Aprilia argued that ''reducing this ''latency time'' to a minimum, especially for inexperienced riders, has obvious safety benefits.'' Finally, the hand lever reduces the possibility of loss of control because of rear wheel locking in an emergency braking situation because of ''the increased sensitivity to brake feedback with the hand lever.''

Aprilia pointed out that European regulations allow motorcycle manufacturers the option of choosing rear brake application through either a right foot or left handlebar control, and that Australia permits the optional locations for motorcycles of any size with automatic transmissions.

An exemption would be consistent with objectives of motor vehicle safety, Aprilia argued, because it believes that its disc brake system provides ''better resistance to fade and better performance under wet conditions.'' The design of the vehicle ''has been tested by long use in Europe and the rest of the world'' without safety concerns being raised. An exemption would be in the public interest because the emissions ''of the small engines have been demonstrated to be lower than alternative means of transportation such as large motorcycles or automobiles.'' The introduction of ''this type of motor vehicle will provide the American consumer with a broader range of choice of low-cost transportation.''

NHTSA received one comment on Aprilia's application, from Peugeot Motocycles of France, which supported it.

In order to grant Aprilia's application, NHTSA must find that an exemption is consistent with the public interest and motor vehicle safety (49 U.S.C. Sec. 30113(b)(3)(A)), and that compliance with the brake control location requirement of Standard No. 123 would prevent Aprilia from selling a motorcycle with an overall safety level at least equal to the safety level of a nonexempt motorcycle (49 U.S.C. Sec. 30113(b)(3)(B)(iv)).

Aprilia has correctly identified NHTSA's principal area of concern: the standardization of motorcycle controls. In adopting Standard No. 123 in April 1972, effective September 1, 1974, the agency justified standardization of motorcycle controls as a means of minimizing operator error in responding to the motoring environment, saying that ''a cyclist, especially the novice and the cyclist who has changed from one make of machine to another, must not hesitate when confronted with an emergency'' (37 FR 7207).

Accordingly, after the close of the comment period, we asked Aprilia to comment on our concern that a left hand lever-operated rear brake may contribute to unfamiliarity and thus degrade a rider's overall braking reaction beyond what would exist on a motorcycle with conventionally configured controls. At the request of Aprilia's U.S. sales subsidiary, Aprilia U.S.A. Inc. of Woodstock, Georgia, Carter Engineering of Franklin, Tennessee, prepared a report on ''Motorscooter Braking Control Study'' (Report No. CE–99–APR–05, May 1999) comparing braking response times of riders using the left hand control of the Leonardo 150 and the right foot control of the Yamaha XC–125 Riva. We have placed a copy of this report in the docket. Aprilia U.S.A. comments that ''[o]verall, the test subjects'' reaction times on the Leonardo were approximately 20% quicker than their reaction times on the conventional motorcycle.'' Aprilia believes that ''a less complex braking arrangement like that of the Leonardo will improve rider reaction in an emergency situation.'' We interpret the report as indicating that a Leonardo rider's braking response is not likely to be degraded by the different placement of the brake controls, thus directly addressing and meeting our safety concern.

With respect to the public interest and consistency with objectives of motor vehicle safety, the available information suggests that Aprilia's request to operate the rear brake with the left hand instead of the right foot may not degrade the rider's braking response. By allowing exempted vehicles to be sold on a temporary basis for two years, it will be possible for us to gather data on operators' experience with this alternative rear brake control. This information would allow us to make a more informed decision about locations for motorcycle brake controls.

In consideration of the foregoing, it is hereby found that to require compliance with Standard No. 123 would prevent the manufacturer from selling a motor vehicle with an overall level of safety at least equal to the overall safety level of nonexempt vehicles. It is further found that a temporary exemption is in the public interest and consistent with the objectives of motor vehicle safety. Accordingly, Aprilia, S.p.A. is hereby granted NHTSA Temporary Exemption No. EX99–9 from the requirement of Item 11, Column 2, Table 1 of 49 CFR 571.123 Standard No. 123, *Motorcycle Controls and Displays*, that the rear wheel brakes be operable through the right foot control. This exemption applies only to the Leonardo 150 and will expire on July 1, 2001. 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50).

Issued on: August 9, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–20951 Filed 8–12–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Preemption Determination No. PD–15(R); Docket No. RSPA–97–2968 (PDA–17(R))]

Public Utilities Commission of Ohio Requirements for Cargo Tanks

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

ACTION: Decision on petition for reconsideration of administrative determination of preemption.

PETITIONERS: William E. Comley, Inc. (WECCO) and TWC Transportation Corporation (TWC).

STATE LAWS AFFECTED: Ohio Admin. Code § 4901:2–05–02.

APPLICABLE FEDERAL REQUIREMENTS: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171–180.

MODES AFFECTED: Highway.

