of a State; an authority created by Federal, State or local law; a tax-supported organization; an Indian tribe or pueblo that controls a commercial service airport; or for the purposes of this part, a private sponsor of an airport approved to participate in the Pilot Program on Private Ownership of Airports.

Round trip means a trip on a complete air travel itinerary which terminates at the origin point.

Significant business interest means an air carrier or foreign air carrier that:

(1) Had no less than 1.0 percent of passenger boardings at that airport in the prior calendar year,

(2) Had at least 25,000 passenger boardings at the airport in that prior calendar year, or

(3) Provides scheduled service at that airport.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

Unliquidated PFC revenue means revenue received by a public agency from collecting carriers but not yet used on approved projects.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158–2, 65 FR 34540, May 30, 2000; Amdt. 158–3, 70 FR 14934, Mar. 23, 2005]

§ 158.5 Authority to impose PFC's.

Subject to the provisions of this part, the Administrator may grant authority to a public agency that controls a commercial service airport to impose a PFC of $1, $2, $3, $4, or $4.50 on passengers enplaned at such an airport. No public agency may impose a PFC under this part unless authorized by the Administrator. No State or political subdivision or agency thereof that is not a public agency may impose a PFC covered by this part.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158–2, 65 FR 34541, May 30, 2000]

§ 158.7 Exclusivity of authority.

(a) A State, political subdivision of a State, or authority of a State or political subdivision that is not the eligible public agency may not tax, regulate, prohibit, or otherwise attempt to control in any manner the imposition or collection of a PFC or the use of PFC revenue.

(b) No contract or agreement between an air carrier or foreign air carrier and a public agency may impair the authority of such public agency to impose a PFC or use the PFC revenue in accordance with this part.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158–2, 65 FR 34541, May 30, 2000]

§ 158.9 Limitations.

(a) No public agency may impose a PFC on any passenger—

(1) For more than 2 boardings on a one-way trip or in each direction of a round trip;

(2) On any flight to an eligible point on an air carrier that receives essential air service compensation on that route. The Administrator makes available a list of carriers and eligible routes determined by the Department of Transportation for which PFC's may not be imposed under this section;

(3) Who is a nonrevenue passenger or obtained the ticket for air transportation with a frequent flier award coupon;

(4) On flights, including flight segments, between 2 or more points in Hawaii; or

(5) In Alaska aboard an aircraft having a certificated seating capacity of less than 60 passengers.

(b) No public agency may require a foreign airline that does not serve a point or points in the U.S. to collect a PFC from a passenger.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158–2, 65 FR 34541, May 30, 2000]

§ 158.11 Public agency request not to require collection of PFC's by a class of air carriers or foreign air carriers or for service to isolated communities.

(a) Subject to the requirements of this part, a public agency may request that collection of PFC's not be required for—

(1) Passengers enplaned by any class of air carrier or foreign air carrier if the number of passengers enplaned by the carriers in the class constitutes not

more than one percent of the total number of passengers enplaned annually at the airport at which the fee is imposed; or

(2) Passengers enplaned on a flight to an airport—

(i) That has fewer than 2,500 passenger boardings each year and receives scheduled passenger service; or

(ii) In a community that has a population of less than 10,000 and is not connected by a land highway or vehicular way to the land-connected National Highway System within a State.

(b) The public agency may request this exclusion authority under paragraph (a)(1) or (a)(2) of this section or both.

[Doc. No. FAA–2000–7402, 65 FR 34541, May 30, 2000]

§ 158.13 Use of PFC revenue.

PFC revenue, including any interest earned after such revenue has been remitted to a public agency, may be used only to finance the allowable costs of approved projects at any airport the public agency controls.

(a) *Total cost.* PFC revenue may be used to pay all or part of the allowable cost of an approved project.

(b) *Bond-associated debt service and financing costs.* (1) PFC revenue may be used to pay debt service and financing costs incurred on that portion of a bond issued to carry out approved projects.

(2) If bond documents require that PFC revenue be commingled in the general revenue stream of the airport controlled by the public agency and pledged generally for the benefit of holders of obligations issued thereunder, PFC revenue is deemed to have been used to pay the costs covered in § 158.13 (b)(1) if—

(i) An amount equal to that portion of the proceeds of the bond issued to carry out approved projects is used to pay allowable costs of such projects; and

(ii) To the extent that the amount of PFC revenue collected in any year exceeds the amount of debt service and financing costs on such bonds during that year, an amount equal to the excess is applied as required by § 158.39.

(c) *Combination of PFC revenue and Federal grant funds.* A public agency may use a combination of PFC revenue and airport grant funds to accomplish an approved project. Such projects shall be subject to the recordkeeping and auditing requirements set forth in subpart D of this part, in addition to the reporting, recordkeeping and auditing requirements imposed pursuant to the Airport and Airway Improvement Act of 1982 (AAIA).

(d) *Non-Federal share.* PFC revenue may be used to meet the non-Federal share of the cost of projects funded under the Federal airport grant program.

(e) *Approval of project following approval to impose a PFC.* The public agency shall not use PFC revenue or interest earned thereon except on an approved project.

§ 158.15 Project eligibility at PFC levels of $1, $2, or $3.

(a) To be eligible, a project must—

(1) Preserve or enhance safety, security, or capacity of the national air transportation system;

(2) Reduce noise or mitigate noise impacts resulting from an airport; or

(3) Furnish opportunities for enhanced competition between or among air carriers.

(b) Eligible projects are any of the following projects—

(1) Airport development eligible under subchapter I of chapter 471 of 49 U.S.C.;

(2) Airport planning eligible under subchapter I of chapter 471 of 49 U.S.C.;

(3) Terminal development as described in 49 U.S.C. 47110(d);

(4) Airport noise compatibility planning as described in 49 U.S.C. 47505;

(5) Noise compatibility measures eligible for Federal assistance under 49 U.S.C. 47504, without regard to whether the measures have been approved pursuant to 49 U.S.C. 47504; or

(6) Construction of gates and related areas at which passengers are enplaned or deplaned and other areas directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport. These areas do not include restaurants, car rental facilities, automobile parking facilities, or other concessions. In the case of a project required to enable additional air service by an air carrier