

SUPPORTING STATEMENT
FOR PETITIONS
FOR INCONSEQUENTIAL NONCOMPLIANCE
49 CFR PART 556

1. Explain the circumstances that make the collection of information necessary. Attach a copy of the appropriate statute or regulation mandating or authorizing the collection of information.

The National Highway Traffic Safety Administration's statute at 49 USC section 30118 *Notification of defects and noncompliance*, at subsection (d) *Exemptions*, authorizes the Secretary of Transportation, upon application of a manufacturer, to exempt the applicant from the notice and remedy requirement of 49 USC Chapter 301, if the Secretary determines that the defect or noncompliance is inconsequential as it relates to motor vehicle safety. The notice and remedy requirements of Chapter 301 are set forth in 49 USC section 30120 *Remedies for defect and noncompliance* (Attachment 1). Those sections require a manufacturer of motor vehicles or motor vehicle equipment to notify distributors, dealers and purchasers if any of the manufacturer's products are determined either to contain a safety-related defect or fail to comply with an applicable Federal motor vehicle safety standard. The manufacturer is under a concomitant obligation to remedy such defect or noncompliance.

The agency exercised this statutory authority to excuse inconsequential defects or noncompliances when it promulgated 49 CFR Part 556, *Exemption for inconsequential defect or noncompliance*. This regulation establishes the procedures for manufacturers to submit such petitions to the agency, the contents of such petitions, and the criteria the agency will use in evaluating the petitions. Part 556 allows the agency to ensure that petitions filed under 49 USC 30118(d) are both properly substantiated and efficiently processed. The Secretary is authorized to issue, amend, and revoke such rules and regulations as the Secretary deems necessary.

This supports the Department of Transportation's strategic goal in customer service.

2. Indicate how, by whom, and for what purpose the information is to be used. Indicate actual use of information received from current collection.

Without an agency determination that a defect or noncompliance is inconsequential, a manufacturer of motor vehicles or motor vehicle equipment is required to notify all distributors, dealers, and purchasers of every defect or noncompliance that is determined to exist in its products, and to remedy that defect or noncompliance. Part 556 sets forth the form and content of petitions for relieving manufacturers from the statutory notice and remedy requirements for those defects or noncompliances the manufacturer believes are inconsequential as they relate to safety. When the agency receives such a petition from a manufacturer, it publishes a notice in the *Federal Register* that

summarizes the petition, informs the public that the petition and other relevant information are available for inspection, and invites the public to submit comments and data on the petition. After receiving the public comment, the agency makes its determination of whether the defect or noncompliance should be treated as inconsequential. This determination is generally made within 120 calendar days after the agency receives the petition.

There are two possible consequences if this collection of information were not conducted. First, it is possible that the agency would not receive the information it needs to make a determination that a defect or noncompliance is inconsequential to motor vehicle safety. In this case, manufacturers would be statutorily required to follow the notice and remedy provisions for every defect or noncompliance. Second, it is possible that the agency would have to conduct a full public hearing whenever a manufacturer claimed a defect or noncompliance was inconsequential. Whether the claim of inconsequentiality was ultimately determined to be spurious or meritorious, a full hearing would impose a needless burden on both the agency and the petitioning manufacturer.

3. Describe whether the collection of information involves the use of technological collection techniques or other forms of information technology.

Part 556 does not impose any obstacles to using improved information technology to prepare these petitions. Thus, a petitioner may use a computer, word processor, etc. to prepare the petition. The main burden is with the preparing of reports that contain the data, views, and arguments of the petitioner supporting the petition. Currently, the agency receives paper copies of the petition and supporting documents, zero percentage is collected electronically.

4. Describe efforts to identify duplication. Show specifically why similar information cannot be used.

There is no similar information already available to be used. Part 556 does not require petitioners to submit duplicative information, nor does it require petitioners to submit more than one petition.

