

*Title:* Charter Service Operations  
(OMB Number: 2132-0543).

*Background:* All applicants for financial assistance from FTA are required by 49 U.S.C. Section 5323(d) to enter into a charter bus agreement with the Secretary of Transportation (delegated to the Administrator of FTA in 49 CFR Section 1.51(a)). This statute provides protections for private intercity charter bus operators from unfair competition by FTA recipients. The Comptroller General interpreted the statutory definition of "mass transportation" [49 U.S.C. Section 5302(a)(7)] to permit FTA recipients to provide charter bus service with FTA-funded facilities and equipment if the service is "incidental" to the provision of mass transportation service. The Comptroller General's interpretation regarding "incidental use" is implemented in FTA's charter service regulation, 49 CFR Part 604.

All applicants for financial assistance under 49 U.S.C. Sections 5309, 5336, or 5311 are required by 49 CFR Section 604.7 to include two copies of a charter bus agreement with the first grant application submitted after the effective date of the rule. The applicant signs the agreement, but FTA executes it only upon approval of the application. This is a one-time submission with incorporation by reference in subsequent grant applications. If a recipient desires to provide charter service, 49 CFR Section 604.11 requires recipients to provide notice to all private charter operators to submit written evidence demonstrating that they are willing and able to provide the charter service the recipient is proposing to provide. The notice must be published annually in a newspaper and sent to all private charter operators in the proposed geographic area, to any private charter operator that requests notice, and to the United Bus Owners of America and the American Bus Association, the two trade associations to which most private charter operators belong. Recipients are required by 49 CFR Section 604.13 to review the evidence submitted.

*Respondents:* State and local government, business or other for-profit institutions, and non-profit institutions.

*Estimated Annual Burden on Respondents:* 1.2 hours for each of the 1,656 respondents.

*Estimated Total Annual Burden:* 1,984 hours.

*Frequency:* Annual.

Issued: July 19, 2004.

**Ann M. Linnertz,**

*Deputy Associate Administrator for Administration.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-18667; Notice 1]

#### Reports, Forms and Record Keeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice.

**SUMMARY:** Before a Federal agency can collect certain information from the public, the agency must receive approval from the Office of Management and Budget ("OMB"). Under procedures established by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections. In compliance with the Paperwork Reduction Act of 1995, this notice describes one collection of information for which NHTSA intends to seek OMB approval.

**DATES:** Comments must be submitted on or before September 21, 2004.

**ADDRESSES:** Comments must refer to the docket number cited at the beginning of this notice and be submitted to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided by also addressing its OMB Clearance Number. You may also submit your comments to the docket electronically. Documents may be filed electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

Comments may also be submitted by fax at 202-493-2251.

For further assistance, you may call Docket Management at 202-366-1918. You may also visit the Docket and submit comments by hand delivery from 9 a.m. to 5 p.m., Monday through Friday, except on Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** For questions contact Michael Kido in the Office of the Chief Counsel at the

National Highway Traffic Safety Administration, telephone (202) 366-5263. Please identify the relevant collection of information by referring to its OMB Clearance Number.

#### SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must 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 regulations (at 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 public comment on the following extension of clearance for a currently approved collection of information:

#### Confidential Business Information

*Type of Request*—Extension of clearance.

*OMB Clearance Number*—2127-0025.

*Form Number*—This collection of information uses no standard forms.

*Requested Expiration Date of Approval*—Three (3) years from the date of approval of the collection.

*Summary of the Collection of Information*—Each person who submits information to the agency and seeks to have the agency withhold some or all of that information from disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, must provide the agency with sufficient support that justifies the confidential treatment of that information. In addition, a request for confidential treatment must be accompanied by: (1) A complete copy of

the submission; (2) a copy of the submission containing only those portions for which confidentiality is not sought with the confidential portions redacted; and (3) either a second complete copy of the submission or alternatively those portions of the submission that contain the information for which confidentiality is sought. Furthermore, the requestor must submit a completed certification as provided in 49 CFR Part 512, Appendix A. See generally 49 CFR Part 512 (NHTSA Confidential Business Information regulations).

