DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 20, 2000

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: OST–2000–8155.

Date Filed: October 19, 2000.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 9, 2000.

Description: Application of Britannia Airways AB (''Applicant'') pursuant to 49 U.S.C. Sections 41301 *et seq.* and Subpart Q, applies for a foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons and their accompanying baggage, and property: (1) Between a point or point in Sweden, Denmark and Norway and a point or points in the United States; (2) between a point or points in the United States and any point or points in a third country provided that such service constitutes point of a continuous operation that includes service to Sweden, Denmark and/or Norway for the purpose of carrying local traffic between Sweden, Denmark and Norway and the United States; and also authorizing Applicant to engage in other charter trips in foreign air transportation subject to the terms, conditions, and limitations of the Department's regulations governing charters.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 00–29235 Filed 11–14–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 3, 2000

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: OST–2000–8212.

Date Filed: October 30, 2000.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 20, 2000.

Description: Application of Venture Travel, LLC d/b/a Taquan Air (Venture) and Taquan Air Service, Inc. (TAS, Inc.), applies for a disclaimer of jurisdiction and transfer of the certificate of public convenience and necessity currently held by TAS, Inc.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 00–29238 Filed 11–14–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 6, 2000

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: OST–2000–8059.

Date Filed: October 4, 2000.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 25, 2000.

Description: Application of Mountain Bird Inc. d/b/a Salmon Air pursuant to 49 U.S.C. Section 41738 and Subpart Q, requests authority to operate scheduled passenger service as a commuter air carrier.

Docket Number: OST–2000–8074.

Date Filed: October 5, 2000.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 26, 2000.

Description: Application of Euroatlantic Airways-Transportes Aereos, S.A. (''Euroatlantic'') pursuant to 49 U.S.C. Section 41301 and Subpart Q, requests a foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons, property and mail between points in Portugal and points in the United States and between points in the United States and points in third countries.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 00–29239 Filed 11–14–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

[Docket OST–2000–7800]

RIN: 2105–AC94

Interim Statement of Policy on Alternative Dispute Resolution

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of interim statement of policy; request for comments.

SUMMARY: The Department of Transportation publishes this Interim Statement of Policy to further its commitment to using alternative dispute resolution (ADR) to advance our mission by preventing, minimizing escalation of, and resolving disputes among our employees and with external parties, at the earliest stage possible, in a cost-effective manner. This notice is intended to provide information about ADR, introduce new ADR initiatives, and promote the use of ADR. We request comments on our interim policy statement, on how to incorporate ADR into our processes, and how to encourage its use in appropriate circumstances.

DATES: Comments must be received by January 16, 2001.

ADDRESSES: Submit written comments to the Dockets Management System,

U.S. Department of Transportation, PL 401, 400 Seventh Street, SW., Washington, DC 20590–0001. Comments should refer to Docket Number OST–2000–7800 and be submitted in two copies. If you wish to receive confirmation of receipt of your written comments, include a self-addressed, stamped postcard. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' to obtain instructions for filing the comment electronically. In every case, the comment should refer to the Docket number. The Dockets Management System is located on the Plaza level of the Nassif Building at the Department of Transportation at the above address. You can review public dockets there between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. You can also review comments on-line at the DOT Dockets Management System web site at ''http://dms.dot.gov/.''

FOR FURTHER INFORMATION CONTACT: Judith S. Kaleta, Senior Counsel for Dispute Resolution and Dispute Resolution Specialist, 202–493–0992.

SUPPLEMENTARY INFORMATION:

Interim Statement of Policy on Alternative Dispute Resolution (ADR)

ADR is a collaborative, consensual dispute resolution approach. It describes a variety of problem-solving processes that are used in lieu of litigation or other adversarial proceedings to resolve disagreements. ADR encompasses mediation, facilitation, conciliation, factfinding, mini-trials, negotiation, negotiated rulemaking, neutral evaluation, policy dialogues, use of ombuds, arbitration, and other processes that usually involve a neutral third party who assists the parties in preventing, minimizing the escalation of, and resolving disputes. The efficient and effective use of ADR will help us resolve disputes at an early stage, in an expeditious, cost-effective, and mutually acceptable manner.

