

of the crew have been briefed that operations are suspended.

(e) *Operational testing.* (1) The railroad's program of operational tests and inspections under 49 CFR Part 217 shall be revised as necessary to include the requirements of this order and shall specifically include a minimum number of operational tests and inspections, subject to adjustment as appropriate.

(2) When conducting tests and inspections under 49 CFR Part 217, a railroad officer, manager or supervisor is prohibited from calling the personal electronic or electrical device or the railroad-supplied electronic or electrical device used by a locomotive engineer while the train to which the locomotive engineer is assigned is moving.

(3) When an operational test involves stopping a train, interrupting a switching operation, or interrupting an activity involving other employees of the railroad (e.g., through use of a banner, signal, or radio communication), the limitations set forth in this order regarding use of electronic and electrical devices shall continue to be in effect even though the train movement, switching operation, or other activity is temporarily suspended.

(f) *Exceptions.* Notwithstanding any other provision of this order—

(1) A railroad operating employee may use the digital storage and display function of a personal or railroad-supplied electronic device to refer to a railroad rule, special instruction, timetable or other directive, if such use is authorized under a railroad operating rule or instruction;

(2) Railroad operating employees may use a personal or railroad-supplied wireless communication device as necessary to respond to an emergency situation involving the operation of the railroad or encountered while performing a duty for the railroad;

(3) A locomotive engineer (including a remote-control locomotive operator) may use electronic control systems and informational displays presented to the locomotive engineer within the locomotive cab or on a remote control transmitter to operate a train or conduct a switching operation, including functions associated with controlling switches;

(4) Under conditions authorized under 49 CFR Part 220, a railroad operating employee may use a railroad-supplied or railroad-authorized working wireless communication device, in lieu of the railroad radio, to conduct train or switching operations;

(5) A railroad operating employee may refer to a digital timepiece to ascertain the time of day or to verify the accuracy of speed indicators.

(g) *Training.* Each railroad shall instruct each of its railroad operating employees and supervisors of railroad operating employees concerning the requirements of this order and implementing railroad rules and instructions. Such instruction shall be sufficient to ensure that the requirements of this order are understood, including any relevant distinctions between the minimum requirements of this rule and any more stringent requirements implemented by the railroad.

(h) *Sanctions.* (1) Any individual who willfully violates a prohibition stated in this order or uses any of the described devices without observing any of the restrictions stated in this order is subject to civil penalties under 49 U.S.C. 21301.

(2) In addition, such an individual whose violation of this order demonstrates the individual's unfitness for safety-sensitive service may be removed from safety-sensitive service on the railroad under 49 U.S.C. 20111.

(3) A railroad that violates this order may be subject to civil penalties under 49 U.S.C. 21301.

(4) FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

#### Relief

A railroad may obtain relief from this order by adopting other means of ensuring that railroad operating employees are not distracted from their duties by use of electronic or electrical devices or by implementing technology that will prevent inappropriate acts and omissions from resulting in injury to persons. Such relief may be obtained by petition to the FRA Associate Administrator for Safety establishing that the alternative means provide equivalent safety.

FRA anticipates that it will utilize the existing Railroad Safety Committee Operating Practices Working Group in the formulation of an amendment to 49 CFR Part 220 to address comprehensively the safety implications of the use of electronic devices by railroad employees. Until that is accomplished, this emergency order is necessary to reduce the likelihood of additional accidents caused by the unsafe use of electronic devices.

#### Effective Date and Notice To Affected Persons

On and after October 27, 2008, the prohibitions and restrictions described above shall be observed by railroads and railroad operating employees. Notice of this Emergency Order will be provided by publishing it in the **Federal Register**.

#### Review

Opportunity for formal review of this emergency order will be provided in accordance with 49 U.S.C. 20104(b) and section 554 of title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR part 211. See 49 CFR 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, DC, on October 1, 2008.

