

SUPPORTING STATEMENT
OMB No. 2127-0004
Defect and Noncompliance Notification and Reporting

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.

This collection covers those requirements found within various provisions of the Motor Vehicle Safety Act of 1966 (Act), 49 U.S.C. § 30101, et seq., and implementing regulations found within 49 CFR Parts 573 and 577, that require motor vehicle and motor vehicle equipment manufacturers to notify NHTSA and also owners, purchasers, dealers, and distributors, of safety-related defects and failures to comply with Federal Motor Vehicle Safety Standards (FMVSS) in products they manufactured. It also covers additional reporting, notification, and recordkeeping requirements related to those notifications and the ensuing free remedy programs, including the requirement(s):

- that a plan be filed explaining how the manufacturer intends to reimburse owners or purchasers who paid to remedy the defective or noncompliant product prior to its recall, and that this plan be explained in the notifications issued to owners and purchasers;
- that the manufacturer provide to NHTSA copies of communications pertaining to the recall campaign that they may issue to owners, purchasers, dealers, or distributors;
- that the manufacturer maintain a list of the owners, purchasers, dealers, and distributors it notified;
- that the manufacturer provide NHTSA with at least six quarterly reports detailing the progress of the recall campaign;
- related to, in tire recall campaigns, the proper disposal of recalled tires, including requirements that the manufacturer submit a plan and provide certain information and instructions to certain persons (such as its dealers or retail outlets) addressing disposal, and a requirement that those persons report back deviations from that plan; and
- that any person who sells or leases a defective or noncompliant tire, knowing that the manufacturer has decided that tire is defective or noncompliant, report that sale or lease to NHTSA.

The statutory sections imposing these requirements include 49 U.S.C. §§ 30118, 30119, 30120, and 30166. The regulatory sections implementing these statutory

sections are found within 49 CFR Parts 573 and 577. Copies of these statutory and regulatory sections are attached.

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.

This information is necessary to enable NHTSA to administer, monitor, and enforce the statutory and regulatory requirements identified above in response to statement no.1 that are intended to ensure the safety of the motoring public through the proper and timely identification and remedy of defective or noncompliant motor vehicles and motor vehicle equipment.

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.

There are no requirements that submitters of the information to be collected and reported use any specific technology. The agency does encourage and does process information that is transmitted using electronic means, such as email or facsimile. In certain circumstances, the statutes require that information be submitted using traditional means. See 49 U.S.C. § 30118(c) (requiring manufacturer to notify NHTSA of safety defects and noncompliances by certified mail); and 49 U.S.C. § 30119(d) (requiring manufacturers to notify owners and purchasers of safety defects and noncompliances by first class mail).

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.

The information to be collected, reported, and maintained under the various requirements included in this collection is unique to the circumstances surrounding the particular safety defect, noncompliance, remedy plan, and manufacturer involved. Therefore, similar information is not available that can be used, and there is no risk of duplication.

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.

Small businesses are not exempt from the statutory and implementing regulatory requirements described herein. This information collection, therefore, can impact small businesses. However, the information that is required has been set at the minimum necessary to meet the statutory requirements.

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.

Without the information required to be collected, reported, and maintained under this collection NHTSA will not be able to carry out its duty to administer and enforce the applicable Federal statutes. There are no technical or legal obstacles to reducing the burden.

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.

A notice requesting comment on the information collection was published in the Federal Register on March 28, 2011 with a comment closing date of May 27, 2011. See 76 Fed. Reg. 17186. A copy of that notice is attached.

There were no comments received in response to this notice and solicitation.

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.

No assurance of confidentiality was provided to respondents. An existing NHTSA regulation, 49 CFR Part 512, Confidential Business Information, provides an opportunity for respondents to request protection of confidential business information. Should a respondent request confidential treatment of business information, NHTSA will conduct an analysis of that respondent's request and grant or deny that request as appropriate.

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.

As discussed above, this collection covers a multitude of requirements found within the Motor Vehicle Safety Act of 1966 (Act), 49 U.S.C. § 30101, et seq., and implementing regulations found within 49 CFR Parts 573 and 577.

One of the major requirements of this collection is the requirement that motor vehicle and motor vehicle equipment manufacturers notify NHTSA and also owners, purchasers, dealers, and distributors, of safety-related defects and failures to comply with Federal Motor Vehicle Safety Standards (FMVSS) in products they manufactured. The collection also covers additional reporting, notification, and recordkeeping requirements related to those notifications and the ensuing free remedy programs, including the requirement(s):

- that a plan be filed explaining how the manufacturer intends to reimburse owners or purchasers who paid to remedy the defective or noncompliant product prior to its recall, and that this plan be explained in the notifications issued to owners and purchasers;
- that the manufacturer provide to NHTSA copies of communications pertaining to the recall campaign that they may issue to owners, purchasers, dealers, or distributors;
- that the manufacturer maintain a list of the owners, purchasers, dealers, and distributors it notified; and
- that the manufacturer provide NHTSA with at least six quarterly reports detailing the progress of the recall campaign.