The agency does not obtain the views of manufacturer as to why a particular defect or noncompliance is inconsequential under any other requirement. The agency does sometimes have the data on which the manufacturers assert their claims of inconsequentiality. However, 49 USC Section 31018(d) gives the agency authority to determine that a defect or noncompliance is inconsequential only upon application of a manufacturer. If the manufacturer knows that the agency has the data that support its view of inconsequentiality, the manufacturer may simply refer the agency to the data and supply its views and arguments as to why the defect or noncompliance is inconsequential. The agency would not have the manufacturer's views and arguments unless they were submitted by the manufacturer for each individual case.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize the burden.

Petitions for inconsequentiality may be filed by any manufacturer from those who qualify as major manufacturers to those that qualify as small businesses. The requirements are the same no matter who files the petition. However, the burden of preparing these petitions is far less than the burden of notifying and remedying the defect or noncompliance. Further, Part 556 sets forth only six requirements for these petitions. Three of the requirements impose almost no burden on the petitioner. These are that the petition 1) be written in the English language; 2) be submitted in three copies; and 3) state the full name and address of the petitioner, the nature of its organization, and the State or country under the laws of which it is organized. The fourth requirement is to describe the motor vehicle or item of replacement equipment, including the number involved and the period of production, and the defect or noncompliance concerning which an exemption is sought. The fifth requirement is that the petitioner set forth all data, views, and arguments supporting its petition. Each manufacturer is free to interpret this requirement and take as much or as little burden as it believes is necessary. The sixth requirement is to provide three copies of the report the manufacturer has submitted or is submitting to the agency in accordance with Part 573 which relates to its determination of the existence of a safety related defect or noncompliance with an applicable safety standard that is the subject of the petition.

6. Describe the consequence to the Federal program or policy activities if the information is not collected or collected less frequently.

It is possible that the agency would not receive the information it needs to make a determination that a defect or noncompliance is inconsequential to motor vehicle safety. In this case, manufacturers would be statutorily required to follow the notice and remedy provisions for every defect or noncompliance. It is also possible that the agency would have to conduct a full public hearing whenever a manufacturer claimed a defect or noncompliance was inconsequential. Whether the claim of inconsequentiality was ultimately determined to be spurious or meritorious, a full hearing would impose a needless burden on both the agency and the petitioning manufacturer.

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

The 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 extending the collection of information, a summary of all public comments responding to the notice, and a description of the agency's actions in response to the comments. Describe efforts to consult with persons outside the agency to obtain their views.

The *Federal Register* (76 FR 10635; February 25, 2011) document soliciting comments on extending the collection of information is attached. We received no comment.

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 provided to any respondent.

10. Describe any assurance of confidentiality provided to respondents.

No assurances of confidentiality are given by the agency. All information provided to the agency for Part 556 purposes is considered public information.

11. Provide additional justification for any questions on matters that are commonly considered private.

The information required of the manufacturer is not of a private nature.

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

The average number of inconsequential petitions filed with the agency in a year is 30. The petitioners are either manufacturers of motor vehicles, or manufacturers of motor vehicle replacement equipment. Their petitions are usually three or four typewritten pages in length. The agency estimates that it would take a petitioner approximately five hours to prepare one of these petitions, based on the length of the petitions and the amount of documentation normally included.

Estimated cost associated with the burden hours is:

Number of petitions 30 x 5 hrs. = 150 burden hours @ \$30 per hour = \$4,500.

13. Provide estimates of the total annual cost to the respondents or record keepers.

The estimated cost to the respondents is the postage cost of \$13.20 (30 x \$0.44).

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

The cost to the Federal government is minimal for these petitions. Since 1977, the only continuing cost is the analysis of the petitions, which is handled as a routine part of agency duties. The Office of Enforcement, the Office of Chief Counsel, and the Office of Rulemaking are the offices normally handling these petitions, and inconsequentiality petitions do not involve much of their time. No government forms, printing, or postage are involved for this regulation.

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

Based on the history of this information collection over the past ten years, the agency updated the number of respondents to 30 responses and 150 burden hours from the previously estimated 40 responses and 200 burden hours. NHTSA's overall burden hour total will be reduced by 50 burden hours to reflect this change.

16. For collections of information whose results will be published, outline plans for tabulation, and publication.

The collection of information will not have the results published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reason 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 Submission," of OMB Form 83-I.

No exceptions to the certification statement are made.

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