The Department of Transportation is committed to using ADR to advance our mission. We will consider using ADR in all areas including workplace issues, formal and informal adjudication, issuance of regulations, enforcement and compliance, issuing and revoking licenses and permits, contract and grant award and administration, litigation brought by or against the Department, and other interactions with the public and the regulated community.

We will provide learning and development opportunities for our employees so that they will be able to use conflict resolution skills, understand the theory and practice of ADR, and apply ADR appropriately.

We will use a variety of evaluation and assessment strategies to measure and improve our processes and our use of ADR.

We will allocate resources to support the use of ADR.

We will provide confidentiality consistent with the provisions of the Administrative Dispute Resolution Act and other applicable Federal laws.

The Department will attempt to incorporate ADR in its dispute resolution, or as appropriate, rulemaking processes. In addition, either on our own initiative or in response to a request, the Department will examine the appropriateness of using ADR on a case-by-case basis. The decision-making on when to use ADR should reflect sound judgment that ADR offers the best opportunity to resolve the dispute. In appropriate disputes, the Department will use ADR in a good-faith effort to achieve consensual resolution. However, if necessary, we will litigate or participate in some other process to resolve a dispute.

We will work together to further ADR use across the Department. However, decision-making on incorporating ADR into dispute resolution processes, using ADR to resolve a particular dispute, and allocating resources rests with the Department's operating administrations, secretarial offices, or Office of the Inspector General.

All employees and persons who interact with the Department are encouraged to identify opportunities for collaborative, consensual approaches to dispute resolution or rulemaking.

Background

The Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571–583, authorizes and encourages Federal agencies to use consensual means of dispute resolution as alternatives to traditional dispute resolution processes. The Act defines alternative means of dispute resolution as ''any procedure that is used to resolve issues in controversy * * *'' It defines ''issue in controversy'' as ''an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement * * *'' The Act requires that each Federal agency adopt a policy that addresses the use of ADR and appoint a Dispute Resolution Specialist. Congress enacted the Administrative Dispute Resolution Act to reduce the time, cost, inefficiencies, and contentiousness that too often are associated with litigation and other adversarial dispute resolution mechanisms.

The Negotiated Rulemaking Act of 1996, 5 U.S.C. 561–570, establishes a framework for use of negotiated rulemaking. Congress enacted the Negotiated Rulemaking Act to increase the acceptability and improve the substance of rules, making it less likely that the affected parties will challenge the rules or resist enforcement.

On May 1, 1998, President Clinton issued a memorandum for heads of executive departments and agencies encouraging the use of ADR and negotiated rulemaking. In his memorandum, the President stated that each Federal agency must take steps to promote greater use of mediation, facilitation, arbitration, early neutral evaluation, ombuds, negotiated rulemaking, and other dispute resolution techniques.

For purposes of this ADR initiative, ''the Department'' or ''we'' refers to the Office of the Secretary, the operating administrations (the United States Coast Guard, the Federal Aviation Administration, the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the Federal Railroad Administration, the National Highway Traffic Safety Administration, the Federal Transit Administration, the Maritime Administration, the Saint Lawrence Seaway Development Corporation, the Research and Special Programs Administration, the Bureau of Transportation Statistics, and the Transportation Administrative Services Center (TASC)), and the Office of Inspector General. The Department's ADR initiative is a ONEDOT effort, where we are working better together to create and communicate our ADR goals. As we strive to meet our national transportation goals, we recognize the need to collaborate and form partnerships, internally and externally.

Experience at the Department of Transportation and other Federal agencies shows that ADR can achieve mutually acceptable solutions more effectively than traditional, non-collaborative processes.

