

have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued on: March 25, 2008.

**Kathleen C. DeMeter,**

*Director, Office of Defects Investigation.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2008-0057]

#### Reports, Forms, and Recordkeeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

**ACTION:** Request for public comment on revision to a currently approved collection of information.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes a collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Comments must be received on or before May 27, 2008.

**ADDRESSES:** You may submit comments using any of the following methods. All comments must have the applicable DOT docket number (e.g., NHTSA-2008-0057) noted conspicuously on them.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. Telephone: 1-800-647-5527.

- Fax: 202-493-2251.

**Instructions:** All submissions must include the agency name and docket number for this proposed collection of information. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

**Privacy Act:** Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Timian, Recall Management Division (NVS-215), Room W46-324, NHTSA, 1200 New Jersey Ave., Washington, DC 20590. Telephone: (202) 366-0209.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation, *see* 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses

In compliance with these requirements, NHTSA asks for public comments on the following collection of information:

**Title:** Defect and Noncompliance Reporting and Notification.

**Type of Request:** Revision of a currently approved information collection.

**OMB Control Number:** 2127-0004.

**Affected Public:** Businesses or individuals.

**Abstract:** This notice requests comment on NHTSA's proposed revision to approved collection of information OMB No. 2127-0004. Broadly speaking, this collection covers the information collection requirements found within various statutory sections in the Motor Vehicle Safety Act of 1966 (Act), 49 U.S.C. 30101, *et seq.*, that address and require manufacturer notifications to NHTSA of safety-related defects and failures to comply with Federal Motor Vehicle Safety Standards (FMVSS) in motor vehicles and motor vehicle equipment, as well as the provision of particular information related to the ensuing owner and dealers notifications and free remedy campaigns that follow those notifications. The sections of the Act imposing these requirements include 49 U.S.C. 30118, 30119, 30120, and 30166. Many of these requirements are implemented through, and addressed with more specificity in, 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports* (Part 573) and 49 CFR 577, *Defect and Noncompliance Notification*.

For ease of reference and comment, we have broken the information collection requirements that OMB No. 2127-0004 covers into three categories. The first two categories summarize requirements already included in OMB No. 2127-0004; the first discussing requirements of defect and noncompliance reporting and notifications generally, and the second discussing additional requirements that pertain specifically to tire recalls and the proper disposal of tires. The third category summarizes our proposal to include another collection requirement related to tire recall campaigns, but in the past treated separately and given a different OMB information collection approval number (2127-0610).

## A. Information Collection Requirements Applicable to Defect and Noncompliance Reporting and Notification Generally

Pursuant to the Act, motor vehicle and motor vehicle equipment manufacturers are obligated to notify, and then provide various information and documents to, NHTSA in the event a safety defect or noncompliance with Federal Motor Vehicle Safety Standards (FMVSS) is identified in products they manufactured. *See* 49 U.S.C. 30118(b) and 49 CFR 573.6 (requiring manufacturers to notify NHTSA, and provide certain information, when they learn of a safety defect or noncompliance). Manufacturers are further required to notify owners, purchasers, dealers and distributors about the safety defect or noncompliance. *See* 49 U.S.C. 30118(b), 30120(a), and 49 CFR 577.7, 577.13. They are required to provide to NHTSA copies of communications pertaining to recall campaigns that they issue to owners, purchasers, dealers, and distributors. *See* 49 U.S.C. 30166(f) and 49 CFR 573.6(c)(10).

Manufacturers are also required to file with NHTSA a plan explaining how they intend to reimburse owners and purchasers who paid to have their products remedied before being notified of the safety defect or noncompliance, and explain that plan in the notifications they issue to owners and purchasers about the safety defect or noncompliance. *See* 49 U.S.C. 30120(d) and 49 CFR 573.13. They are further required to keep lists of the respective owners, purchasers, dealers, distributors, lessors, and lessees of the products determined to be defective or noncompliant and involved in a recall campaign, and are required to provide NHTSA with a minimum of six quarterly reports reporting on the progress of their recall campaigns. *See* 49 CFR 573.8 and 573.7, respectively.

