DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Pellston Regional Airport of Emmet County, Pellston, MI

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 a PFC at Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158),

DATES: Comments must be received on or before July 2, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Raymond Thompson, Airport Manager, of the County of Emmet at the following address: Pellston Regional Airport of Emmet County, U.S. Highway 31 North, Pellston, Michigan 49769.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Emmet under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (734–487–7281). 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 a PFC at Pellston Regional Airport of Emmet County under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 12, 1998, the FAA determined that the application to impose a PFC submitted by the County of Emmet 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 August 19, 1998.

The following is a brief overview of the application.

PFC Application No.: 98–07–I–00–PLN.

Level of the PFC: $3.00.

Proposed charge effective date: August 1, 1998.

Proposed charge expiration date: February 1, 2003.

Total estimated PFC revenue: $115,360.00.

Brief description of proposed projects: Rehabilitate Apron and Airport Entrance Road; Acquire Emergency Generator, ADA Lift, Snow Removal Equipment (SRE) including Plow, Blower and Sweeper; Construct Runway 32 Access Road; Land Acquisition.

Class or classes of air carriers that the public agency has requested not be required to collect PFC's: FAR Part 135 operators who file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the County of Emmet.

Issued in Des Plaines, Illinois, on May 22, 1998.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 98–14535 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–98–3599 (PDA–19(R))]

Application by National Tank Truck Carriers, Inc. for a Preemption Determination as to New York Department of Environmental Conservation Requirements on Gasoline Transport Vehicles

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Public Notice and Invitation to Comment.

SUMMARY: Interested parties are invited to submit comments on an application by the National Tank Truck Carriers, Inc. (NTTC) for an administrative determination whether Federal hazardous material transportation law preempts certain requirements of the New York Department of Environmental Conservation applicable to gasoline transport vehicles.

DATES: Comments received on or before July 17, 1998, and rebuttal comments received on or before August 31, 1998, will be considered before an administrative ruling is issued by RSPA's Associate Administrator for Hazardous Materials Safety. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Office, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. The application and all comments are also available on-line through the home page of DOT's Docket Management System, at ''http://dms.dot.gov.''

Comments may be submitted to the Dockets Office at the above address. Three copies of each written comment should be submitted. Comments may also be submitted by E-mail to ''rspa.counsel@rspa.dot.gov.'' Each comment should refer to the Docket Number set forth above. A copy of each comment must also be sent to (1) Mr. Clifford J. Harvison, President, National Tank Truck Carriers, Inc., 2200 Mill Road, Alexandria, VA 22314, and (2) Mr. John P. Cahill, Commissioner, Department of Environmental Conservation, State of New York, 50 Wolf Road, Albany, NY 12233. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: ''I certify that copies of this comment have been sent to Messrs. Harvison and Cahill at the addresses specified in the **Federal Register**.'')

A list and subject matter index of hazardous materials preemption cases, including all inconsistency rulings and preemption determinations, are available through the home page of RSPA's Office of the Chief Counsel, at ''http://rspa-atty.dot.gov.'' A paper copy of this list and index will be provided at no cost upon request to Ms. O'Berry, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** below.

FOR FURTHER INFORMATION CONTACT: Donna L. O'Berry, Office of the Chief Counsel, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001 (Tel. No. 202–366–4400).

SUPPLEMENTARY INFORMATION:

I. Application for a Preemption Determination

NTTC has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts New York Codes, Rules and Regulations (NYCRR) Sections 230.4(a)(3) and 230.6(b) and (c). These provisions were issued by the New York State Department of Environmental Conservation and concern marking and recordkeeping and reporting requirements applicable to vehicles used to transport gasoline. Part 230 of NYCRR pertains to gasoline-dispensing sites and transport vehicles. The text of NTTC's application and a list of the attachments are set forth in Appendix A. A paper copy of the attachments to NTTC's application will be provided at no cost upon request to Ms. O'Berry, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** above.

Marking. Section 230.4(a)(3) provides as follows:

> (a) No owner or operator of a gasoline transport vehicle subject to the Part will allow said vehicle to be filled or emptied unless the gasoline transport vehicle:
> (3) displays a marking, near the U.S. Department of Transportation certificate plate, in letters and numerals at least two inches high, which reads NYS DEC and the date on which the gasoline transport vehicle was last tested.

NTTC asserts this section is preempted because the requirement is not substantively the same as requirements in 49 CFR 180.415 for marking cargo tank motor vehicles used to transport hazardous materials.