Promoting ADR

The Department has taken several affirmative steps to promote the use of ADR.

Dispute Resolution Specialist

As required by the Administrative Dispute Resolution Act, the Secretary appointed a Dispute Resolution Specialist. The Dispute Resolution Specialist is authorized to: (1) Implement the Administrative Dispute

Resolution Act of 1996 and coordinate with the Assistant General Counsel for Regulation and Enforcement with regard to ADR policy as it relates to rulemaking under the Negotiated Rulemaking Act of 1996; (2) develop dispute resolution policy and procedures; (3) monitor and evaluate dispute resolution program execution and results; (4) identify barriers to the use of ADR and work for their removal; (5) require reports from Departmental organizations and report to the Secretary annually on the Department's ADR efforts; (6) determine appropriate training to educate employees and external parties about ADR and conflict management options and processes; (7) provide advice and assistance in obtaining neutrals; and (8) represent the Department on ADR matters.

Notwithstanding this focal point for ADR activity, decision-making on whether to incorporate ADR into dispute resolution processes or to use ADR to resolve a particular dispute rests with the Department's operating administrations, secretarial offices, and the Office of Inspector General. Furthermore, the participation in a particular ADR process is by mutual consent of the parties.

Dispute Resolution Council

The Secretary established a Dispute Resolution Council as part of the Department's ONEDOT management strategy to work better together and to further use of ADR across the Department. The Council, chaired by the Department's Dispute Resolution Specialist, is comprised of representatives appointed by heads of modal administrations and secretarial officers and the Inspector General, who serve as Deputy Dispute Resolution Specialists to promote and coordinate the use of ADR within their organizations and coordinate with their Regulation or Liaison Officer with regard to ADR policy as it relates to rulemaking under the Negotiated Rulemaking Act of 1996. The Dispute Resolution Council worked together to develop the Department's interim policy statement. The Dispute Resolution Council supports the Dispute Resolution Specialist and works together to (1) facilitate the sharing of ADR information; (2) examine how the Department is currently using ADR, in headquarters and the regions, and make recommendations for improvements; (3) explore the use of ADR techniques in connection with a variety of areas; and (4) assist in identifying future ADR uses and coordinating the development of ADR programs.

Web Site

The Dispute Resolution Council has established a web site to provide information about the Department's use of ADR. The site provides links to a variety of other ADR sites, including the Interagency ADR Working Group, the Federal Procurement ADR Electronic Guide, and the Office of Personnel Management ADR Resource Guide. The site will be regularly updated to provide information about our ADR efforts. The web address is www.dot.gov/adr.

Training

The Department is committed to educating its personnel about the potential benefits and appropriate use of ADR, as well as to obtain ADR guidance and assistance. The Department has provided training about ADR, effective communication, and conflict management. Employees who serve as neutrals to resolve disputes using ADR techniques have received core training and will receive additional training annually. The Department intends to work in partnership with other Federal agencies, through the Interagency ADR Working Group, and in other ways to meet our training needs.

Evaluation

The Department will use a variety of evaluation and assessment strategies to provide valid and reliable information for measuring and improving performance. Depending on the ADR program, we may look at the number of attempts to use ADR , the number of resolutions, customer satisfaction with the process, the neutral, and/or the resolutions, or estimated cost- and/or time-savings.

Resources

As noted in Appendix II, the Department is using ADR for a variety of activities and has provided resources to support ADR use. However, lack of resources is often identified as a barrier to ADR use. To avoid this potential barrier, the Department will continue to allocate resources to support ADR initiatives. This may include collateral duty or detail assignments, permanent ADR positions, contract dollars, or other funding alternatives. Decision-making on allocating resources rests with the Department's operating administrations and secretarial offices.

Confidentiality

In some instances, many of the benefits of ADR can be realized only through confidential proceedings. Confidentiality ensures that the parties may speak freely with a neutral who will not disclose their confidences to other parties or to the outside world. Without that assurance, the parties may be unwilling to freely discuss their interests and possible settlements with the neutral. Confidentiality also allows the parties to raise sensitive issues and discuss creative ideas and solutions that they would be unwilling to discuss publicly.

