individual. The affected public is comprised of individuals who were previously sent an SSA–623.

Number of Respondents: 422,533.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 211,267 hours.

4. Supplemental Statement Regarding Farming Activities of Person Living Outside the U.S.A.—0960–0103. The information on form SSA–7163A is used by the Social Security Administration to make a determination as to whether foreign work deductions are applicable when an SSA claimant reports work on a farm outside the United States. The respondents are SSA claimants who report work on farms outside of the United States.

Number of Respondents: 1,000.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 1,000 hours.

5. Letter to Employer Requesting Information About Wages Earned by Beneficiary—0960–0034. The information on form SSA–L725 is used by the Social Security Administration to establish the exact amount of wages earned by a beneficiary and to determine the amount of benefit payments, if any. The respondents are employers of the beneficiaries.

Number of Respondents: 150,000.

Frequency of Response: 1.

Average Burden Per Response: 30–50 minutes.

Estimated Annual Burden: 100,000 hours.

6. Request for Address Information from Motor Vehicle Records; Request for Address Information from Employment Commissions—0960–0341. The information on forms SSA–L711 and SSA–L712 is used by the Social Security Administration to determine the current address for missing debtors. The affected public is comprised of State agencies who have entered in agreements with SSA to provide the requested information.

Number of Respondents: 3,200.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 106 hours.

7. Payment Cycling Impact Survey—0960–NEW. The information is used by the Social Security Administration to assess whether the issuance of regularly scheduled title II monthly payments significantly increases the workload in the field offices and teleservice centers during the early part of each month. The information is needed to determine whether payment cycling would be an effective tool in managing the title II workload. The respondents are the general public contacting field offices and the teleservice centers.

Number of Respondents: 26,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 2,167 hours.

8. Social Security Request for Information—0960–0531. The information on form SSA–6231 is used by the Social Security Administration to complete or clarify data previously provided by representative payees on forms SSA–623 or SSA–6230. The respondents will be payees who furnished incomplete or unclear information.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 25,000 hours.

OMB Desk Officer: Laura Oliven.

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, D.C. 20503.

Dated: June 9, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 95–14674 Filed 6–15–95; 8:45 am]

BILLING CODE 4190–29–P

[Social Security Ruling SSR 95–2c]

Disability—Authority of Appeals Council to Dismiss a Request for Hearing for a Reason for Which the Administrative Law Judge Could Have Dismissed the Request—Res Judicata

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 95–2c. This Ruling is based on the decision of the U.S. Court of Appeals for the Sixth Circuit in *Harper* v. *Secretary of Health and Human Services,* which upheld the authority of the Appeals Council to dismiss a request for hearing for a reason the Administrative Law Judge (ALJ) could have dismissed it, even though the ALJ held a hearing and issued a decision on the merits.

This Ruling reconfirms the Appeals Council's authority to dismiss a request for hearing on the basis of administrative *res judicata.*

EFFECTIVE DATE: June 16, 1995.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security— Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.005, Special Benefits for Disabled Coal Miners; 96.006, Supplemental Security Income.)

Dated: June 6, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Sections 205(b) and 221(d) of the Social Security Act (42 U.S.C. 405(b) and 421(d)) Disability—Authority of Appeals Council to dismiss a request for hearing for a reason for which the administrative law judge could have dismissed the request—*res judicata.*

20 CFR 404.957(c)(1)

Harper v. *Secretary of Health and Human Services,* 978 F.2d 260 (6th Cir. 1992)

The claimant, who stopped working in January 1981, filed applications for

disability insurance benefits in 1981, 1982, and 1986. The Social Security Administration (SSA) denied all of these applications. In May 1987, she filed a fourth application. SSA denied this application initially and upon reconsideration, and the claimant did not request further administrative review. In June 1988, the claimant filed a fifth application which was denied initially and upon reconsideration. The claimant requested and received a hearing before an Administrative Law Judge (ALJ). The ALJ issued a decision denying her application, finding that she was not disabled through December 31, 1986, the date on which her insured status expired. The claimant filed a request for Appeals Council review. The Appeals Council granted the request, vacated the ALJ's decision, and dismissed the request for hearing on the basis of administrative *res judicata.*

The Appeals Council concluded that under the doctrine of administrative *res judicata,* 20 CFR 404.957(c)(1), the determination denying the claimant's fourth application was dispositive of her subsequent claim.