## B. Additional Information Collection Requirements Applicable to Tire Recall Campaigns and Proper Tire Disposal

The Act and Part 573 also contain numerous information collection requirements specific to tire recall and remedy campaigns. These requirements relate to the proper disposal of recalled tires, including a requirement that the manufacturer conducting the tire recall submit a plan and provide specific instructions to certain persons (such as dealers and distributors) addressing that disposal, and a requirement that those persons report back to the manufacturer certain deviations from the plan. *See* 49 U.S.C. 30120(d) and 49 CFR 573.6(c)(9).

These requirements are in addition to the general requirements previously discussed. Due to the length and complexity of these requirements, we have outlined below those requirements in order to make them more comprehensible.

I. If there is a tire recall, which parties must provide information?

A. The tire manufacturer conducting the recall;

B. Any affected tire brand name owners conducting the recall, such as retail chain stores that sell recalled tires under their own “private labels” or house labels;

C. Any vehicle manufacturer that conducts a tire recall;

D. Tire outlets under the control of a manufacturer conducting a tire recall, such as owned stores, franchised dealers and/or distributors.

II. To which parties must the information be provided?

A. Each manufacturer, whether a tire manufacturer, tire brand name owner, or a vehicle manufacturer conducting a recall campaign for a tire, would have to provide information to three categories of parties:

1. NHTSA;

2. Owned stores, franchised dealers and/or distributors (third parties);

3. Independent tire outlets authorized to replace tires under the recall.

B. In the event of a recall, each tire outlet under the control of a manufacturer must provide information to the manufacturer if the outlet does not comply with certain requirements. This is referred to as “exceptions reporting” or “third party reporting,” and is discussed below in section IV.

III. What information must each manufacturer provide?

A. In its report to NHTSA:

1. The manufacturer’s plan for assuring that the entities replacing the tires are aware of the legal requirements related to recalls of tires established by 49 U.S.C. Chapter 301 and its implementing regulations;

2. An explanation of how the manufacturer will prevent, to the extent within its control, the recalled tires from being resold for installation on a motor vehicle;

3. A description of the manufacturer’s program for disposing of recalled tires that are returned to the manufacturer or collected by the manufacturer from retail outlets, including, at a minimum, statements that the returned tires will be disposed of in compliance with applicable state and local laws and regulations regarding disposal of tires, and will be channeled, insofar as possible, into an “alternative beneficial non-vehicular use” rather than being disposed of in landfills; and

4. A draft of the notification(s) to be sent to stores, dealers, etc. that is described in section III.B, below.

B. In its reports to owned stores, franchised dealers and/or distributors, and independent outlets that are authorized to replace the recalled tires:

1. A description of the legal requirements related to recalls of tires established by the Act and its implementing regulations, including the prohibitions on the sale of new and used defective and noncompliant tires, the right to reimbursement of the costs of certain pre-notification remedies, and the duty to notify NHTSA of a knowing or willful sale or lease of a new or used recalled tire that is intended for use on a motor vehicle;

2. Directions to manufacturer-owned and other manufacturer-controlled outlets, and guidance to all other outlets that are authorized to replace the recalled tires, on how and when to alter the recalled tires permanently so they cannot be used on vehicles; and

3. Directions to manufacturer-owned and other manufacturer-controlled outlets, and guidance to all other outlets that are authorized to replace the recalled tires, either:

(a) To ship all recalled tires to one or more locations designated by the manufacturer as part of the manufacturer’s recall program or to allow the manufacturer to collect and dispose of the recalled tires; or

(b) To ship recalled tires to a location of their own choosing, provided that they comply with applicable state and local laws regarding disposal of tires, along with directions and guidance on how to limit the disposal of recalled tires into landfills and instead, channel them to an “alternative beneficial non-vehicular use.”

Under Option (a), if the manufacturer establishes a testing program for recalled tires, the directions and guidance shall also include criteria for selecting recalled tires for the testing program and instructions for labeling those tires and returning them to the manufacturer.