Although negotiated rulemaking is a process conducted under the Federal Advisory Committee Act at public meetings that have been announced in the **Federal Register**, confidentiality may also be a consideration for the participants. For example, a convenor who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate may agree not to disclose the identity of a party who raises a particular concern about an agency. Information shared in caucuses may also be confidential.

The Administrative Dispute Resolution Act generally provides that communications (including a neutral's notes and documents prepared for the proceedings) between a neutral and the parties must be kept confidential by the neutral and the parties, unless certain specific exceptions exist. A court may require disclosure of such information if it is necessary to prevent a manifest injustice, help establish a violation of law, or prevent harm to the public health or safety. The injustice, violation, or harm must be of a sufficient magnitude in the particular case to outweigh the integrity of the dispute resolution proceedings. In addition, other Federal laws may impact the confidentiality of information in specific cases.

ADR Considerations

A decision to use ADR may be made before or after a dispute arises. Several factors should be considered in making that decision. Some factors may favor the use of ADR while others may weigh against it. Although not intended as an exhaustive list of factors, the Department has determined that ADR may be helpful in resolving a particular dispute where one or more of the following factors is present:

1. *Identifiable Parties.* There is an identifiable group of constituents with interests (the parties) so that all reasonably foreseeable interests can be represented.

2. *Good Faith.* The parties are willing to participate in good faith.

3. *Communication.* The parties are interested in seeking agreement, but poor communication or personality conflicts between the parties adversely affect negotiations.

4. *Continuing Relationship.* A continuing relationship between the parties is important and desirable.

5. *Issues.* There are issues that are agreed to be ripe for a negotiated solution.

6. *Unrealistic View of the Issues.* The parties' demands or views of the issues are unrealistic. A discussion of the situation with a neutral may increase the parties' understanding and result in more realistic alternatives and options.

7. *Sufficient Areas of Compromise.* There are sufficient areas of compromise to make ADR worthwhile.

8. *Expectation of Agreement.* The parties expect to agree eventually, most likely before reaching the court room or engaging in other adversarial processes.

9. *Timing.* There is sufficient time to negotiate and ADR will not unreasonably delay the outcome of the matter in dispute. There is a likelihood that the parties will be able to reach agreement within a fixed time. There are no statutory or judicial deadlines that are adversely affected by the process. ADR may result in an earlier resolution of the dispute.

10. *Resources.* The parties have adequate resources (budget and people) and are willing to commit them to the process.

While many of these factors may apply to agency rulemaking, there may be some variation in the consideration. For example, with regard to ''Expectation of Agreement,'' the consideration may be that all affected interests recognize that there is a problem that must be solved and that Federal regulation is the appropriate response. Furthermore, under the Negotiated Rulemaking Act, the head of the agency would determine whether negotiated rulemaking is in the public interest and would consider several factors concerning the parties, the timing, the costs, and the issues. *See* 5 U.S.C. 561.

There are also factors that suggest that ADR should not be used. The Administrative Dispute Resolution Act of 1996 provides factors that suggest that ADR is inappropriate or may not be productive in a particular dispute resolution proceeding. *See* 5 U.S.C. 572.

Relationship to Other Dispute Resolution Procedures

This interim policy statement replaces DOT Order 2101.1. It does not supersede collective bargaining agreements or other statutory, regulatory, or contractual dispute resolution procedures, or military disciplinary processes. ADR is intended to supplement, not replace, existing procedures.

No Creation of Rights

The choice of when and how to use ADR is within the discretion of the Department's operating administrations and secretarial offices. This interim statement of policy does not create any right to judicial review involving the compliance or noncompliance with the statement. In addition, the statement does not obligate the Department to offer funds to settle any case, to accept a particular settlement or resolution of a dispute, or to alter any existing delegation of settlement or litigation authority.