Recordkeeping and Reporting. NTTC challenges subsections (b) and (c) of Section 230.6. That section provides as follows:

> (a) The owner of any gasoline transport vehicle subject to this Part must maintain records of pressure-vacuum testing and repairs. The records must include the identity of the gasoline transport vehicle, the results of the testing, the date that the testing and repairs, as needed were done, the nature of needed repairs and the date of retest where appropriate.
> (b) A copy of the most recent pressure-vacuum test results, in a form acceptable to the commissioner, must be kept with the gasoline transport vehicle.
> (c) Records acceptable to the commissioner must be retained for two years after the testing occurred, and must be made available to the commissioner or his representative on request at any reasonable time.

NTTC claims that subsections (b) and (c) are preempted under the ''obstacle'' test. NTTC compares the requirements to maintain test results with the vehicle with 49 CFR 180.417(a)(2). That Federal regulation requires a motor carrier who is not the owner of the cargo tank motor vehicle to retain a copy of the vehicle certification report at its principal place of business or, upon approval from the Federal Highway Administration, at a regional or terminal office. NTTC also compares the requirement to retain test records for two years after testing occurs with Section 180.417(c)(2), which requires retention for the time the cargo tank is in the carrier's service, plus one year.

NTTC asserts that New York's regulation requiring documents to be retained in vehicles creates an unnecessary delay by forcing a carrier to maintain and reproduce documents and ensure that copies are placed in vehicles that are moved from State to State. NTTC further contends that this regulation could create a multiplicity of non-uniform restrictions that could potentially compromise safety if it is replicated by other jurisdictions.

II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to NTTC's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under section 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if

> (1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or
> (2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the ''dual compliance'' and ''obstacle'' criteria which RSPA had applied in issuing inconsistency rulings before 1990, under the original preemption provisions in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93–633 section 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines* v. *Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc.* v. *Paul*, 373 U.S. 132 (1963); *Ray* v. *Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not ''substantively the same as'' a provision of Federal hazardous materials transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

> (A) The designation, description, and classification of hazardous material.
> (B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.
> (C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.
> (D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.
> (E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

These preemption provisions in 49 U.S.C. carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee ''endorse(d) the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation.'' S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

> (3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,
> (4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,
> (5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L.101–615 section 2, 104 Stat. 3244. A Federal Court of Appeals has found that uniformity was the ''linchpin'' in the design of the HMTA, including the 1990 amendments which expanded the preemption provisions. *Colorado Pub. Util. Comm'n* v. *Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, the HMTA was revised, codified

and enacted ''without substantive change,'' at 49 U.S.C. Chapter 51. Pub. L. 103–272, 108 Stat. 745.)

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. The Secretary of Transportation has delegated authority to make determinations of preemption that concern highway routing to FHWA and those concerning all other hazardous materials transportation issues to RSPA. 49 CFR 1.48(u)(2), 1.53(b).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, RSPA will publish its determination in the **Federal Register**. *See* 49 CFR 107.209(d). A short period of time is allowed for filing of petitions for reconsideration. 49 CFR 107.211. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous materials transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statue. *Colorado Pub. Util. Comm'n* v. *Harmon*, above, 951 F2d at 1581 n.10. In making preemption determinations under 49 U.S.C. 5125(d), RSPA is guided by the principles and policy set forth in Executive Order No. 12612, entitled ''Federalism'' (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which RSPA has implemented through its regulations.

III. Public Comment

Comments should be limited to whether Federal hazardous material transportation law preempts the provision of New York state's marking requirements in Section 230.4(a)(3) and recordkeeping and retention requirements in Section 230.6, respectively. Comments should:

(1) Set forth in detail the manner in which these marking and recordkeeping and retention requirements are applied and enforced; and

(2) Specifically address the preemption criteria described in Part II above (''obstacle'' and ''covered subjects'').

Persons intending to comment should review the standards and procedures governing RSPA's consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211.

Issued in Washington, DC, on May 22, 1998.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety, Research and Special Programs Administration.

Appendix A

Before the Research & Special Programs Administration, United States Department of Transportation

In the matter of: An Application For A Preemption Determination In the Matter of Certain Regulations Codified and Enforced By the State of New York

Petition filed by: National Tank Truck Carriers, Inc., 2200 Mill Road, Alexandria, VA 22314, (703) 838–1960; Fax (703) 684–5753, Clifford J. Harvison, President

February 1, 1998.

Before the Administrator: National Tank Truck Carriers, Inc. (NTTC) is a trade association representing over 200 corporate members specializing in the highway transportation of hazardous materials, hazardous substances and hazardous wastes, in cargo tank motor vehicles, throughout the continental United States. Several NTTC members conduct high volume operations within the State of New York. Certain regulations (codified and enforced by that state) are the subject of this petition.