We estimate the hours burden linked to these aspects of the information collection to be 21,350 hours per year. This figure is arrived at by considering that there has been an average of 650 noncompliance or safety defect notifications to NHTSA filed each year by approximately 175 distinct manufacturers, with an estimated 750 quarterly reports filed per quarter (or 3,000 reports per year).

We estimate that it takes a manufacturer an average of 4 hours to complete each notification report to NHTSA, that it takes another 4 hours to complete each quarterly report, and that maintenance of the required owner, purchaser, dealer and distributors lists requires 8 hours. Accordingly, the subtotal estimate of annual burden hours related to the reporting to NHTSA of a safety defect or noncompliance, completion of quarterly reports on the progress of recall campaigns, and maintenance of owner and purchaser lists is 16,000 hours annually ((650 notices x 4 hours/report) + (3,000 quarterly reports x 4

hours/report) + (175 manufacturers x 8 hours)).

In addition, we estimate an additional 2 hours will be needed to add to a manufacturer's information report details relating to the manufacturer's intended schedule for notifying its dealers and distributors, and tailoring its notifications to dealers and distributors in accordance with the requirements of 49 CFR § 577.13. This would total to an estimated 1,300 hours annually (650 notices x 2 hours/report).

In the event a manufacturer supplied the defect or noncompliant product to independent dealers through independent distributors, that manufacturer is required to include in its notifications to those distributors an instruction that the distributors are to then provide copies of the manufacturer's notification of the defect or noncompliance to all known distributors or retail outlets further down the distribution chain within five working days. As a practical matter, this requirement would only apply to equipment manufacturers since vehicle manufacturers generally sell and lease vehicles through a dealer network, and not through independent distributors. In recent years, there have been roughly 90 equipment recalls per year. Although the distributors are not technically under any regulatory requirement to follow that instruction, we expect that they will, and have estimated the burden associated with these notifications (identifying retail outlets, making copies of the manufacturer's notice, and mailing) to be 5 hours per recall campaign. Assuming an average of 3 distributors per equipment item, (which is a liberal estimate given that many equipment manufacturers do not use independent distributors) the total number of burden hours associated with this third party notification burden is approximately 1,350 hours per year (90 recalls x 3 distributors x 5 hours).

As for the burden linked with a manufacturer's preparation of and notification concerning its reimbursement for pre-notification remedies, we estimate that preparing a plan for reimbursement takes approximately 8 hours annually, and that an additional 2 hours per year is spent tailoring the plan to particular defect and noncompliance notifications to NHTSA and adding tailored language about the plan to a particular safety recall's owner notification letters. In sum, these required activities add an additional 2,700 annual burden hours ((175 manufacturers x 8 hours) + (650 recalls x 2 hours)).

In summary, the total burden associated with the defect and noncompliant information collection and reporting requirements described above is 21,350 hours per year.

In addition to these collection and reporting requirements, this information collection includes requirements that pertain to tire recalls and the proper disposal of recalled tires. Specifically, manufacturers are required to include certain information relative to tire disposal in the notifications they provide NHTSA concerning identification of a safety defect or noncompliance with FMVSS in

their tires, as well as in the notifications with they issue to their dealers or other tire outlets participating in the recall campaign.

We continue to estimate that there will be about 10 tire recall campaigns per year, and that inclusion of this additional information will require an additional two hours of effort beyond the subtotal above associated with non-tire recall campaigns. This additional effort consists of one hour for the NHTSA notification and one hour for the dealer notification for a total of 20 burden hours (10 tire recalls a year x 2 hours per recall).

Manufacturer owned or controlled dealers are required to notify and provide certain information should they deviate from the manufacturer's disposal plan. We ascribe zero burden hours to this requirement since to date no such reports have been provided.

In summary, we estimate 20 burden hours a year will be spent complying with the requirements associated with tire recalls and proper disposal of recalled tires.

Lastly, this information collection includes the statutorily-based requirement that any person who sells or leases a defective or noncompliant tire knowing that the manufacturer has decided that tire is defective or noncompliant, report that sale or lease to NHTSA. See 49 U.S.C. § 30166. The agency had, in the past, sought and received approval for this requirement and it had been assigned OMB approval number 2127-0610. Given this requirement's similarity in purpose and subject matter to the other requirements addressed in this collection, the agency believes it appropriate to include it in this information collection rather than keep it separate.

In reviewing the history of this requirement, we found that in many years this requirement has been in place we have yet to receive a single report of a sale or lease of a defective or noncompliant tire pursuant to this requirement. Consequently, we estimate that zero burden hours will be used in complying with it.

Accordingly, we calculate that in total 21,370 burden hours per year will be associated with this information collection. Approximately 21,350 hours are linked with the defect and noncompliance notification and reporting requirements in the collection, and 20 additional hours are linked with the tire recall and tire disposal requirements in the collection.

Consistent with prior estimates on this information collection, the agency estimates that the hourly cost to manufacturers and distributors is approximately \$25 per hour. Accordingly, the agency continues to estimate that the total annual cost associated with the burden hours is \$534,250 (21,370 x 25).

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

Other than the cost of burden hours, none.

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

None.

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 program changes or adjustments.

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

Not applicable.

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.