Part 512 ensures that information submitted under a claim of confidentiality is properly evaluated in an efficient manner under prevailing legal standards and, where appropriate, accorded confidential treatment. To facilitate the evaluation process, in their requests for confidential treatment, submitters of information may make reference to certain limited classes of information that are presumptively treated as confidential, such as blueprints and engineering drawings, future specific model plans (under limited conditions), and future vehicle production or sales figures for specific models (under limited conditions). Certain other information that the agency collects pursuant to the Early Warning Reporting rule (49 CFR Part 579) is treated confidentially by rule under 49 CFR Part 512, Appendix C and submitters need not provide a request for confidential treatment these classes of information.

*Description of the Need for the Information and Use of the Information*—NHTSA receives confidential information for use in its activities, which include investigations, rulemaking actions, program planning and management, and program evaluation. The information is needed to ensure the agency has sufficient relevant information for decision-making in connection with these activities. Some of this information is submitted voluntarily, as in rulemaking, and some is submitted in response to compulsory information requests, as in investigations.

*Description of the Likely Respondents, Including Estimated Number and Proposed Frequency of Response to the Collection of Information*—This collection of information applies to any entity that submits to the agency information that the entity wishes to have withheld from disclosure under the FOIA. Thus, the collection of information applies to any entity that is subject to laws administered by the agency or agency regulations and is under an obligation to provide

information to the agency. It also includes entities that voluntarily submit information to the agency. Such entities would include manufacturers of motor vehicles and of motor vehicle equipment. Importers are considered to be manufacturers. It may also include other entities that are involved with motor vehicles or motor vehicle equipment but are not manufacturers.

*Estimate of the Total Annual Reporting and Recordkeeping Burdens Resulting from the Collection of Information*—3,600 hours.

The agency receives requests for confidential treatment that vary in size from requests that ask the agency to withhold as little as a portion of one page to multiple boxes of documents. NHTSA estimates that it will take on average approximately eight (8) hours for an entity to prepare a submission requesting confidential treatment. This estimate will vary based on the size of the submission, with smaller and voluntary submissions taking considerably less time to prepare. This estimate of the average amount of time per submission is higher than the four hours estimated for the existing information clearance and reflects the volume of documents in some submissions in complex investigations, the amendments to the agency's rules in 2003 and the improved justifications for confidential treatment that followed.

NHTSA estimates that it will receive approximately 450 requests for confidential treatment annually. This figure is based on the number of requests received in the first six months of 2004 (225) multiplied by two (2). We selected this period because in the last year, we have received more requests than in previous years and believe that the most recent data is the most representative of the number of requests that will be submitted. The agency estimates that the total burden for this information collection will be approximately 3,600 hours, which is based on the number of requests (450) multiplied by the estimated number of hours to prepare each submission (8 hours).

Since nothing in the rule requires those persons who request confidential treatment pursuant to Part 512 to keep copies of any records or requests submitted to us, recordkeeping costs imposed would be zero hours and zero costs.

**Authority:** 44 U.S.C. § 3506; delegation of authority at 49 CFR 1.50.

Issued on: July 19, 2004.

**Jacqueline Glassman,**  
*Chief Counsel.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2004-17903; Notice 2]

#### Kumho Tire Co., Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Kumho Tire Co, Inc. (Kumho) has determined that certain tires it produced in 2003 and 2004 do not comply with S4.3(d) and S4.3(e) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New pneumatic tires." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Kumho Tire has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Notice of receipt of the petition was published, with a 30-day comment period, on May 25, 2004, in the **Federal Register** (69 FR 29781). NHTSA received no comments.

A total of approximately 2656 tires are involved. These include 324 size 255/50R17 tires and 2332 size 255/45R17 tires. The tires are marked "Tread: Rayon 2 + Steel 2 + Nylon 2, Sidewall: Rayon 2," when the correct stamping would be "Tread: Polyester 2 + Steel 2 + Nylon 2, Sidewall: Polyester 2." Paragraph S4.3 of FMVSS No. 109 requires "each tire shall have permanently molded into or onto both sidewalls \* \* \* (d) The generic name of each cord material used in the plies \* \* \* of the tire; and (e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different."

Kumho stated that it uses rayon and polyester body ply construction to meet the preferences of the North American and European markets, and that rayon is popular in the European market while polyester is more popular in the North American market. Kumho explained that for sizes sold in both markets, either material may be used, and the two sizes which are the subject of this petition have North American construction and European stamping.

Kumho stated that the tires meet or exceed all performance requirements of FMVSS No. 109 and will have no impact on the operational performance or safety of vehicles on which these tires