SUMMARY: RSPA affirms its March 29, 1999 determination that there is insufficient evidence that the Public Utilities Commission of Ohio (PUCO) has applied or enforced requirements governing the transportation of hypochlorite solutions in any different manner than provided in the HMR.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, 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. Background

WECCO and TWC applied to RSPA for an administrative determination that Federal hazardous material transportation law preempts an alleged requirement of the State of Ohio, as supposedly applied and enforced by PUCO, with respect to cargo tank motor vehicles used to transport hypochlorite solutions. According to these two companies, PUCO brought enforcement cases against them based on their use of a non-DOT specification cargo tank motor vehicle to transport hypochlorite

solutions containing more than 5% but less than 16% available chlorine. WECCO and TWC have not paid the total of almost $25,000 in civil penalties assessed by PUCO.

RSPA dismissed the first application submitted by WECCO and TWC. After considering additional information supplied by these companies in support of their second application, on October 10, 1997, RSPA published a notice in the **Federal Register** inviting interested parties to comment on these companies' application. 62 FR 53049. In response to that notice, PUCO and the National Tank Truck Carriers, Inc. (NTTC) submitted comments opposing the application of WECCO and TWC. The applicants did not submit further comments.

In its decision in Preemption Determination (PD) No. 15(R), published in the **Federal Register** on March 29, 1999, RSPA found that written requirements of the State of Ohio applicable to the transportation of hazardous materials are consistent with the HMR and that there is ''no evidence that PUCO applies or enforces a general requirement for the use of a DOT specification cargo tank motor vehicle to transport hypochlorite solutions with less than 16% available chlorine.'' 64 FR 14965, 14967. RSPA explained that WECCO and TWC could have appealed an individual misinterpretation or misapplication of the HMR's requirements in the PUCO enforcement proceedings and stated that:

> As a general matter, an inconsistent or erroneous interpretation of a non-Federal regulation should be addressed in the appropriate State or local forum, because ''isolated instances of improper enforcement (e.g., misinterpretation of regulations) do not render such provisions inconsistent'' with Federal hazardous material transportation law. IR–31, Louisiana Statutes and Regulations on Hazardous Materials Transportation, 55 FR 25572, 25584 (June 21, 1990), appeal dismissed as moot, 57 FR 41165 (Sept. 9, 1992), quoted in PD–4(R), California Requirements Applicable to Cargo Tanks Transporting Flammable and Combustible Liquids, 58 FR 48940 (Sept. 20, 1993), decision on reconsideration, 60 FR 8800 (Feb. 15, 1995).
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> PD–14(R), Houston, Texas Fire Code Requirements on the Storage, Transportation, and Handling of Hazardous Materials, 63 FR 67506, 67510 n.4 (Dec. 7, 1998), decision on petition for reconsideration, 64 FR 33949 (June 24, 1999), quoted from 64 FR 14967.

In Part II of its decision in PD–15(R), RSPA discussed the applicability of Federal hazardous material transportation law to the transportation of hazardous materials in commerce and the standards for making determinations of preemption. 64 FR 14965–66. As explained there, unless DOT grants a waiver or there is specific authority in another Federal law, a State (or other non-Federal) requirement is preempted if:

—It is not possible to comply with both the State requirement and a requirement in the Federal hazardous material transportation law or regulations;

—The State requirement, as applied or enforced, is an ''obstacle'' to accomplishing and carrying out the Federal hazardous material transportation law or regulations; or

—The State requirement concerns a ''covered subject'' and is not ''substantively the same as'' a provision in the Federal hazardous material transportation law or regulations. Among the five covered subjects are (1) ''the designation, description, and classification of hazardous material,'' and (2) the ''packing, repacking, handling, labeling, marking, and placarding of hazardous material.''

See 49 U.S.C. 5125 (a) & (b). These preemption provisions stem from congressional findings that State and local laws which vary from Federal hazardous material transportation requirements can create ''the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting . . . regulatory requirements,'' and that safety is advanced by ''consistency in laws and regulations governing the transportation of hazardous materials.'' Pub. L. 101–615 Sections 2(3) & 2(4), 104 Stat. 3244.

In PD–15(R), RSPA also explained its procedures for issuing preemption determinations and the rights to file a petition for reconsideration and/or judicial review. 63 FR at 67509, 67511.

Within the 20-day time period provided in 49 CFR 107.211(a), WECCO and TWC filed a petition for reconsideration of PD–15(R). These companies certified that they had mailed a copy of their petition to PUCO and NTTC, the only parties that had submitted comments. PUCO submitted comments on the City's petition for reconsideration.

II. Petition for Reconsideration

In their petition for reconsideration, WECCO and TWC acknowledge that the State of Ohio has adopted the Federal HMR verbatim. They argue that ''RSPA's ruling claim of 'nsufficiency of evidence' is incomprehensible,'' and they present a lengthy list of complaints about the two enforcement proceedings brought against them. They assert such matters as

—The right of these companies to represent themselves ''pro se'' in the PUCO enforcement hearings;

—The failure of a PUCO commissioner to attend the PUCO enforcement hearings;

—An alleged failure of PUCO to serve a ''Notice of Apparent Violations;

—The preponderance of the evidence in the PUCO enforcement hearings and allegations that ''[t]he Department tampered with evidence and records while the [WECCO and TWC] trucks were impounded''; and

—The Ohio Governor and other State officials ''each became Party through malfeasance or misfeasance in office.''