The claimant then filed a civil action. The district court remanded the case to the Secretary to determine whether the determination on the claimant's fourth application should have been reopened pursuant to 20 CFR 404.988(a). The Appeals Council found no basis for reopening that determination, and again determined that the request for hearing on the fifth application should be dismissed on the basis of *res judicata.* The case was returned to the district court which upheld the action of the Appeals Council. The claimant then appealed to the United States Court of Appeals for the Sixth Circuit. In her appeal, the claimant maintained that the ALJ's decision to hold a hearing and issue a decision on the merits was not subject to review by the Appeals Council. She further argued that even if the ALJ erred in holding the hearing, the Appeals Council could not dismiss the request for hearing on the basis of *res judicata* after the ALJ heard the case on the merits.

The Court of Appeals stated that the ALJ's action in holding a hearing and issuing a decision appeared to be erroneous and that it knew of no reason why it was not within the province of the Appeals Council to correct the error. The court *held* that the Appeals Council has authority to vacate an ALJ's decision and dismiss the request for hearing on *res judicata* grounds even though the ALJ held a hearing and issued a decision on the merits.

Per Curium

This is a social security case in which the appellant filed a series of claims asserting that she had become disabled before her insured status expired. The main question before us is whether, after an administrative law judge has conducted an evidentiary hearing despite the existence of an earlier final decision denying the same claim, the Appeals Council can deny the hearing request retroactively, thereby foreclosing judicial review. The district court answered this question in the affirmative and dismissed the claimant's case. We agree with the district court's decision, and we shall affirm the dismissal.

I

The claimant, Edith Harper, held a job for a ten-year period ending in January of 1981. She has not worked since that time, and her insured status expired on December 31, 1986.

Ms. Harper filed applications for disability insurance benefits on April 7, 1981, February 8, 1982, April 22, 1986, May 19, 1987, and June 23, 1988. The first, third, and fourth applications were denied initially and upon reconsideration. The second was denied initially, and no appeal was taken from its denial. Ms. Harper did not request a hearing before an administrative law judge with respect to any of the first four applications.

After the denial upon reconsideration of her fifth claim, Ms. Harper sought and was granted a hearing before an administrative law judge. The ALJ denied the fifth claim on its merits, finding that Ms. Harper had not been disabled as of the last date on which she was insured. Ms. Harper sought review by the Appeals Council, which granted review in a letter dated March 12, 1990. In the same letter, the council alerted Ms. Harper to the possibility that her claim would be disposed of on administrative *res judicata* grounds.

On May 25, 1990, the Appeals Council vacated the decision of the ALJ and retroactively denied the request pursuant to which the ALJ had conducted the hearing. The council took the position that under the doctrine of administrative *res judicata,* the denial of Ms. Harper's fourth claim was dispositive of any subsequent claim.

Following initiation of the present suit for judicial review, the district court remanded the matter to the Appeals Council for a determination as to whether Ms. Harper's fourth application for benefits should have been reopened under 20 C.F.R. § 404.988(a). The council declined to reopen the fourth claim, finding that Ms. Harper had presented no new evidence as to her condition before December 31, 1986. The council again determined that the fifth claim was barred by the doctrine of *res judicata.* In a well reasoned opinion filed by the district court (Graham, J.) on November 18, 1991, the court then dismissed Ms. Harper's lawsuit. This appeal followed.

The first question we must address is whether the federal courts have jurisdiction. The pertinent statute, 42 U.S.C. § 405(g), provides, in relevant part, as follows:

''Any individual, after any final decision of the Secretary *made after a hearing to which he was a party,* irrespective of the amount in controversy, may obtain a review of such a decision by a civil action commenced within sixty days. * * *'' (Emphasis supplied.)

The Appeals Council determined that the final decision of the Secretary was the denial upon reconsideration of the fourth claim in 1987. The final decision of the Secretary thus appears to have been made *before* any evidentiary hearing took place, which would normally preclude judicial review. A refusal to reopen a prior application is not a final decision and may not be reviewed by the courts. *Califano* v. *Sanders,* 430 U.S. 99, 107–09, 97 S.Ct. 980, 51 L.Ed.2d 192 (1977); *Blacha* v. *Secretary of Health and Human Services,* 927 F.2d 228 (6th Cir.1990).

