

projected airport delays and traffic levels.

**Donald W. Bright,**

*Director, Office of Airline Information,  
Bureau of Transportation Statistics.*

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## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

#### Agency Information Collection; Activity Under OMB Review; Report of Passengers Denied Confirmed Space—BTS Form 251

**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 DOT requiring U.S. and foreign air carriers that operate scheduled passenger service with large aircraft to submit reports on their oversales practices. Large aircraft are aircraft designed to carry over 60-seats. Carriers submit the quarterly Form 251 "Report of Passengers Denied Confirmed Space." Carriers do not report oversales of inbound international flights because the protection provisions of 14 CFR part 250 do not apply to these flights. The Department uses Form 251 to monitor the compliance by U.S. and foreign air carriers to the oversales provisions of Part 250.

**DATES:** Written comments should be submitted by November 21, 2000.

**ADDRESSES:** Comments should be directed to: Office of Airline Information, K-25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, FAX NO. 366-3383 or EMAIL [bernard.stankus@bts.gov](mailto:bernard.stankus@bts.gov).

#### Comments

Comments should identify the OMB # 2138-0018. 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 # 2138-0018. The postcard will be date/time stamped and returned.

**FOR FURTHER INFORMATION CONTACT:** Bernie Stankus Office of Airline Information, K-25, Room 4125, Bureau of Transportation Statistics, 400 Seventh

Street, SW., Washington, DC 20590-0001, (202) 366-4387.

#### SUPPLEMENTAL INFORMATION:

*OMB Approval No.:* 2138-0018.

*Title:* Report of Passengers Denied

Confirmed Space.

*Form No.:* BTS Form 251.

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

*Respondents:* Large U.S. and foreign air carriers.

*Number of Respondents:* 120.

*Number of Responses:* 480.

*Total Annual Burden:* 2,220 hours.

*Needs and Uses:* BTS Form 251 is a one page report on the number of passengers holding confirmed space that were voluntarily or involuntarily denied boarding. Carriers must report whether the bumped passengers were provided alternate transportation and/or compensation, and the amount of the payment. The report allows the Department to monitor the effectiveness of its oversales rule and take enforcement action when necessary. The involuntary denied-boarding rate has steadily decreased over the years from 4.38 per 10,000 enplanements in 1980 to 1.08 for the first six months of the year 2000. This decrease occurred at a time when air carrier load factors have increased. These statistics demonstrate the effectiveness of the Avolunteer\* provision, which has reduced the need for more intrusive regulation.

The rate of denied boarding can be examined as an air carrier continuing fitness factor. This rate provides an insight into a carrier's policy on treating overbooked passengers and its compliance disposition. A rapid increase in the rate of denied boardings often is an indicator of operational difficulty.

Because the rate of denied boarding is published in the *Air Travel Consumer Report*, travelers and travel agents can select carriers with low bumping incidents when booking a trip.

**Donald W. Bright,**

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Bureau of Transportation Statistics.*

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## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

#### Agency Information Collection; Activity Under OMB Review; Domestic Cargo Transportation—Part 291

**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 DOT requiring domestic all-cargo carriers, that do not submit Form 41 reports, to file Form 291-A AStatement of Operations and Statistics Summary for Section 41103 Operations\* pursuant to 14 CFR 291.42. Form 291-A is used to monitor air-cargo activity on all-cargo flights.

**DATES:** Written comments should be submitted by November 21, 2000.

**ADDRESSES:** Comments should be directed to: Office of Airline Information, K-25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, FAX NO. 366-3383 or E-MAIL [bernard.stankus@bts.gov](mailto:bernard.stankus@bts.gov).

#### Comments

Comments should identify the OMB # 2138-0023. 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 #2138-0023. The postcard will be date/time stamped and returned.

#### FOR FURTHER INFORMATION CONTACT:

Bernie Stankus Office of Airline Information, K-25, Room 4125, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-4387.

#### SUPPLEMENTARY INFORMATION:

*OMB Approval No.* 2138-0023.

*Title:* Domestic Cargo Transportation Part 291.

*Form No.:* BTS Form 291-A.

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

*Respondents:* Certificated all-cargo air carriers.

*Number of Respondents:* 1.

*Number of Responses:* 1.

*Total Annual Burden:* 12 hours.

*Needs and Uses:* BTS Form 291-A financial data are reviewed in connection with an air carrier's operations when concerns arise as to a carrier's financial condition as evidenced by reported losses. Data comparisons are made between current and past periods in order to assess the current financial position. Financial trend lines are extended into the future to evaluate the continued viability of the air carrier.

Commercial all-cargo activity data are used by the FAA in estimating the excise tax paid by shippers and held by

the all-cargo air carriers. Although a precise amount cannot be computed because of the limitations of the report, an estimation is possible for revenue budgeting purposes.