The Regulations In Question—New York State's Department of Environmental Conservation (DEC) is charged with enforcement of 6 NYCRR, Part 230 entitled ''Gasoline Dispensing Sites and Transport Vehicles (a copy of relevant portions is attached). Therein, Section 230.6 (Gasoline transport vehicles—recordkeeping and reporting) proscribes the following:

''(a) The owner of any gasoline transport vehicle subject to this Part must maintain records of pressure-vacuum testing and repairs. The records must include the identity of the gasoline transport vehicle, the results of the testing, the date that the testing and repairs, as needed, were done, the nature of needed repairs and the date of retests where appropriate.

''(b) A copy of the most recent pressure-vacuum test results, in a form acceptable to the commissioner, must be kept with the gasoline transport vehicle.

''(c) Records acceptable to the commissioner must be retained for two years after the testing occurred, and must be made available to the commissioner or his representative on request at any reasonable time.''

Furthermore, that same body of state regulations contains the following provision at 230.4 (a) and (a) (3):

''(a) No owner or operator of a gasoline transport vehicle subject to this Part will allow said vehicle to be filled or emptied unless the gasoline transport vehicle:

''(3) displays a marking, near the U.S. Department of Transportation certificate plate, in letters and numerals at least two inches high, which reads: NYS DEC and the date on which the gasoline transport vehicle was last tested.''

NTTC has been informed (by various members) that they have received citations, issued by (DEC) enforcement personnel for violations of these regulations; thus, it is evident that they are being actively enforced.

NTTC's Position—NTTC holds that Section 230.4 (a)(3) is preempted because it is not ''substantively the same'' as current Federal requirements dealing with the ''marking'' of a container or package which is represented, marked, certified or sold as qualified for use in the transportation of a hazardous material. This latter state requirement is (in the vernacular of the Administrator) a ''covered subject''.

Additionally, this Association holds that Section 230.6 is preempted by applicable provisions of the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) (as amended) in that the provisions violate the so-called ''obstacle test'' (a traditional criterion used by the Administrator in evaluating non-Federal laws and regulations in applications for preemption determination). Moreover, as enforced, the state regulation creates unnecessary delay, and—if replicated by other jurisdictions—would serve to create a multiplicity of non-uniform restrictions that would (potentially) compromise safety.

In the alternative, the State of New York may petition the Administrator to amend Federal regulations (should the state feel that the amendments would enhance safety); or, the State may acknowledge Federal preemption and apply for a ''Waiver of Preemption'' under procedures established by the Administrator.

The Relevant Element of the Hazardous Materials Regulations (HMR)—Pursuant to HMTUSA's mandate, the Secretary of Transportation has delegated to the Administrator of the Department's Research and Special Programs Administration (RSPA) the authority to issue regulations specific to the transportation of hazardous materials. The Administrator has fulfilled that mandate by promulgation of the HMR, Parts 171–180.

Specifically, Part 180 of the HMR (''Continuing Qualification And Maintenance of Packagings'') sets forth a comprehensive series of regulations dealing with the inspection, testing, maintenance and repair of cargo tank motor vehicles which are represented (by the owner/operator) as being constructed and operated in compliance with the HMR.

Argument—In terms of the requested preemption of Section 230.6 of New York's

Code, we wish to note at the outset that we have no quarrel with the provisions of subsection ''(a)'' of that Section.

In contrast, however, NTTC notes that 49 CFR 180.417 contains direct requirements for ''Reporting and Record Retention Requirements''. Significantly, there is no Federal requirement for copies of reports and/or records to be carried in the cargo tank motor vehicle. Instead, the Administrator relies on certain (and specified) markings on the cargo tank as indicia of compliance. Moreover, 49 CFR 180.417(a)(2) allows carriers to retain relevant documents at either their ''principal place of business'', or (upon application to the Federal Highway Administration) ''at a regional or terminal office''.

Conversely, the state's regulations require documentation to be retained ''in the vehicle.'' NTTC holds that Section 230.6(b) is preempted by the HMR. As the Administrator well knows, cargo tanks regularly move from jurisdiction to jurisdiction. For instance, nationwide carriers may move vehicles from southern states into the New England area to move gasoline when transportation demands for MC 306/DOT406 equipment accelerate because of the winter ''fuel oil season''. Unnecessary delay is created when carriers are compelled to retrieve documents from storage, reproduce those documents, and exercise the management controls necessary to put copies in some vehicles but not in others. The situation is compounded when one realizes the potential for other jurisdictions to play havoc with the current system. For instance, should the Administrator not preempt, what would prevent a state or locality from requiring all service and maintenance records (including the vehicle manufacturer's original certification) to be retained in the vehicle?