**Joseph H. Boardman,**  
Administrator.

[FR Doc. E8-23755 Filed 10-6-08; 8:45 am]

BILLING CODE 4910-06-P

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## DEPARTMENT OF TRANSPORTATION

### Research and Innovative Technology Administration

[Docket: RITA 2008-0002 BTS Paperwork Reduction Notice]

### Agency Information Collection; Bureau of Transportation Statistics; Activity Under OMB Review; Submission of Audit Reports—Part 248

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, Public Law 104-13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS requiring U.S. large certificated air carriers to submit two true and complete copies of its annual audit that is made by an independent public accountant. If a carrier does not have an annual audit, the carrier must file a statement that no audit has been performed. Comments are requested concerning whether (1) The audit reports are needed by BTS and DOT; (2) BTS accurately estimated the reporting burden; (3) there are other ways to enhance the quality, utility and clarity of the information collected; and (4) there are ways to minimize reporting burden, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted by December 8, 2008.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number RITA 2008-0002 by any of the following methods:

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

*Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

*Fax:* 202-493-2251.

*Instructions:* Identify docket number, BTS 2008-0002, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at <http://www.regulations.gov>. All comments are posted electronically without charge or edits, including any personal information provided.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

#### Electronic Access

An electronic copy of this rule, a copy of the notice of proposed rulemaking, and copies of the comments may be downloaded at <http://www.regulations.gov>, by searching docket RITA 2008-0002.

#### FOR FURTHER INFORMATION CONTACT:

Bernie Stankus, Office of Airline Information, RTS-42, Bureau of Transportation Statistics, 1200 New Jersey Avenue Street, SE., Washington, DC 20590-0001, (202) 366-4387.

#### SUPPLEMENTARY INFORMATION:

*OMB Approval No.* 2138-0004.

*Title:* Submission of Audit Reports—Part 248.

*Form No.:* None.

*Type Of Review:* Extension of a currently approved collection.

*Respondents:* Large certificated air carriers.

*Number of Respondents:* 77.

*Number of Responses:* 77.

*Total Annual Burden:* 20 hours.

*Needs and Uses:* BTS collects independent audited financial reports

from U.S. certificated air carriers. Carriers not having an annual audit must file a statement that no such audit has been performed. In lieu of the audit report, BTS will accept the annual report submitted to the stockholders. The audited reports are needed by the Department of Transportation as (1) A means to monitor an air carrier's continuing fitness to operate, (2) reference material used by analysts in examining foreign route cases, (3) reference material used by analysts in examining proposed mergers, acquisitions and consolidations, (4) a means whereby BTS sends a copy of the report to the International Civil Aviation Organization (ICAO) in fulfillment of a United States treaty obligation, and (5) corroboration of a carrier's Form 41 filings.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC on October 1, 2008.

**M. Clay Moritz, Jr.,**

*Acting Assistant Director, Airline Information, Bureau of Transportation Statistics.*

[FR Doc. E8-23731 Filed 10-6-08; 8:45 am]

**BILLING CODE 4910-FE-P**

## DEPARTMENT OF TRANSPORTATION

### Research and Innovative Technology Administration

**[Docket: RITA 2008-0002 BTS Paperwork Reduction Notice]**

#### Agency Information Collection; Bureau of Transportation Statistics; Activity Under OMB Review; Reporting Required for International Civil Aviation Organization (ICAO)

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, Public Law 104-13, the Bureau of Transportation Statistics invites the general public, industry and other

governmental parties to comment on the continuing need and usefulness of BTS collecting supplemental data for the International Civil Aviation Organization (ICAO). Comments are requested concerning whether (1) the supplemental reports are needed by BTS to fulfill the United States treaty obligation of furnishing financial and traffic reports to ICAO; (2) BTS accurately estimated the reporting burden; (3) there are other ways to enhance the quality, utility and clarity of the information collected; and (4) there are ways to minimize reporting burden, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted by December 8, 2008.

**ADDRESSES:** You may submit comments identified by DOT Docket ID Number RITA 2008-0002 by any of the following methods:

*Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

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*Fax:* 202-493-2251.

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*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.