

Poulin v. Bowen, 817 F.2d 865 (D.C. Cir. 1987), relied on by Ms. Harper, is not in point. In *Poulin* the ALJ reopened a prior claim and considered it on the merits. The Appeals Council also considered the claim on the merits. The court of appeals simply held that where the Secretary does not rely on the *res judicata* defense in agency proceedings, he cannot raise it initially upon judicial review.

Ms. Harper also contends that one of the forms she received from the agency was misleading about her right to future appeals of the denial of benefits. The brief she filed in this court refers to a letter she addressed to the Appeals Council on this issue, but the letter is not a part of the administrative record. Because the record does not indicate that the issue was raised at the administrative level, we are not in a position to consider the issue. See *Hix v. Director, Office of Workers' Comp. Programs*, 824 F.2d 526 (6th Cir. 1987).

For the reasons stated, we find no error in the decision of the district court. The order in which that court dismissed Ms. Harper's lawsuit is therefore AFFIRMED.

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DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements filed during the Week Ended June 2, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50375.

Date filed: May 30, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC2 Telex Mail Vote 742, Fares Within Africa, r-1-071ww, r-2-079c.

Proposed Effective Date: June 15, 1995.

Docket Number: 50376.

Date filed: May 30, 1995.

Parties: Members of the International Air Transport Association.

Subject: CSC/Reso 064 dated April 25, 1995, Finally Adopted Resolutions—17, 1995 CSC, CSC/Minutes/021 dated April 17, 1995, r-1-003, r-2-600, r-3-600a, r-4-600d, r-5-600e, r-6-606, r-7-607, r-8-660, r-9-662, r-10-666, r-11-670, r-12-671, r-13-683, r-14-685, r-15-686, r-16-1600b, r-17-1600b(II), r-18-1600f, r-19-1600r, r-20-1601, r-21-1605, r-

22-1608, r-23-1610, r-24-1640, r-25-1673.

Proposed Effective Date: October 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

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and mail within and between various points in the United States.

Paulette V. Twine,

Chief Documentary Services Division.

[FR Doc. 95-14762 Filed 6-15-95; 8:45 am]

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Federal Aviation Administration

Notice of Intent To Rule on Application to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at San Jose International Airport, San Jose, CA.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use revenue from a PFC at San Jose International under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) and 14 CFR part 158.

DATES: Comments must be received on or before July 17, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Lawndale, CA. 90261 or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010-1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph Tonseth, Director of Aviation, at the following address: City of San Jose, San Jose International Airport, 1661 Airport Boulevard, San Jose, California 95110-1285. Air Carriers and foreign air carriers may submit copies of written comments previously provided to the City of San Jose under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA. 94010-1303, Telephone: (415) 876-2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus budget

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50377.

Date filed: May 31, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 28, 1995

Description: Application of Shuttle America Airlines, Inc. pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, requests authority to engage in interstate scheduled air transportation of passengers, property, and mail: Between a place in (i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory or possession of the United States; (ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii; (iii) the District of Columbia and another place in the District of Columbia; and (iv) a territory or possession of the United States and another place in the same territory or possession.

Docket Number: 50379.

Date filed: June 1, 1995.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 29, 1995.

Description: Application of Custom Air Transport, Inc., pursuant to 49 U.S.C. Section 41102, and Subpart Q of the Regulations, requests issuance of a Certificate of Public Convenience and Necessity to provide Scheduled Interstate Air Transportation of property