The conclusion of these parties is that ''Ohio did enforce a variance and conflicting regulations against WECCO and TWC.'' They state that it would be ''wrong, immoral, and illegal'' for RSPA to ''violate law by supporting the Ohio Department's lawlessness.''

The petition for reconsideration submitted by WECCO and TWC contains the same arguments as previously considered by RSPA in PD–15(R). These companies still have not provided any information or evidence that PUCO has generally enforced requirements concerning the transportation of hazardous materials in a manner inconsistent with the HMR. As PUCO states in its responding comments, the petition for reconsideration ''presents nothing new for RSPA's consideration and, instead, merely attempts to once again improperly invite RSPA to sit as an appeals court.''

III. Ruling

RSPA denies the petition for reconsideration filed by WECCO and TWC and affirms its March 29, 1999 determination that there is insufficient evidence that PUCO has applied or enforced requirements governing the transportation of hypochlorite solutions in any different manner than provided in the HMR.

IV. Final Agency Action

In accordance with 49 CFR 107.211(d), this decision constitutes RSPA's final agency action on the application of WECCO and TWC for a determination of preemption as to requirements of the State of Ohio, as applied and enforced by PUCO, concerning the transportation of hypochlorite solutions in cargo tank motor vehicles.

Issued in Washington, DC on August 9, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–21019 Filed 8–12–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Proposed Collection; Comment Request

AGENCY: Financial Crimes Enforcement Network, Treasury.

ACTION: Notice and request for comments.

SUMMARY: In order to comply with the requirements of the Paperwork Reduction Act of 1995 concerning proposed extensions of information collection requirements, the Financial Crimes Enforcement Network (''FinCEN'') is soliciting comments concerning Internal Revenue Service (''IRS'') Form 8362, Currency Transaction Report by Casinos (''CTRC''), which is filed for currency transactions involving casinos and card clubs under the Bank Secrecy Act regulations.

DATES: Written comments must be received on or before October 12, 1999.

ADDRESSES: Direct all written comments to the Financial Crimes Enforcement Network, Office of Program Development, Attn.: CTRC Comments, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for a copy of the form should be directed to Leonard Senia, Senior Financial Enforcement Officer; Office of Program Development, (703) 905–3931; or Stacie A. Larson, Office of Chief Counsel, (703) 905–3590. A copy of the CTRC form, as well as all other forms required by the Bank Secrecy Act, can be obtained through the Internet at http://www.treas.gov/fincen/.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (Titles I and II of Public Law 91–508), as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Regulations implementing Title II of the Bank Secrecy Act, codified at 31 U.S.C. 5311–5314, 5316–5330, appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act regulations has been delegated to the Director of FinCEN.

Section 5313(a) authorizes the Secretary to issue regulations that require a report when ''a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes.'' Regulations implementing section 5313(a) are found at 31 CFR 103.22. In general, the regulations require the reporting of transactions in currency in excess of $10,000 a day. Casinos as defined in 31 U.S.C. 5312(a)(2)(X) and 31 CFR 103.11(n)(7)(i) are financial institutions subject to the currency transaction reporting requirement. Card clubs, as defined in 31 CFR 103.11(n)(8)(i), are casinos subject to currency transaction reporting. (See 63 FR 1919, January 13, 1998.) The Currency Transaction Report by Casinos, IRS Form 8362, is the form casinos and card clubs use to comply with the currency transaction reporting requirements.

Information collected on the CTRC is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel solely in the official performance of their duties. The information contained is used in investigations involving international and domestic money laundering, tax violations, fraud, and other financial crimes.

This notice proposes no changes to the current text of the Form 8362 or its instructions.

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information on Form 8362 is presented to assist those persons wishing to comment on the information collection. (Since the number of respondents has increased during 1998 because of the inclusion of card clubs under the Bank Secrecy Act, the estimates below are based on 1998 filings.)

Title: Currency Transaction Report by Casinos.

Form Number: IRS Form 8362.

OMB Number: 1506–0005.

Description of Respondents: All United States casinos and card clubs having gross annual gaming revenues in excess of $1 million, except for casinos in Nevada.

Estimated Number of Respondents: 550.

Estimated Number of Annual Responses: 140,000.

Frequency: As required.

Estimate of Burden: Reporting average of 19 minutes per response; recordkeeping average of 5 minutes per response.

Estimate of Total Annual Burden on Respondents: Reporting burden estimate = 44,333 hours; recordkeeping burden estimate = 11,667 hours. Estimated combined total of 56,000 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $1,120,000.

Estimate of Total Other Annual Costs to Respondents: None.

Type of Request: Extension of a currently approved information collection.

Request for Comments: FinCEN specifically invites comments on the following subjects: (a) whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information shall have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

Responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: August 6, 1999.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 99–20966 Filed 8–12–99; 8:45 am]

BILLING CODE 4820–03–P