

application to impose and use the revenue from a PFC at Tri-State Airport 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 Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before September 16, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building, 469 Airport Circle, Beaver, West Virginia 25813-6216.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry G. Salyers, Airport Director of the Tri-State Airport Authority at the following address: Tri-State Airport Authority, 1449 Airport Road, Unit 1, Box, Huntington, West Virginia 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tri-State Airport Authority under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building 469 Airport Circle, Beaver, West Virginia 25813-6216 (Tel. 304-252-6216). 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 Tri-State Airport 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 Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On July 24, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Tri-State Airport Authority was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than October 30, 1996.

The following is a brief overview of the application.

*Level of the proposed PFC:* \$3.00.

*Proposed charge effective date:* October 1, 1996.

*Proposed charge expiration date:* July 1, 1998.

*Total estimated PFC revenue:* \$366,600.

*Brief description of proposed projects:* The PFC funds will be utilized to fund

the local share of the following proposed AIP project.

—Repair Land Slide in Runway 30 Safety Area

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-Scheduled Part 135 and Part 121 charter operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Tri-State Airport Authority.

Issued in Jamaica, New York on August 7, 1996.

William Degraaff,

*Acting Manager, Airports Division, Eastern Region.*

[FR Doc. 96-20969 Filed 8-15-96; 8:45 am]

**BILLING CODE 4910-13-M**

## Surface Transportation Board<sup>1</sup>

[Section 10706(a)(5)(A) Application No. 11]

### Carbon Black Producers Pooling Agreement

**AGENCY:** Surface Transportation Board.  
**ACTION:** Notice of filing of agreement and request for comments.

**SUMMARY:** On May 23, 1996, Degussa Corp. and Columbian Chemicals Company (applicants) supplemented the application they originally filed on December 27, 1995, seeking approval of a shipper agreement under 49 U.S.C. 10706(a)(5)(A). Under the proposed agreement, applicants and any other participating carbon black producers would be permitted: (1) To discuss among themselves issues relating to the

compensation railroads pay for use of producer-owned or leased cars, and to the producers' cost of car ownership and operation; and (2) to pool the freight cars they use to transport carbon black. The Board seeks public comment prior to acting on the application.

**DATES:** Comments must be filed by September 16, 1996, and applicants may file a reply by October 7, 1996.

**ADDRESSES:** Send pleadings referring to Section 10706(a)(5)(A) Application No. 11 to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) Charles A. Spitulnik and Alicia M. Serfaty, Hopkins & Sutter, 888 16th Street, NW., Washington, DC 20006.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. 10706(a)(5)(A), shippers must obtain Board approval of any agreements to discuss among themselves the compensation to charge rail carriers for the use of privately owned or leased freight cars. The Board will approve an agreement only if it furthers the rail transportation policy of 49 U.S.C. 10101a. When necessary, additional conditions may be imposed by the Board to further that policy. If an agreement is approved, the antitrust laws do not apply to parties and other persons with respect to the making and carrying out of the agreement.

Under *Shippers Equitable Compensation Action Committee*, 365 I.C.C. 939 (1982) (*SECAC*), collective agreements for shippers, at a minimum, must contain three basic safeguards to be found consistent with the public interest: (1) an unrestricted guarantee of the right of independent action by both members and non-members; (2) a requirement for open meetings with a correlative requirement for reasonable notice to members and other interested noncarrier owners or rail cars lessees; and (3) a requirement for formal recordkeeping of all meetings by transcript or sound recording.<sup>2</sup>

In a decision served April 3, 1996, we held this proceeding in abeyance to give

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the ICCTA provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the ICCTA. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10706(a)(5)(A). Therefore, this notice applies the law in effect prior to the ICCTA, and citations are to the former sections of the statute, unless otherwise indicated.

<sup>2</sup> See *American Petroleum Institute*, Section 10706(a)(5)(A) Application No. 4 (ICC served Nov. 18, 1982, and July 22, 1983); *Chemical Manufacturers Association*, 367 I.C.C. 290 (1983); *Institute of Shortening and Edible Oils, Inc.*, Section 10706(a)(5)(A) Application No. 6 (ICC served Mar. 22 and Dec. 7, 1983); and *U.S. Clay Producers Traffic Association, Inc.*, Section 10706(a)(5)(A) Application No. 10 (ICC served Mar. 21, 1985).

These are the same standards and requirements that are applied to rail carrier rate bureau applications. See *Western Railroads—Agreement*, 364 I.C.C. 1 (1980).

applicants an opportunity to incorporate these basic *SECAC* safeguards into their application, agreement, and by-laws. Additionally, we directed applicants to clarify whether they were seeking approval for the pooling aspects of the proposed agreement, and, if they were, we asked them to address: (1) the substantive scope of an approval under section 10706(a)(5)(A);<sup>3</sup> and (2) whether our authority under 49 U.S.C. 11342 to approve pooling agreements extends beyond rail carrier agreements.<sup>4</sup>

In their supplemental filing, applicants state that the proposed agreement was revised to comply fully with the *SECAC* standards and procedural requirements. As to the pooling aspects of the proposed agreement, applicants acknowledge that 49 U.S.C. 11342 is limited to approving agreements between or among carriers. Asserting that they seek approval under 49 U.S.C. 10706(a)(5)(A), and not under section 11342, applicants state that their application referred to section 11342 only to compare the benefits of coordination that are available to carriers with the benefits coordination would make available to applicants.

