

conditions the mechanical key may be removed from the ignition lock cylinder when the transmission shift lever is in a position other than “park.”

IV. Rule Text: Paragraph S3.1.4.1(a) of FMVSS No. 102 specifically states:

S3.1.4.1 Except as specified in S3.1.4.3, if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the position selected, shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted; . . .

Paragraph S5.2.1 of FMVSS No. 114 specifically states:

S5.2.1 For each vehicle type manufactured by a manufacturer, the manufacturer must provide at least 1,000 unique key combinations, or a number equal to the total number of the vehicles of that type manufactured by the manufacturer, whichever is less. The same combinations may be used for more than one vehicle type.

V. Summary of Ford’s Analyses: Ford stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The vehicle design is self-remediating. The affected vehicles are designed to automatically switch from Factory Mode to Transport Mode after 60 key cycles (beginning with assembly line initialization). Once in Transport Mode the vehicles are fully compliant with FMVSS requirements.

2. While in Factory Mode, affected vehicles clearly display the message “Factory Mode Contact Dealer” in either the message center or instrument cluster). Additionally, the “Factory Mode Contact Dealer” message does not obscure any regulatory malfunction indicator lamps, or (non-mandated) cautionary warnings.

3. The dealership’s Pre-Delivery Inspection instructions require dealerships to change the vehicle into Customer Mode, prior to delivery, which ensures the condition will be remedied before delivery to the customer. Ford is not aware of any of the subject vehicles being delivered to customers in Factory Mode.

4. All other requirements of FMVSS No. 102 and FMVSS No. 114 are fully satisfied.

5. Ford is not aware of any owner complaints, accidents, or injuries attributed to this condition.

Ford has additionally informed NHTSA that it has corrected the noncompliance so that all future vehicles will comply with FMVSS Nos. 102 and 114.

In summation, Ford believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 4,727 vehicles that Ford no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their control after Ford notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8)

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35803]

United States Environmental Protection Agency—Petition for Declaratory Order

On January 24, 2014, the United States Environmental Protection Agency (EPA), Region IX, filed a petition for declaratory order requesting that the Board institute a proceeding to consider whether two rules concerning railroad locomotive idling issued by the South Coast Air Quality Management District (SCAQMD) would be preempted by 49 U.S.C. 10501(b), if those rules were approved into the California State Implementation Plan (SIP) under the Clean Air Act, 42 U.S.C. 7401 et seq.¹

¹ SCAQMD submitted the rules to the California Air Resources Board (CARB), which then submitted the rules to the EPA for approval into the California SIP.

The EPA indicates that it must decide whether to approve the rules into the California SIP and therefore seeks guidance on whether § 10501(b) would preempt the implementation of the rules if they are approved.

Replies to the EPA’s petition were submitted by United States Representative Henry A. Waxman, SCAQMD, CARB, the Commonwealth of Massachusetts Department of Environmental Protection (MassDEP),² Norfolk Southern Railway Company, the Association of American Railroads, BNSF Railway Company, Union Pacific Railroad Company, East Yard Communities for Environmental Justice, and the Center for Community Action & Environmental Justice and Sierra Club.

The Board has discretionary authority under 5 U.S.C. 554(e) and 49 U.S.C. 721 to issue a declaratory order to eliminate a controversy or remove uncertainty. Here, it is appropriate to institute a declaratory order proceeding to remove the uncertainty raised in EPA’s petition regarding whether the idling rules, if approved into the California SIP, would be preempted by § 10501(b). The record presented to date reveals that this is a matter of widespread and significant public interest and warrants thorough consideration by the Board after the development of a complete record. The Board will therefore institute a declaratory order proceeding to consider the issues and establish a procedural schedule for the filing of comments and replies.³

In its January 24, 2014 filing, the EPA also requested an expedited proceeding due to a statutory deadline of February 28, 2014, for the EPA to take action on CARB’s request that the state-developed rules be accepted into the California SIP, which CARB had submitted to the EPA on August 30, 2012. The EPA’s proposed schedule, submitted in its petition to the Board, would not provide sufficient time for all interested parties to comment on the preemption issue and for the Board to fully consider the matter. Accordingly, the Board hereby provides notice that issuance of a decision by February 28, 2014, will not be possible.

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

It is ordered:

1. A declaratory order proceeding is instituted.

² MassDEP filed a petition to intervene, which will be granted.

³ Parties that have already replied to the petition need not refile unless they wish to supplement what they have already filed.

2. MassDEP's petition to intervene is granted.

3. Interested parties may submit new or supplemental comments by March 28, 2014. Replies to those comments are due by April 14, 2014.

4. This decision is effective on its service date.

By the Board, Chairman Elliott and Vice Chairman Begeman.

Derrick A. Gardner,
Clearance Clerk.

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DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number RITA 2008-0002]

Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

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 collecting financial, traffic and operating statistics from small certificated and commuter air carriers. Small certificated air carriers (operate aircraft with 60 seats or less or with 18,000 pounds of payload capacity or less) currently must file the two quarterly schedules listed below:

F-1 *Report of Financial Data,*

F-2 *Report of Aircraft Operating Expenses and Related Statistics,* and
Commuter air carriers must file the Schedule F-1 *Report of Financial Data.*

Commenters should address whether BTS accurately estimated the reporting burden and if there are other ways to enhance the quality, utility, and clarity of the information collected.

DATES: Written comments should be submitted by May 2, 2014.

FOR FURTHER INFORMATION CONTACT: Marianne Seguin, Office of Airline Information, RTS-42, Room E34-418, RITA, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590-0001, Telephone Number (202) 366-1457, Fax Number (202) 366-3383 or EMAIL marianne.seguin@dot.gov.

Comments: Comments should identify the associated OMB approval #2138-

0009 and Docket ID Number RITA 2008-0002. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138-0009, Docket—RITA 2008-0002. The postcard will be date/time stamped and returned.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138-0009.

Title: Report of Financial and Operating Statistics for Small Aircraft Operators.

Form No.: BTS Form 298-C.

Type of Review: Extension of a currently approved collection for the financial data.

Respondents: Small certificated (29) and commuter air carriers (24).

Schedule F1:

Number of Respondents: 53.

Number of Annual Responses: 212.

Total Burden per Response: 4 hours.

Total Annual Burden: 848 hours.

Schedule F2:

Number of Respondents: 29.

Number of Annual Responses: 116.

Total Burden per Response: 12 hours.

Total Annual Burden: 1,392 hours.

Needs and Uses: Program uses for Form 298-C financial data are as follows:

Mail Rates

The Department of Transportation sets and updates the Intra-Alaska Bush mail rates based on carrier aircraft operating expense, traffic, and operational data. Form 298-C cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Essential Air Service

DOT often has to select a carrier to provide a community's essential air service. The selection criteria include historic presence in the community, reliability of service, financial stability and cost structure of the air carrier.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR Part 204) and an associated

projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 298-C for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

The quarterly financial submissions by commuter and small certificated air carriers are used in determining each carrier's continuing fitness to operate. Section 41738 of Title 49 of the United States Code requires DOT to find all commuter and small certificated air carriers fit, willing, and able to conduct passenger service as a prerequisite to providing such service to an eligible essential air service point. In making a fitness determination, DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier begins conducting flight operations, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed and advised of all current and developing economic issues affecting the airline industry. In preparing financial condition reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers prepared for senior DOT officials may use the same information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 USC 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 on February 25, 2014.

Rolf R. Schmitt,

Deputy Director, Bureau of Transportation Statistics.

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