Ms. Harper claimed before the district court, and she claims here, that she was deprived of property without due process of law in violation of her rights under the Fifth Amendment of the United States Constitution. As *Califano* noted, where a constitutional claim is made in conjunction with a social security benefits case, jurisdiction may attach outside the scope of 42 U.S.C. 405(g) and despite the foreclosure, in 42 U.S.C. 405(h), of general federal question jurisdiction over social security appeals. (The latter section provides that ''[n]o action against the United States, the Secretary, or any officer or employee thereof shall be brought under section 1331 or 1346 of Title 28 to recover on any claim arising under this subchapter.'') The district court thus had jurisdiction to entertain Ms. Harper's constitutional claim, regardless of whether jurisdiction existed under 42 U.S.C. 405(g).

II

Ms. Harper contends, as we have said, that the action of the Appeals Council in vacating the ALJ's decision to grant a hearing on the merits and disposing of the case on *res judicata* grounds constituted a denial of due process. As a preliminary matter we note a potential stumbling block not addressed in the parties' briefs.

Under the language of the Fifth Amendment, due process protections

attach only to ''life, liberty, or property.'' Ms. Harper could not prevail on her constitutional claim, therefore, without showing that she was deprived of ''property'' without due process of law. The existence of a property interest here is far from self-evident.

''The definition of property since the 1972 [Supreme Court] decision in *Board of Regents* v. *Roth* has centered on the concept of 'entitlement.' The Court will recognize interests in government benefits as constitutional 'property' if the person can be deemed to be 'entitled' to them. Thus, the applicable federal, state or local law which governs the dispensation of the benefit must define the interest in such a way that the individual should continue to receive it under the terms of the law. This concept also seems to include a requirement that the person already has received the benefit or at least had a previously recognized claim of entitlement.'' 2 Rotunda & Nowak, Treatise on Constitutional Law § 17.5(a) at 628 (1992).

The right to due process applies to the termination of government benefits already being received, *Goldberg* v. *Kelly*, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970), but Ms. Harper has never received disability benefits. Two of our sister courts of appeals have extended *Goldberg* to applicants for government benefits that have not yet been awarded. See *Daniels* v. *Woodbury County, Iowa*, 742 F.2d 1128 (8th Cir.1984) (finding applicants for general assistance on the county level had a right to due process), and *Griffeth* v. *Detrich*, 603 F.2d 118 (9th Cir.1979), *cert. denied sub nom. Peer* v. *Griffeth*, 445 U.S. 970, 100 S.Ct. 1348, 64 L.Ed.2d 247 (1980) (finding applicants for benefits under state general assistance program had a ''legitimate expectation of entitlement'' because of mandatory language in state statute).

The Supreme Court has recognized a right to due process on the part of parole applicants who can point to a statute saying that prisoners ''shall'' be released under certain conditions, *Greenholtz* v. *Nebraska Penal Inmates*, 442 U.S. 1, 99 S.Ct. 2100, 60 L.Ed.2d 668 (1979), but the Court has not determined whether applicants for monetary benefits have a similar right. See *Lyng* v. *Payne*, 476 U.S. 926, 942, 106 S.Ct. 2333, 2343, 90 L.Ed.2d 921 (1986) (''We have never held that applicants for benefits, as distinct from those already receiving them, have a legitimate claim of entitlement protected by the Due Process Clause of the Fifth or Fourteenth Amendment''). See also *Peer* v. *Griffeth*, 445 U.S. 970, 100 S.Ct. 1348, 64 L.Ed.2d 247 (1980) (Rehnquist, J., dissenting from denial of certiorari) (''Particularly when the only [California] appellate court to consider the question has concluded that there is no protected property interest under state law, this extension of *Goldberg* v. *Kelly* * * * should receive plenary consideration by this Court''). The Rotunda and Nowak treatise comments that ''[a]lthough the Court has not resolved this issue, under the 'entitlement' principle it would appear that a person has no property interest in a benefit unless he has previously been granted it by the government.'' 2 Rotunda & Nowak, *supra* § 17.5, at 629.

This court was presented with an opportunity to adopt *Griffeth's* ''mandatory language'' rationale in *Baker* v. *Cincinnati Metropolitan Housing Authority*, 675 F.2d 836 (6th Cir.1982). There the plaintiffs sought changes in procedures followed by a housing authority in determining eligibility for a new Housing and Urban Development program. The district court relied partially on Griffeth in determining that persons who could show they met the criteria for the program were entitled to due process protection. *Baker* v. *Cincinnati Metropolitan Housing Authority*, 490 F.Supp. 520, 532 (S.D. Ohio 1980). We decided on appeal that the procedures satisfied due process, but we did not specifically address the question whether due process was constitutionally required.