4. Directions to manufacturer-owned and other manufacturer-controlled outlets to report to the manufacturer on a monthly basis the number of recalled tires removed from vehicles by the outlet that have not been rendered unsuitable for resale for installation on a motor vehicle within the specified time frame and to describe any such failure to comply with the manufacturer’s plan.

IV. What information must tire outlets under the control of the manufacturer provide to the manufacturer (third party reporting)?

A. Monthly (or within 30 days of the deviation) reports on the number of recalled tires, if any, removed from vehicles by the outlet that have not been rendered unsuitable for resale or installation on a motor vehicle within the specified time frame (other than those returned for testing) and that describe any such failure to act in accordance with the manufacturer's plan;

B. Monthly (or within 30 days of the deviation) reports on the number of recalled tires disposed of in violation of applicable state and local laws and regulations that describe any such failure to act in accordance with the manufacturer's plan.

V. Manufacturers' Quarterly Reports to NHTSA pursuant to 49 CFR 573.7 for recalls involving the replacement of tires must include the following information:

A. The aggregate number of recalled tires that the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a motor vehicle in accordance with the manufacturer's plan;

B. The aggregate number of recalled tires that the manufacturer becomes aware have been disposed of in violation of applicable state and local laws and regulations; and

C. A description of any failure of a tire outlet to act in accordance with the directions in the manufacturer's plan, including an identification of the outlet in question.

#### VI. Recordkeeping Requirements

No recordkeeping requirements are imposed by these requirements.

#### C. Addition of New Information Collection Requirement: Reporting of Sale or Lease of Defective or Noncompliant Tires to NHTSA

The Act contains an additional information collection requirement not previously included in this approved collection, 49 U.S.C. 30166(n), and its implementing regulation found at 49 CFR 573.10, mandates that anyone who knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire that is not compliant with FMVSS, and with actual knowledge that the tire manufacturer has notified its dealers of the defect or noncompliance as required under the Act, is required to report that sale or lease to NHTSA no more than five working days after the person to whom the tire was sold or leased takes possession of it.

NHTSA had, in the past, sought and received approval for this collection of information, and it had been assigned the approval number OMB No. 2127-0610. Given this collection's similarity

in purpose and subject matter to the other collection requirements found in the Act and in Part 573, the agency believes it more appropriate and is proposing to include it in this information collection rather than keep it separate. Comments are welcome on this consolidation.

*Estimated Burden:* This collection has a present estimated burden of 19,974 hours per year. Our review of recent annual recall figures demonstrates to us that this figure could be adjusted to more precisely reflect recent experience. Accordingly, we calculate that figure should be revised to 21,370 burden hours per year. An explanation of how we reach this total annual figure follows.

#### A. Estimated Burden Associated With Defect and Noncompliance Reporting and Notification Requirements Generally

Over the past 3 years, 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 × 4 hours/report) + (3,000 quarterly reports × 4 hours/report) + (175 manufacturers × 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 × 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. *See* 49 CFR 577.8(c)(2)(iv). 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 × 3 distributors × 5 hours).

As for the burden linked with a manufacturer's preparation of and notification concerning its reimbursement for pre-notification remedies, consistent with previous estimates (*see* 69 FR 11477 (March 10, 2004)), 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 × 8 hours) + (650 recalls × 2 hours)).

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

#### B. Estimated Burden Associated With Tire Recall Campaigns

As explained earlier, manufacturers are required to include specific 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. *See* 49 CFR 573.6(c)(9). Consistent with prior projections, *see* 69 FR 21883 (April 22, 2004), and current experience, we

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  $\times$  2 hours per recall).

Also discussed earlier was the requirement that manufacturer owned or controlled dealers notify and provide certain information should they deviate from the manufacturer's disposal plan. Consistent with previous analysis, we continue to ascribe zero burden hours to this requirement since to date no such reports have been provided and our original expectation that dealers would comply with manufacturers' plans has proven true.