Request for Public Comment

The Department invites comment on the interim policy statement. In addition, the Department welcomes input on areas of agency activity that would benefit from a dispute resolution process that incorporates ADR techniques including workplace issues, formal and informal adjudication, issuance of regulations, enforcement and compliance, issuing and revoking licenses and permits, contract and grant award and administration, litigation brought by or against the Department, and other interactions with the public and the regulated community. Appendix II includes examples of ADR initiatives currently in use and under consideration.

Issued in Washington, DC on October 23, 2000.

Rodney E. Slater,

Secretary of Transportation.

Appendix I—Glossary of ADR Terms

The following terms are commonly associated with ADR. They are provided for your convenience and have been adapted from the Administrative Dispute Resolution Act and other sources.

Arbitration: Arbitration is a process in which a neutral decision-maker oversees the exchange of information, presides over a mini-hearing, and decides the matter. Arbitration may be binding or non-binding.

Conciliation: Conciliation is a process in which a neutral independently communicates with the parties either to improve relations, resolve a dispute, or pave the way for some other ADR process, such as mediation. Conciliation is intended to help establish trust and openness between parties to a dispute.

Convening: Convening is a process used to identify issues, interests, and parties to a dispute or potential dispute. The goal of convening is to assess the potential for use of other ADR processes to resolve a problem and to recommend a process or combination of processes.

Early Neutral Evaluation: Early neutral evaluation is a process in which the parties provide the highlights of their positions to an expert neutral fact-finder who evaluates the merits. The neutral provides a non-binding, objective evaluation of the strength of each party's position. This assists in future negotiations between the parties.

Facilitation: Facilitation is a process in which a neutral works with all parties in group sessions, helping the group to effectively move through the problem-solving steps of the meeting to reach the agreed upon goal.

Mediation: Mediation is a process in which a neutral, a mediator, assists open discussion between parties in dispute and helps them come to a mutually agreeable solution. A mediator has no authority to impose a decision on the parties.

Mini-trial: A mini-trial is a process in which a neutral presides over the presentation of highlights of the parties' cases by the parties' attorneys to the parties' principals and may include witness testimony. The neutral engages the parties in litigation risk analysis and facilitates settlement discussions.

Negotiated rulemaking: Negotiated rulemaking is a process in which representatives of those interests that would be affected by a rule convene to consider and discuss issues for the purpose of reaching consensus in the development of a rule.

Negotiation: Negotiation is a bargaining relationship between two or more parties. The parties join in a temporary relationship to educate each other about their needs and interests and then exchange specific resources or promises that will resolve one or more issues. Almost all of the ADR procedures in which the parties maintain control over the outcome of the conflict are variations of negotiation.

Neutral: A neutral is an individual who functions specifically to aid the parties in resolving a dispute. The neutral may be a Federal employee or any private individual who is acceptable to the parties. A neutral may not have financial, official, or personal conflict of interest with respect to the dispute, unless the interest is disclosed in writing to the parties and all parties agree that the neutral may serve.

Ombuds: An ombuds receives complaints and questions from individuals concerning the functioning of an entity, works for the resolution of particular issues, and where necessary, makes recommendations for the improvement of the general administration of the entity.

Policy Dialogue: A policy dialogue is a process designed to facilitate voluntary, interactive exchanges of views and information among interested groups and individuals working towards consensus solutions to policy issues. A policy dialogue is a flexible tool to enable all parties to participate in a non-adversarial setting to define and resolve issues. The product of a policy dialogue can be a report, a set of recommendations, agreements in principle, exchanges of information, or other ways of addressing the issues involved.

Roster: A roster is a list of persons qualified to provide services as neutrals and may indicate the person's area of ADR expertise.

Settlement Judge: A settlement judge is an administrative law judge, a Board of Contract Appeals judge, or Dispute Resolution Officer

trained in alternative dispute resolution techniques who consults with the parties and assists them in resolving a dispute instead of using a formal administrative hearing.

