

## SUPPORTING STATEMENT

### Record Retention

#### A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Under 49 U.S.C. Section 30166(e), NHTSA “reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor or dealer to make reports, to enable [NHTSA] to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed under this chapter.”

To ensure that NHTSA will have access to this type of information, the agency exercised the authority granted in 49 U.S.C. Section 30166(e) and promulgated 49 CFR Part 576 Record Retention, initially published on August 20, 1974 and most recently amended on July 10, 2002 (67 FR 45873), requiring manufacturers to retain one copy of all records that contain information concerning malfunctions that may be related to motor vehicle safety for a period of five calendar years after the record is generated or acquired by the manufacturer. Manufacturers are also required to retain for ten years (five years for manufacturers of child seats and tires) the underlying records related to early warning reporting (EWR) information submitted under 49 CFR Part 579.

Copies of 49 U.S.C. Section 30118, 30165, and 30166(e) and 49 CFR Part 576 and Part 579, are included as Attachments 1, 2, 3, 4, and 5 respectively .

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate actual use the agency has made of the information received from the current collection.

The records that are required to be retained per 49 CFR Part 576 are used to promptly identify potential safety-related defects in motor vehicles and motor vehicle equipment in the United States. When a trend in incidents arising from a potentially safety-related defect is discovered, NHTSA relies on this information, along with other agency data, to determine whether or not to open a formal defect investigation (as authorized by Title 49 U.S.C. Chapter 301 – Motor Vehicle Safety). NHTSA normally becomes aware of possible safety-related defects because it receives consumer complaints.

Agency experience has shown that manufacturers receive significantly more consumer complaints than does the agency. This is because the consumer with the product does not know whether their particular vehicle or equipment has a problem that is common with an entire group of vehicles or equipment. Whereas consumers know the manufacturer of their vehicle or equipment, relatively few know how to file a complaint with the National Highway Traffic Safety Administration's Auto Safety Hotline. The complaints filed with the manufacturer give the agency a fair indication of how widespread the potential problem may be.

If the manufacturer did not retain its records, NHTSA would be unable to enforce the statutory requirements that the manufacturer notify the agency and other persons of a safety-related defect when the manufacturer "learns" of the defect, and notify the agency and other persons of a noncompliance when it "decides in good faith" that the noncompliance exists. Without access to the manufacturer's records, it would be impossible for anyone other than the manufacturer to show when or if that manufacturer had obtained knowledge of a potential defect or had determined in good faith that the noncompliance did or did not exist. Without access to manufacturers' records, NHTSA's examinations of potential defects and noncompliances would be seriously handicapped. NHTSA could conduct surveys of vehicle owners or use other means to learn of problems with vehicles and equipment, but any of these other methods would require significantly more information collections by the agency and necessitate a larger staff of the agency's Office of Defect Investigations.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Part 576 requires the manufacturers to retain only one copy of all records concerning malfunctions that may relate to motor vehicle safety. The manufacturers are permitted to store this information by any means they wish and transfer the information from one means of storage to another as often as they wish. Since Part 576 already permits the manufacturers to use the most advanced information technology available, NHTSA does not believe that improved information technology could further reduce the burden. There are no technical or legal obstacles to manufacturers' using any technology they wish to minimize the recordkeeping burden imposed under Part 576. No information is submitted to the government under this regulation, and we do not conduct routine enforcement activities to ensure that the manufacturers have retained these records. Much of the complaint data retained under this provision, and the great majority of Early Warning data manufacturers submit, is in electronic format.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

Part 576 requires manufacturers to retain only one copy of the records. No other Federal regulation requires the manufacturers to retain copies of these records and NHTSA is the only government agency that requires manufacturers to retain this information. Therefore, this regulation does not duplicate any other Federal requirement. Part 576 is the only regulation requiring manufacturers to retain this information and there is no similar information that could be used or modified for use for the purposes described above in item 2.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

As noted above, this regulation requires all vehicle and equipment manufacturers to retain one copy of records concerning malfunctions that may be related to motor vehicle safety. A few of the manufacturers may qualify as small entities. Such manufacturers would be expected to have fewer records of malfunctions, because they produce fewer vehicle types and fewer vehicles than the larger manufacturers. Accordingly, the burden imposed on them to retain these records should be very small. In fact, NHTSA believes there would be some years during which the small manufacturers would not be required by this regulation to retain any records. Thus, NHTSA believes that the regulation does not impose a disproportionate burden on small manufacturers.