**Donald W. Bright,**

*Director, Office of Airline Information,  
Bureau of Transportation Statistics.*

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

[Docket No. 00-18]

#### Notice of Request for Preemption Determination

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for the OCC's opinion on whether Federal law preempts certain provisions of the Financial Institutions Insurance Sales Act (FIISA), enacted by the State of Rhode Island in 1996. The purpose of this notice and request for comment is to provide interested persons with an opportunity to submit comments prior to the OCC's issuance of a written opinion in this matter.

**DATES:** Comments must be received on or before October 23, 2000.

**ADDRESSES:** Comments should be sent to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Third Floor, Attention: Docket No. 00-18, Washington, DC 20219. You may submit comments electronically to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov) or by facsimile transmission to (202) 874-5274. You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874-5043.

**FOR FURTHER INFORMATION CONTACT:** Jean Campbell, Attorney, or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090.

#### SUPPLEMENTARY INFORMATION:

##### Background

In 1996, the Financial Institutions Insurance Association (Requester) filed with the OCC a request for the OCC's

opinion on whether Federal law preempts certain provisions of a Rhode Island statute pertaining to insurance sales by financial institutions. The OCC published a notice and request for comment on January 14, 1997.<sup>1</sup> On March 18, 1997, the OCC extended the comment period until May 15, 1997,<sup>2</sup> so that interested persons could consider, and comment on, the effect of a regulation implementing the Rhode Island statute that was then under consideration by the Rhode Island Department of Business Regulation. Throughout this time period, the Congress was actively considering various financial modernization bills containing provisions relevant to the issues raised by the Requester. Congress passed such legislation—the Gramm-Leach-Bliley Act (Pub. L. 106-102, 113 Stat. 1338)—in November 1999 (GLBA). On July 26, 2000, the Requester renewed its request that the OCC issue an opinion on whether or not Federal law, now including the relevant provisions of GLBA, preempts certain provisions of Rhode Island Law.<sup>3</sup>

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103-328, 108 Stat. 2338) generally requires the OCC to publish in the Federal Register a descriptive notice of certain requests that the OCC receives for preemption opinions. 12 U.S.C. 43. Under section 114, the OCC must publish notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of any State law in four designated areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. Pursuant to section 114, interested persons have at least 30 days to submit written comments. Without making a determination as to whether section 114 applies to this request, the OCC has decided that it is appropriate to use notice and comment procedures given the broad interest in the issues presented. The OCC will publish in the **Federal Register** any final opinion letter we issue concluding that Federal law preempts the provisions of the Rhode Island Law that are the subject of the request.

#### Description of the Request for OCC Preemption Opinion

The OCC has been asked to provide its views on whether section 104 of the

GLBA<sup>4</sup> preempts certain specific provisions of the Rhode Island Law.

Section 104(d)(2)(A) of GLBA provides that “[i]n accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of a depository institution, or an affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with an affiliate or any other person, in any insurance sales, solicitation, or crossmarketing activity.” However, State provisions are not preempted pursuant to section 104 if they are substantially the same as but no more burdensome or restrictive than any of the thirteen specific provisions—or Safe Harbors—described in section 104(d)(2)(B).<sup>5</sup> The Requester asserts that five specific provisions of the FIISA are preempted and that none of the Safe Harbors protects these provisions.

#### Anti-tying Prohibition

The Requester contends that Federal law should preempt the anti-tying provisions in section 6 of the FIISA and its implementing regulation. Specifically, section 6 provides that:

(a) No financial institution may offer a banking product or service, or fix or vary the conditions of this offer, on a condition or requirement that the customer obtains insurance from the financial institution, or any particular insurance producer.

(b) No person shall require or imply that the purchase of an insurance product from a financial institution by a customer or prospective customer of the institution is required as a condition of, or is in any way related to, the lending of money or extension of credit, the establishment or maintenance of a trust account, the establishment or maintenance of a checking or savings account or other deposit account, or the provision of services related to any of these activities. R.I. Gen. Laws 27-58-6.

The Requester contends that this prohibition is much broader than a prohibition against coercive tying because it prohibits a loan officer from mentioning to a customer that insurance products may be available, at a discount, as part of a package of bank services. The Requester further contends that these prohibitions are more burdensome and restrictive than Safe Harbor (viii) and frustrate, hamper,

<sup>4</sup> 113 Stat. 1338, 1352-59 (November 12, 1999) (to be codified at U.S.C. 6701).

<sup>5</sup> The thirteen Safe Harbors are enumerated in clauses (i) through (xiii) of section 104(d)(2)(B). Each Safe Harbor is referred to in this notice by clause. Thus, Safe Harbor (viii) refers to section 104(d)(2)(B)(viii).

<sup>1</sup> 62 FR 1950 (January 14, 1997).

<sup>2</sup> 62 FR 12883 (March 18, 1997).

<sup>3</sup> This notice refers to the statutory provisions and their implementing regulations, where applicable, collectively as the Rhode Island Law.