Appendix II—Examples of ADR Initiatives

ADR is working to bring parties together and to resolve disputes, resulting in less adversarial relationships and a better work environment. Employees who have been made aware of ADR techniques are routinely beginning to see them as desirable alternatives to traditional, more adversarial approaches. The Department has used ADR in various administrative and programmatic areas. Some examples of ADR initiatives that reflect the Department's commitment to collaborative decision-making include the following:

Civil Enforcement

Administrative Law Judges at the U.S. Coast Guard will continue to use ADR as appropriate. The ADR techniques may include early neutral evaluation, mediation, and settlement judges.

Contract and Procurement

Currently, the Department is reviewing its Transportation Acquisition Regulations and its Transportation Acquisition Manual and may incorporate an ''ADR first'' approach for agency protests, GAO protests, and appeals from contracting officers' final decisions. The Department encourages parties to call upon the Department's Board of Contract Appeals to provide early neutral evaluation and other ADR assistance on all acquisition controversies including bid protests and performance disputes.

In FY 1999, the Department's Board of Contract Appeals used alternative means of dispute resolution, including mini-trials and appointment of an independent neutral, in seven cases. Settlement was reached in six of the cases. The Board also provided early neutral evaluation on contract dispute matters.

The Federal Aviation Administration (FAA) issued a final rule on the procedural requirements of the Office of Dispute Resolution for Acquisition (ODRA) for the resolution of both bid protests and contract disputes. This dispute resolution process emphasizes the use of ADR as the primary means to resolve disputes. ODRA makes its Dispute Resolution Officers available as ADR neutrals with the concurrence of the parties. In addition, ODRA has established a web site, (*www.faa.gov/agc/*) which includes a guide to the conduct of protests and contract disputes and information about specific cases. In 1999, ODRA employed ADR techniques in 42 cases (bid protests and contract disputes) helping the parties to reach settlements in 95% of the contract disputes and 53% of bid protests.

The U.S. Coast Guard has established a Solicitation Ombuds and is completing development of an agency protest procedure. Contracting professionals consider ADR in resolution of pre- and post-award procurement disputes, and innovative processes, including contractor partnering, as appropriate. To enhance employee awareness, the Coast Guard provided ADR training to the chiefs of its contracting offices and its procurement attorneys.

Environmental

In response to Section 1309 of the Transportation Efficiency Act for the 21st Century, the Federal Highway Administration has requested that the U.S. Institute for Environmental Conflict Resolution provide assistance in developing a national policy and set of procedures that define a project level ADR system. This system will be applied during the National Environmental Policy Act (NEPA) evaluation process to specific transportation projects. The ADR system will be used to help stakeholders identify, avoid, and resolve potential problems and issues related to specific projects that would, if not addressed, cause delays during the NEPA process, fragment agency reviews, and make project sponsors and the lead agencies vulnerable to legal liability.

The Maritime Administration (MARAD) is using ADR to resolve environmental litigation. In two cases filed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, MARAD successfully engaged in mediation to resolve the cases. In both instances, external mediators were used and mediation lasted for 3 days. All parties saved on the costs of litigation by using mediation. Savings to the government included: expedited discovery; reduced travel expenses; elimination of court costs; elimination of trial preparation costs; reduced witness costs; and elimination of protracted procedural costs. Moreover, the United States was successful in greatly reducing the assessment against the government by convincing the parties in both cases that the government's defenses to higher allocation were credible.

Evaluation

As the Department links the budget process to results by using performance measures to make resource decisions, the validity, reliability, timeliness, and comparability over time of performance data will be a challenge to ADR programs. The Bureau of Transportation Statistics will assist in evaluation efforts. For example, the Bureau has provided statistical support to the ONEDOT Sharing Neutrals Program, assisting in defining what data to collect and designing a data collection and evaluation system.