Applicants state that the primary objective of the proposed freight car pool is to eliminate the costly and inefficient 100% empty car return practice that characterizes the rail movement of carbon black and has become embedded in the overall rate structure (including car compensation) that applies to the movement of carbon black in producer-owned and leased cars. While acknowledging that activities under the proposed pool may resemble those of a typical rail pool, applicants contend that these activities in fact differ because they are integral to

the producers' ability to discuss among themselves car compensation rates and the specific factors (including utilization and maintenance) that affect these rates. Accordingly, applicants state that they seek, and maintain that the Board may issue, approval and antitrust immunity for all of the activities set forth in the proposed agreement, including those related to the proposed freight car pool.<sup>5</sup>

Interested persons are invited to comment on whether the Board may approve the proposed agreement, under 49 U.S.C. 10706(a)(5)(A), and whether approval will confer antitrust immunity on the agreement's pooling aspects, or whether approval can or should be granted under 49 U.S.C. 11342 to make available the antitrust immunity conferred by 49 U.S.C. 11341(a). Also, comments are invited on the proposed agreement, as revised, with special attention to the following issues and how they may be affected if the proposed freight car pool is, or is not, immunized from the antitrust laws:

(1) How will the agreement further the rail transportation policy of 49 U.S.C. 10101a?

(2) Are there any anticompetitive effects that may result from the agreement?

(3) Are any additional safeguards necessary to ensure that the agreement will not have undesirable anticompetitive effects or suppress competition among pool members?

(4) What other matters should the Board consider in determining whether to approve the agreement?

Copies of the original and revised applications under 49 U.S.C. 10706(a)(5)(A) may be obtained free of charge by contacting applicants' representatives. In the alternative, the applications may be inspected at the offices of the Surface Transportation Board, Room 1221, during normal business hours. [Assistance for the hearing impaired is available through TDD service on (202) 927-5721.]

While it does not appear that this action will have a significant effect on the quality of the human environment or conservation of energy resources, comments on these issues are also invited.

<sup>5</sup> The agreement calls for a pooled fleet of freight cars to move carbon black. The pool is to be managed and distributed by a Pool Operator who is charged with seeking optimal operating efficiency, consistent with the equitable treatment of all pool participants. A car contribution plan is to be devised, and rules, procedures, and formulas are to be developed to govern: (1) either the calculation and processing of allowances or the collection and distribution of compensation; and (2) the apportionment of maintenance and repair expenses.

A copy of this notice will be served on the: (1) Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; (2) Federal Trade Commission, Bureau of Competition, 6th Street & Pennsylvania Avenue, N.W., Washington, DC 20580; and (3) Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

Authority: 49 U.S.C. 10706(a)(5)(A).

Decided: August 1, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96-20915 Filed 8-15-96; 8:45 am]

BILLING CODE 4915-00-P

## Surface Transportation Board<sup>1</sup>

[STB No. MC-F-19190 (Sub-No. 1)]

**Adirondack Transit Lines, Inc., Pine Hill-Kingston Bus Corp. and Passenger Bus Corporation—Pooling—Greyhound Lines, Inc., and Vermont Transit Company, Inc.**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of proposed service pooling application.

**SUMMARY:** By application filed June 7, 1996, the Adirondack Group [Adirondack Transit Lines, Inc. (Adirondack), and its corporate affiliates, Pine Hill-Kingston Bus Corp. (Pine Hill) and Passenger Bus Corporation (PBC), all of Kingston, NY] and the Greyhound System [Greyhound Lines, Inc. (Greyhound), of Dallas, TX, and its corporate affiliate, Vermont Transit Co., Inc. (Vermont), of Burlington, VT] jointly request approval of a service pooling agreement under 49 U.S.C. 14302 with respect to motor passenger transportation services between various points in New York, including services extending between New York City, NY, and Montreal, Quebec, Canada.

**DATES:** Comments must be filed by September 16, 1996, and applicants' rebuttal must be filed by October 7, 1996.

**ADDRESSES:** Send an original and 10 copies of comments referring to STB

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions and proceedings to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 14302.

<sup>3</sup> We noted that, in *Western Railroads—Agreement*, 1 I.C.C.2d 131, 133 n.3 (1984), the ICC, in addressing the scope of the immunity it could grant, stated:

The statute, in 49 U.S.C. 10706(a)(5)(A), provides for immunity under approved agreements between shippers to discuss the compensation to be paid shippers by rail carriers for use of rolling stock owned or leased by the shippers. It does not, however, provide immunity to shipper associations for other activities or for the discussion of rates generally.

<sup>4</sup> We noted that, in *The Baltimore and Ohio Railroad Company, Et Al.—Pooling of Car Service Regarding Multi-Level Cars*, Finance Docket No. 29653 (Sub-No. 4) (ICC served Apr. 26, 1988), the ICC found that its authority did not extend beyond rail carriers. There, the railroad pool members requested an exemption from 49 U.S.C. 11342 to permit them to amend their agreement to include a Shipper Executive Committee within the existing pool management structure. The request was dismissed for lack of jurisdiction either to approve the proposed amendment or to exempt it from regulation. The decision specifically noted that, while the dismissal did not preclude the formation of a shipper committee, the shipper committee would not be immunized from the antitrust laws.