In Docket HM–183 (the administrative proceeding which created Part 180), the Administrator decided that the proper indicia for compliance with Part 180 is vehicle marking (as codified at 180.415). As has often been noted in both (the former) ''inconsistency petitions'' and in ''preemption determinations'', the Administrator's regulations are ''presumed safe''. New York State is not free to unilaterally amend RSPA's requirements.

With regard to the state's requirement at 230.6(c), the same arguments and fact patterns apply. At 49 CFR 180.417(c)(2), the specified retention time is length of (cargo tank) ownership plus one year. New York requires ''. . . two years after the testing occurred.'' It, too, must be preempted.

Our problem with New York's requirement at 230.4(a)(3) is more direct and concise. Simply stated, this regulation is a ''hazardous materials specific'' marking requirement. It applies only to DOT Specification tanks (authorized for the transportation of gasoline). HMTUSA specifies that ''marking'' (of a package or container) is a ''covered subject''. The Administrator's relevant requirements at 49 CFR 180.415 ''occupy the field''. New York's regulation must be stricken.

Precedent On These Issues Is Abundant—NTTC believes that the Administrator's decisions in both ''Inconsistency Rulings'' (IR) and ''Preemption Determinations'' (PD) buttress our claims with respect to the New York State regulations under question.

For instance, in both IR#19 and #IR 28, the Administrator ruled that, ''. . . the HMTA and HMR provide sufficient information and documentation requirements for the safe transportation of hazardous materials; state and local requirements in excess of them constitute obstacles to implementation of the HMTA and HMR and thus are inconsistent with them.''

Similarly, in those two rulings (plus a host of others), it was ruled that, ''Requirements for information or documentation in excess of Federal requirements create potential delay, constitute an obstacle to execution of the Federal hazmat law and the HMR, and thus are preempted.''

In at least 14 prior proceedings of this type (IR's and PD's), RSPA has struck down state and local requirements found to be ''* * * likely to cause'' and/or ''* * * the mere threat'' of unnecessary delays in hazardous materials transportation.

As the Administrator ruled in PD–4 (R), ''Required markings of packagings (cargo tanks and portable tanks) to certify current registration and inspection are preempted since they are not substantively the same as the markings required by the HMR.'' (emphasis added)

Even the United States Court of Appeals for the 10th Circuit weighed in most directly. In reversing a District Court decision in the matter of Colorado Pub. Utilities Commission v. Harmon, the Court went to the heart of NTTC's complaint specifying that a state may not require a carrier to retain inspection reports in a vehicle; and, that such an additional documentation requirement could ''* * * create confusion and increase hazards.''

Given the fact that the State of New York is aggressively enforcing the regulations cited above, we ask expedited consideration of NTTC's application for a preemption determination.

I hereby certify that I have sent a copy of this petition to: Mr. John P. Cahill, Commissioner, Department of Environmental Conservation, State of New York, 50 Wolf Road, Albany, NY 12233.

Respectfully submitted:

Clifford J. Harvison,

President.

Attachments

(A) Part 230 of New York Codes, Rules and Regulations.

[FR Doc. 98–14562 Filed 6–1–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Intermountain Tariff Bureau, Inc.; Section 5a Application No. 62

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of tentative approval of request to withdraw Section 5a Application No. 62 and cancel the agreement.

SUMMARY: Intermountain Tariff Bureau, Inc. (ITB), has filed a letter seeking to withdraw its Section 5a Application No. 62 and cancel the agreement. The Board has tentatively granted ITB's request, and, if no opposing comments are timely filed, this decision will be the final Board action.

DATES: Written comments must be filed with the Board no later than June 22, 1998. If no opposing comments are filed by the expiration of the comment period this decision will take effect automatically.

ADDRESSES: An original and 10 copies of comments referring to Section 5a Application No. 62 should be sent to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N. W., Washington, DC 20423–0001. A copy of any comments filed with the Board must be served on Larry H. Wilkinson, Secretary, Intermountain Tariff Bureau, Inc., 125 West 1500 North, Bountiful, UT 84010.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: ITB indicates that it has ceased operations and that shortly it will be dissolved as a corporation. ITB states that, to the best of its knowledge, all obligations to members, customers and debtors have successfully been completed. ITB requests cancellation of Section 5a Application No. 62 (and any other formal agreements involving ITB) approved by the Interstate Commerce Commission.[1]

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

It is ordered:

1. The request to cancel Section 5a Application No. 62 (and any amendments) is approved, and the proceeding(s) is (are) dismissed, subject to the filing of opposing comments.

2. If timely opposing comments are filed, this decision will be deemed vacated.

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat., which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This decision relates to functions that are subject to Board jurisdiction pursuant to 49 U.S. 13703.