

Why an Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

In its application, Lotus simply said that "the extension will continue to be consistent with the public interest and the objectives of the Safety Act." On December 16, 2002, it repeated and confirmed the assertions made in the past that, after many years of sales of the Esprit with its current body shape, the company knew of no head injuries suffered by occupants contacting the upper interior of the cockpit. The number of vehicles anticipated to be sold during the exemption period is insignificant in terms of the number of vehicles already on the roads.

If Lotus USA is required to close because of a denial, its employees will be out of work and its dealers "significantly adversely affected." In its new application, the company adds that its "image and credibility would be ruined." An exemption would be consistent with the public policy of affording consumers a wide choice of motor vehicles.

Comments Received on the Lotus Petition

We received five comments on the Lotus petition, all of which supported an extension of the exemption. Three of the comments emphasized the importance of adequate repair facilities and availability of spare parts for the continued safe operation of Lotus cars in the United States.

The Agency's Findings

Both the 1999 and 2002 petitions by Lotus clearly demonstrate the financial turmoil that the company has experienced in the past few years. With recent losses cumulating over \$24,000,000, Lotus has experienced some temporary relief by the infusion of capital from Proton. This relief will allow it to manufacture from existing parts the final 140 Esprits and to sell them in the United States (cars which, built to American specifications, might not be saleable elsewhere). In engineering the M260 to comply with Standard No. 201, Lotus has made a good faith effort to comply with that standard. The term of the exemption would be short and only a limited number of vehicles produced under it. An exemption would assure an adequate supply of spare parts and afford a continuing, uninterrupted commercial relationship with Lotus dealers and their employees in the United States.

According, for the reasons discussed above, it is hereby found that to require

compliance with Standard No. 201 would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. It is further found that a temporary exemption from Standard No. 201 would be in the public interest and consistent with the objectives of traffic safety. Therefore, NHTSA Temporary Exemption No. 99-12, exempting the Esprit model from 49 CFR 571.201 Standard No. 201, *Occupant Protection in Interior Impact*, is hereby extended to February 1, 2004.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: February 25, 2003.

Jeffrey W. Runge,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC-F-20994]

New Jersey Transit Bus Operations, Inc.—Pooling—Academy Lines, L.L.C.

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed pooling application.

SUMMARY: By application filed on January 27, 2003,¹ New Jersey Transit Bus Operations, Inc. (NJTB), and Academy Lines, L.L.C. (Academy), jointly request approval of a service pooling agreement under 49 U.S.C. 14302 and 49 CFR 1184.1, *et seq.* to pool portions of their commuter operations that extend over U.S. Highway 9 between Lakewood, NJ, and New York, NY (the Route 9 Corridor).

DATES: Comments on the proposed service pooling agreement may be filed with the Board in the form of verified statements on or before April 2, 2003. If comments are filed, applicants' rebuttal statement is due on or before April 22, 2003. The Board will issue a decision on the merits after consideration of any comments and rebuttal that are submitted.

¹ Applicants concurrently filed a petition under 49 U.S.C. 13541(a) requesting exemption from 49 U.S.C. 14302 so as to enable them to conduct interim operations under their service pooling agreement for a period of not more than 50 days, or such other time as the Board may direct, pending Board action on the pooling application. Applicants' request was granted by decision served February 12, 2003 in *New Jersey Transit Bus Operations, Inc.—Pooling—Academy Lines, L.L.C., Exemption Pursuant to 49 U.S.C. 13541 From the Provisions of 49 U.S.C. 14302*, STB Docket No. MC-F-20994 (STB served Feb. 12, 2003).

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC-F-20994 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, send one copy of any comments to each of applicants' representatives: (1) E. Philip Isaac, Deputy Attorney General, One Penn Plaza East, Newark, NJ 07105-2246; and (2) Joseph J. Ferrara, 111 Paterson Avenue, Hoboken, NJ 07030.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar, (202) 565-1600. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

SUPPLEMENTARY INFORMATION: Under the proposed pooling agreement, the carriers will coordinate their schedules and fares over the involved routes for their regularly scheduled passenger bus operations. The carriers do not intend to pool revenues or share expenses (except for the costs associated with preparing and printing public timetables showing their combined coordinated services and Port Authority Bus Terminal (PABT) gate and platform fees), but will cross-honor their independently sold commutation tickets and reimburse each other accordingly.

In 1991, NJ Transit was authorized to perform these same pooling operations with another regulated passenger carrier, Suburban Trails, Inc. (Suburban). See *NJ Transit Bus Operations, Inc.—Pooling—Suburban Trails, Inc.*, No. MC-F-19737 (ICC served Mar. 19, 1991). Effective January 3, 2003, however, Suburban ceased serving the Route 9 Corridor, withdrew from the pooling agreement, and exited the market. By the filing of this application, approval is being sought to allow Academy to assume Suburban's place in the pooling operation.²

NJT Bus is a wholly owned subsidiary of the New Jersey Transit Corporation,

² In an application filed on February 4, 2003 in STB Docket No. MC-F-20997, *Coach USA, Inc., et al.—Purchase and Sale of Assets—Academy Bus, L.L.C., et al.*, Coach USA, Inc. and two of its subsidiaries, Suburban Transit Corp., and Red & Tan Tours, Inc. (the Coach applicants), and Academy Bus, L.L.C. and two of its subsidiaries, Academy Express, L.L.C., and Academy (the Academy applicants) state that they have entered into a transaction to "swap" certain interstate and intrastate motor passenger carrier operating authorities in order to enhance the efficiency of their respective operations. The Academy applicants will transfer to the Coach applicants the "Academy Routes," while the Coach applicants will transfer to the Academy applicants the "Route 9 Corridor route," the "Suburban Atlantic City Routes," and the "Red & Tan Routes." This proceeding is presently pending before the Board. Reference is made to it here because Academy and Suburban (another Coach subsidiary) are involved in the instant proceeding.