Accordingly, we estimate 20 burden hours a year will be spent complying with the tire recall campaign requirements found in 49 CFR 573.6(c)(9).

**C. Estimated Burden Associated With the Addition of the Requirement That Intentional Sales and Leases of Defective or Noncompliant Tires Be Reported to NHTSA, to This Information Collection**

We have proposed and plan to incorporate into this information collection (OMB No. 2127-0004) the requirement that those persons that sell or lease defective or noncompliant tires knowing that the manufacturer has determined them to be defective or noncompliant with FMVSS report those sales or leases to NHTSA. We explained that we are proposing and planning this inclusion for the simple reason of consolidation. The requirement is found in Part 573, and given that today's information collection concerns information collections found within that Part, we do not see a basis for keeping this requirement separate from all of the rest.

In the original **Federal Register** notice we published announcing this requirement and calculating its burden, we estimated that roughly 9 persons a year would report such sales or leases, and that the reporting would require a maximum of one-half of one hour to accomplish. See 65 FR 81409 (December 26, 2000). In reviewing this collection requirement, we found that in the seven years since 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 information collection requirement.

Consequently, we are revising our initial estimate of the burden associated with this requirement to zero burden hours.

**Estimated Number of Respondents**

Over the past several years NHTSA has received reports of defect or noncompliance from roughly 175 manufacturers per year. We have no reason at this juncture to suspect this annual figure will change in any significant manner in the coming years. Accordingly, we estimate that there will continue to be approximately 175 manufacturers per year filing defect or noncompliance reports and completing the other information collection responsibilities associated with those filings.

We discussed above that we have yet to receive a single report filed pursuant to 49 CFR 573.10. This information collection requirement, to reiterate, requires anyone who sells or leases a defective or noncompliant tire, with knowledge of that tire's defectiveness or noncompliance, to report that sale or lease to NHTSA. Given the lack of filing history over many years, we estimate that there will continue to be zero reports filed and therefore zero respondents as to this requirement.

In summary, we estimate that there will be a total of 175 respondents per year associated with OMB No. 2127-0004.

Issued on: March 25, 2008.

**Kathleen C. DeMeter,**

*Director, Office of Defects Investigation.*

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**Petition for Exemption From the Vehicle Theft Prevention Standard; Nissan**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA) Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the Nissan North America, Inc.'s (Nissan) petition for exemption of the Rogue vehicle line in accordance with 49 CFR Part 543, *Exemption from the Theft Prevention Standard*. This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-

marking requirements of the Theft Prevention Standard (49 CFR Part 541). Nissan requested confidential treatment for the information and attachments it submitted in support of its petition. In a letter dated November 6, 2007, the agency granted the petitioner's request for confidential treatment.

**DATES:** The exemption granted by this notice is effective beginning with the 2009 model year.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43-439, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's phone number is (202) 366-0846. Her fax number is (202) 493-2990.

**SUPPLEMENTARY INFORMATION:** In a petition dated October 26, 2007, Nissan requested exemption from the parts-marking requirements of the theft prevention standard (49 CFR Part 541) for the MY 2009 Nissan Rogue vehicle line. The petition requested an exemption from parts-marking pursuant to 49 CFR Part 543, *Exemption from Vehicle Theft Prevention Standard*, based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under § 543.5(a), a manufacturer may petition NHTSA to grant exemptions for one of its vehicle lines per model year. Nissan's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

Nissan's petition provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the new vehicle line. Although specific details of the system's operation, design, effectiveness and durability have been accorded confidential treatment, NHTSA is, for the purposes of this petition, disclosing the following general information. Nissan will install its passive, transponder-based immobilizer device as standard equipment on its Rogue vehicle line beginning with MY 2009. Key components of the antitheft device are an engine electronic control module (ECM), a passive immobilizer and a transponder key. The immobilizer system prevents normal operation of the vehicle without the use of the key. Nissan's antitheft device will also have an alarm feature. Nissan stated that its alarm system is activated by opening any door without the use of a key. Upon activation of the alarm, the head lamps will flash and the horn will sound. Nissan also provided its own test