In addition, there are distinct reporting requirements for manufacturers of fewer than 500 vehicles annually, for manufacturers of original equipment, and for manufacturers of replacement equipment other than child restraint systems and tires. Under 49 CFR Part 579.27, these entities need report incidents involving death, a less burdensome requirement than the requirement for other entities to report incidents involving death or injury. Correspondingly, under 49 CFR Part 576, small manufacturers need retain this much smaller record set.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the manufacturers did not retain a copy of all records concerning malfunctions related to motor vehicle safety, agency investigations and enforcement efforts could be severely impaired. Agency examinations of potential defects and noncompliances would be seriously handicapped without the availability of manufacturer's records. NHTSA could conduct surveys of vehicle owners to learn of problems or use other means of learning of consumers' experience with vehicles and equipment. However, any of these other means would necessitate

more information collections by the agency and necessitate a larger staff of the agency's Office of Defect Investigations.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

This regulation is fully consistent with all the guidelines set forth in 5 CFR 1320.6.

8. Provide a copy of the Federal Register document soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format, and on the data elements to be recorded, disclosed, or reported.

See Attachment 6 for the Federal Register notice (73 FR 9853, February 22, 2008) soliciting public comments on this collection of information. NHTSA received no public comment in response to this notice.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

No payment or gift will be given to any respondent.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

If manufacturers request confidential treatment of business information, NHTSA will provide confidentiality, as appropriate, per 49 CFR Part 512. No names or other personally identifiable information, if included in documents submitted, will be disclosed without explicit authorization per the provisions of The Privacy Act of 1974 - 5 U.S.C. 552a, as amended.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are involved in this information collection.

12. Provide estimates of the hour burden of the collection of information.

Approximately one thousand manufacturers of vehicles and equipment (including tires and child restraint systems) are required to maintain records. We estimate

their burden at 40 hours each for a subtotal of 40,000 hours (1,000 respondents x 40 hours). In addition, there are approximately 23,600 equipment manufacturers (excluding child seat and tire manufacturers) whose record retention requirements under Part 576 are limited to the documents underlying their Part 579 reporting requirements. Their Part 579 requirements include only the reporting of incidents involving deaths. Therefore, based on the number of death reports submitted to date by these equipment manufacturers, we estimate that an additional 20 equipment manufacturers have record retention requirements imposed by Part 576. We estimate that it will take one hour each to maintain the necessary records for a subtotal burden of 20 hours (20 respondents x one hour). Accordingly, the estimate of total annual burden hours is 40,020 hours (1,000 respondents x 40 hours plus 20 respondents x 1 hour).

The agency estimates that the hourly cost to manufacturers for maintaining these records would be approximately \$20 per hour. This is somewhat higher than the usual assumed hourly cost, reflecting the fact that some of these hours would be computer time but most of the hours would be clerical time. Accordingly, the agency estimates that the total annual costs associated with the burden hours is \$800,400 (40,020 annual burden hours x \$20 per hour).

13. Provide estimates of the total annual cost to the respondents or record keepers resulting from the collection of information.

We believe that, except for the cost of the hours of burden, there will be no other cost resulting from this collection of information.

14. Provide estimates of the annualized costs to the Federal government.

The cost to the Federal government is zero. No information is submitted to the government under this regulation, and we do not conduct routine enforcement activities to ensure that the manufacturers have retained these records. The only time the agency seeks access to these retained records is in the context of a specific investigation, and any costs that accrue from that access would properly be charged to the investigation, instead of this regulation.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

There are no changes or adjustments to report.

16. For collections of information whose results are planned to be published for statistical use, etc.

This collection of information will not have results published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Approval is not sought to not display the expiration date for OMB approval.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

No exceptions to the certification statement are made.

**Attachments:**

1. 49 U.S.C., Chapter 301, 30118, Notification of defects and noncompliance
2. 49 U.S.C. Chapter 301, 30165 Civil penalties
3. 49 U.S.C., Chapter 301, 30166, Inspections, investigations, and records, at subparagraph (e) Records and making reports
4. 49 CFR Part 576
5. 49 CFR Part 579
6. Federal Register notice 73 FR 9853, February 22, 2008