the future. This time frame represents a maximum period during which formal termination proceedings, if initiated, could normally be completed. Project implementation during this time period would normally be satisfactory to end such proceedings.

If it does not appear that the airport operator will be able to meet the revised schedule and milestones with a reasonable effort, the program manager should not approve the revised implementation date and should proceed with termination.

If the airport owner does not meet any of its proposed milestones for implementing the project, we should proceed with terminating its collection and use authority for the project. The airport operator should be given the opportunity to withdraw the project in lieu of termination. Only in extreme and unusual circumstances would we consider more than a one-time revision to the implementation date. A revised implementation schedule for more than one year or a second informal resolution establishing revised dates can only be approved by the Division Manager in coordination with the Director of Airport Planning and Programming.

ADO Program Managers are to make the airport owner aware that it will not be given an opportunity for a second informal resolution. The airport owner should be able to achieve the milestones without an extraordinary effort. If this does not appear possible, the airport operator should be asked to voluntarily withdraw the project or the ADO program manager should terminate their collection and use authority.

Implementation Date

This policy is effective immediately. Airport owners that have implemented a PFC should be notified of this policy, particularly at locations that we have agreed to a one-time revision to the implementation date.

Point of Contact

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Last Reviewed: June 26, 2008