

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12547-N	RSPA-00-8006	Rohm and Haas Company, Philadelphia, PA.	49 CFR 177.834(i)(3)	To authorize the loading and/or unloading of hazardous materials to/from cargo tank motor vehicles without the physical presence of an unloader. (mode 1)
12548-N	RSPA-00-8005	TriCal Inc., Hollister, CA	49 CFR 174.67(i) & (j), 174.67(j)	To authorize rail car connectors to remain attached while standing without the physical presence of an unloader. (mode 2)
12549-N	RSPA-00-8004	Griro S.A., Romania	49 CFR 178.245-1(a)	To authorize the manufacture, marking, sale and use of DOT Specification 51 steel portable tanks permanently installed in an ISO frame that have been designated, constructed and stamped in accordance with Section VIII, Division 2 instead of Division 1 of the ASME Code. (modes 1, 2, 3)
12552-N	RSPA-00-8001	Illbruck Sealant Systems, B.V., The Netherlands.	49 CFR 173.306(a)(3)(v)	To authorize an alternative testing method for specially designed aerosol containers for use in transporting limited quantities of Division 2.1 material. (modes 1, 2, 3)
12554-N	RSPA-00-8116	LKQ Corporation, Lecanto, FL.	49 CFR 173.166(d)(3)	To authorize the transportation in commerce of recycled airbags in bulk shipment without intermediate form of containment. (mode 1)

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 00-21]

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 request for the OCC's opinion about whether Federal law would preempt certain provisions of Ohio law that limit the manner in which reclaimed leased vehicles may be sold. 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 an opinion.

DATES: Comments must be received on or before November 24, 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. 00-21, Washington, DC 20219. You may submit comments electronically to 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 a.m. and 5 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874-5043.

FOR FURTHER INFORMATION CONTACT: Michele Meyer, Senior Attorney, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874-5090.

SUPPLEMENTARY INFORMATION: The requester is a national bank that engages in motor vehicle leasing in Ohio. On November 12, 1993, the Registrar of the Ohio Bureau of Motor Vehicles (OBMV) issued a memorandum in which it concluded that Ohio Revised Code section 4517¹ prohibits the public sale of reclaimed leased vehicles.² Under this interpretation, reclaimed leased vehicles can only be sold at wholesale to persons licensed under section 4517 as "dealers."

The requester has asked our opinion whether the National Bank Act would preempt section 4517 as interpreted by the OBMV. Under the National Bank Act, 12 U.S.C. 24(Seventh) and 12 U.S.C. 24(Tenth), a national bank is authorized to conduct a leasing business consistent with the provisions of 12 CFR part 23. The requester contends that its leasing authority includes the authority to dispose of reclaimed or off-lease vehicles in the manner that is economically most beneficial to the bank and that the bank is typically able to get the best price for its reclaimed or off-lease vehicles by selling directly to

the public. The requester therefore asserts that the OBMV's construction of the Ohio law to prohibit public sales of reclaimed leased vehicles impairs a national bank's ability to exercise its leasing authority.

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.³ Under section 114, the OCC must publish notice before it issues any opinion letter or interpretive rule opining 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.

The OCC invites comments on the issues described above. We will publish in the **Federal Register** any final opinion letter we issue in response to the request.

Dated: October 16, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

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¹ Ohio Rev. Code Ann. § 4517.

² Memorandum from Mitchell J. Brown, Registrar, Ohio Bureau of Motor Vehicles, to All Ohio Auto Auctions, Leasing Dealers, and Banks (November 12, 1993).

³ 12 U.S.C. 43.