In the case at bar we find it unnecessary to decide whether Ms. Harper had a ''property'' interest of which she could not be deprived without due process. Whether or not there was a property interest, Ms. Harper received all the process that would have been due under any hypothesis.

The regulations promulgated by the Secretary make it clear that an unappealed denial upon reconsideration is a final decision. 20 C.F.R. § 404.921 provides as follows:

''The reconsidered determination is binding unless—

(a) You or any other party to the reconsideration requests a hearing before an administrative law judge within the stated time period and a decision is made;

(b) The expedited appeals process is used; or

(c) The reconsidered determination is revised.''

Because the denial of Ms. Harper's fourth claim upon reconsideration was not appealed or revised, and because the denial was not followed by a timely request for a hearing before an ALJ, the denial was a final decision of the Secretary that was, according to the regulation, ''binding.'' The ALJ who heard Ms. Harper's fifth claim was aware of this problem, yet he offered no explanation of his failure to give the reconsidered denial of the fourth claim the binding effect prescribed by the regulation. The ALJ's decision to treat the earlier determination as non-binding appears to have been erroneous, and we know of no reason why it was not within the province of the Appeals Council to correct the error.

In *Mullen* v. *Bowen*, 800 F.2d 535 (6th Cir.1986) (*en banc*), this court noted that the Appeals Council may review *any* determination by an ALJ that it chooses to review, whether or not there has been an application for such review.[1] See *id.* at 545, 554 (Nelson, J., concurring). The Appeals Council is empowered to consider all aspects of a decision, even if the claimant seeks review of a portion only—and the council need not give notice to the claimant of its intent to review the entire decision. *Gronda* v. *Secretary of Health & Human Services*, 856 F.2d 36, 38–39 (6th Cir.1988), cert. denied, 489 U.S. 1052, 109 S.Ct. 1312, 103 L.Ed.2d 581 (1989).[2]

Notwithstanding *Mullen*, Ms. Harper maintains that the ALJ's decision to grant a hearing was not subject to review by the Appeals Council. Even if the grant of a hearing was improvident, she suggests, the council could not set the grant aside and invoke the doctrine of *res judicata* after the ALJ had heard the claim on the merits. In cases that are almost exactly parallel to this one, however, the Courts of Appeals for the Fifth and Seventh Circuits have held that the council can reopen a decision by an ALJ to grant a hearing, and—even if a hearing has actually been held—can dismiss on *res judicata* grounds. *Ellis* v. *Schweiker*, 662 F.2d 419 (5th Cir.1981); *Johnson* v. *Sullivan*, 936 F.2d 974 (7th Cir.1991). See also *Taylor* v. *Heckler*, 765 F.2d 872, 874–77 (9th Cir.1985) (upon second application, ALJ reopened first application and found claimant disabled; Appeals Council vacated ALJ's decision and dismissed on *res judicata* grounds). We agree with these decisions, and we adopt their reasoning.

[1] Since *Mullen* was decided, the Seventh Circuit, sitting *en banc*, has reversed an earlier panel decision and come down on *Mullen's* side. See *Bauzo* v. *Bowen*, 803 F.2d 917, 921 (7th Cir.1986) (*en banc*), overruling *Scott* v. *Heckler*, 768 F.2d 172 (7th Cir.1985). Seven circuits now adhere to *Mullen's* view; only the Third Circuit remains on the other side. See *Mullen*, 800 F.2d at 539 n. 4 (citing cases, including *Powell* v. *Heckler*, 783 F.2d 396 (3rd Cir.1986)).

[2] *Gronda* forecloses any argument that the council should not have been able to bar Ms. Harper's claim on *res judicata* grounds because she had no notice that *res judicata* might be used against her. The point is moot, however, in light of the council's letter of March 12, 1990, warning Ms. Harper of its intention to dismiss her claim on the basis of *res judicata* and inviting her arguments against such action.

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.

[FR Doc. 95–14775 Filed 6–15–95; 8:45 am]

BILLING CODE 4190–29–P

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.
[FR Doc. 95–14763 Filed 6–15–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended June 2, 1995

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 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]

BILLING CODE 4910–62–P

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