Labor-Management Partnership

The Transportation Partnership Council (TPC), under Executive Order 12871, provides a mechanism for the representation of over 30,000 bargaining unit employees and both career mid-level managers and top DOT and operating administration executives to fully discuss issues of importance. TPC objectives include facilitating the formation and operation of partnerships in the Operating Administrations. TPC has fostered informal dispute resolution and resolution and interest-based bargaining throughout DOT. For example, FAA-National Air Traffic Controller Association used interest-based bargaining in term negotiations, Research and Special Programs Administration's Volpe National Transportation Systems Center and National Association of Government Employees used a collaborative approach on term negotiations, FRA-Association of Federal Government Employees used interest-based bargaining and partnerships with industry labor-management teams, and the U.S. Coast Guard and International Metal Trades-Aerospace Workers completed negotiations using an interest-based process.

Negotiated Rulemaking

The Department was the first Federal agency to use negotiated rulemaking back in 1983, and has a long, successful experience with the process. In the early 1980s, we advised employees throughout the Department of the process and factors to consider in deciding whether to use it. This led to the first use of the process for an FAA rulemaking on flight and duty time rules. Building on this success, we continued to provide information about and encourage the use of negotiated rulemaking. For example, in 1991, we circulated a memorandum providing more detail on the factors to consider in determining whether a particular rulemaking was an appropriate candidate for a regulatory negotiation in light of our experience and, in 1996, we circulated a memorandum that made a number of suggestions for cutting the costs of conducting negotiated rulemakings. Furthermore, senior political leadership has been briefed on the process and two DOT attorney have taught a negotiated rulemaking course attended by many DOT attorneys at the Department of Justice's National Advocacy Center.

Many of the Department's operating administrations have used negotiated rulemaking. The Federal Highway Administration conducted a regulatory negotiation on incorporation of physical fitness determinations into the commercial drivers license process for state enforcement of medical certification. The National Highway Traffic Safety Administration conducted negotiations on standards for headlight aimability, specifically for altering lower beam pattern, and reached consensus that led to a final rule. The Research and Special Programs Administration (RSPA) conducted negotiations and reached consensus on a recommended rule on the qualifications for personnel performing certain safety related functions for pipelines. In addition, RSPA successfully conducted a regulatory negotiation to develop recommendations for alternative safety standards for preventing and mitigating unintentional releases during the unloading of cargo tank motor vehicles in liquefied compressed gas service, such as propane and anhydrous ammonia. The U.S. Coast Guard used negotiated rulemaking to develop a rule on the operating schedule for a series of drawbridges over the Chicago River to balance the recreational boaters' need for lake access with the need to reduce the adverse impact of bridge openings on downtown motor vehicle traffic. Although unsuccessful in achieving consensus, the process did aid in developing the rule. Finally, the FAA and the Federal Railroad Administration have established standing advisory committees that they use to negotiate rules.

Process Design

In 1998, the FAA established the Office of Administrative Dispute Resolution under the Associate Chief Counsel for ADR, within the FAA Chief Counsel's Office. This Office is responsible for implementing provisions of the Administrative Dispute Resolution Act within the FAA. This Office provides leadership and support for new and existing ADR programs within FAA headquarters and the regions. It provides ADR briefings and orientation, assistance with system design, and instruction in conflict management, mediation, and advocacy in the ADR process. The Office has also worked with the FAA's Center for Management to develop training in mediation techniques for supervisors and managers.

The U.S. Coast Guard is establishing an information cross-flow ADR awareness program which will align with the Department's policy, with integrated training components to continue and expand current Coast Guard ADR uses. In furtherance of this, a core group has met and will continue to meet on a quarterly basis pending full stand-up of Dispute Resolution Council activities. The U.S. Coast Guard anticipates that the program will ultimately provide and continually invigorate awareness across directorate and operational lines, and enhance coordination with other modes to optimize program effectiveness and share and exchange information and implementations.

Workplace

The Department, under its ONE DOT initiative, has been developing a DOT-wide mediation program to help resolve Equal Employment Opportunity complaints. The department has trained employees to serve as neutral mediators to assist in the consensual resolution of those complaints and has established a pilot DOT-wide Sharing Neutrals Program for the mediation of discrimination complaints in the Washington, DC area. The U.S. Coast Guard, FAA, and Federal Railroad Administration also established mediation programs for discrimination complaints. In 1999, FAA mediated 123 complaints of discrimination. Mediation resolved 71 (58%) of the disputes. This resolution rate is up from 43% in 1998. With regard to other workplace issues, one office within the FAA has established an Early Resolution System and successfully resolved 16 out of 18 cases.

The FAA also established two new programs at its William J. Hughes Technical Center in Atlantic City, N.J., under which employees and management mediate workplace disputes. One program includes the bargaining unit employees of the American Federation of Government Employees, Local 200. The other involves the non-bargaining unit employees.

The FAA and the National Air Traffic Controllers Association (NATCA) established an ADR Working Group in accordance with their collective bargaining agreement. NATCA represents approximately 25,000 air traffic employees. The ADR Working Group has produced three Memoranda of Agreement designed to encourage joint problem solving, and to assist in the resolution of current disputes and the avoidance of future disputes between the FAA, NATCA, and NATCA members. The first program is designed to eliminate the backlog of current grievances through an upper level joint review process. The second program is a Neutral Evaluation pilot being conducted in two FAA regions. This program uses a neutral evaluator, generally an arbitrator with labor law expertise, to give the parties a realistic assessment of the respective merits of the grievance cases that would normally proceed to arbitration. The goal is to enhance opportunities for settlement, and the neutral is available to move the process into mediation should the parties so desire. The third program consists of a grievance mediation process and a facility-to-facility review process. Both processes are designed to resolve disputes early, so as to reduce the negative consequences of conflict.

[FR Doc. 00–29099 Filed 11–14–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2000–8278]

High Density Airports; Notice of Lottery of Slot Exemptions at LaGuardia Airport

AGENCY: Federal Aviation Administration.

ACTION: Notice of intent to conduct a lottery of takeoff and landing times at LaGuardia Airport.

SUMMARY: This notice announces the Federal Aviation Administration's (FAA) intention to hold a lottery, with the Port Authority of New York and New Jersey, in late November or early December to reallocate exemption slots at LaGuardia Airport as authorized under the Wendell H. Ford Aviation Investment and Reform Act of the 21st Century. The FAA finds that this action is necessary to address the level of delays that are currently experienced as a result of the significant increase in operations authorized by that legislation, and to prevent an increase in delays from additional flights scheduled to begin in the near future.

DATES: Comments must be received on or before November 20, 2000.

ADDRESSES: Comments on this notice should be mailed or delivered in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2000–8278, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: DMS.dot.gov. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays except Federal holidays.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number 202–267–3053.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this process by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned decisions. Communications should identify the docket number and be submitted in triplicate to the above specified address. All communications and a report summarizing any substantive public contact with FAA personnel on this notice will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The post card should be marked ''Comments to Docket No. FAA–2000-8278.'' When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Authority

The FAA has broad authority under Title 49 of the United States Code (U.S.C.), Subtitle VII, to regulate and control the use of the navigable airspace of the United States. Under 49 U.S.C. 40103, the agency is authorized to develop plans for and to formulate policy with respect to the use of navigable airspace and to assign by rule, regulation, or order the use of navigable airspace under such terms, conditions, and limitations as may be deemed necessary in order to ensure the safety of aircraft and the efficient utilization of the navigable airspace. Also, under section 40103, the agency is further authorized and directed to prescribe air traffic rules and regulations governing the efficient utilization of the navigable airspace.

The High Density Traffic Airports Rule, or ''High Density Rule,'' 14 CFR part 93, subpart K, was promulgated in