

whether the information will have practical utility; the accuracy of the agency'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 best assured of having its full effect if OMB receives it within 30 days of publication.

**Authority:** 49 CFR 1.66.

Issued in Washington, DC on October 24, 2005.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity under OMB Review

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 16, 2005, and comments were due by October 17, 2005. No comments were received.

**DATES:** Comments must be submitted on or before December 1, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Richard Walker, Maritime Administration, 400 Seventh Street Southwest, Washington, DC 20590; Telephone: 202-366-5076, FAX: 202-366-6988, or e-mail:

*Richard.walker@dot.gov.* Copies of this collection also can be obtained from that office.

**SUPPLEMENTARY INFORMATION:** Maritime Administration (MARAD).

*Title:* Inventory of American Intermodal Equipment.

*OMB Control Number:* 2133-0503.

*Type of Request:* Extension of currently approved collection.

*Affected Public:* Owners of U.S. steamship and intermodal equipment leasing companies.

*Forms:* None.

*Abstract:* This collection consists of an intermodal equipment inventory that provides data essential to both the government and the transportation industry in planning for the most efficient use of intermodal equipment. Further, this collection is intended to assure that containers and related intermodal equipment are obtainable in the event of a national emergency.

*Annual Estimated Burden Hours:* 66 hours.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street Northwest, Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency'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 best assured of having its full effect if OMB receives it within 30 days of publication.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-20858; Notice 4]

#### DOT Chemical, Denial of Appeal of Decision on Inconsequential Noncompliance

DOT Chemical has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) that denied its petition for a determination that its noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 116, "Motor vehicle brake fluids," is inconsequential to motor vehicle safety. DOT Chemical

had applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301, "Motor Vehicle Safety."

Notice of receipt of the original petition was published on April 14, 2005, in the **Federal Register** (70 FR 19837). On July 18, 2005, NHTSA published a notice in the **Federal Register** denying DOT Chemical's petition (70 FR 41254), stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. DOT Chemical appealed, and notice of the appeal was published in the **Federal Register** on September 2, 2005 (70 FR 52469). NHTSA received no public comments.

Affected are a total of approximately 50,000 containers of DOT 4 brake fluid, lot numbers KMF02 and KMF03, manufactured in June 2004. FMVSS No. 116 requires that, when tested as referenced in S5.1.7 "Fluidity and appearance at low temperature," S5.1.9 "Water tolerance," and S5.1.10 "Compatibility," the brake fluid shall show no crystallization or sedimentation. The subject brake fluid shows crystallization and sedimentation when tested as referenced in S5.1.7 at -40°F and -58°F, sedimentation when tested as referenced in S5.1.9 at -40°F, and crystallization when tested as referenced in S5.1.10 at -40°F.

DOT Chemical believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. DOT Chemical stated that there are fiber-like crystals in the fluid, which are borate salts, and

are a natural part (no contamination) of DOT 4 brake fluid production (just fallen out of solution in some packaged goods) and have not demonstrated any flow restrictions even at extended periods of low temperatures at minus 40° F. Furthermore, when the fluid is subjected to temperatures in a normal braking system, the crystals go back into solution in some cases not to reappear at all at ambient temperatures.

NHTSA reviewed the petition and determined that the noncompliance is not inconsequential to motor vehicle safety. In its denial, NHTSA noted that it granted petitions for determinations of inconsequential noncompliance of FMVSS No. 116 to Dow Corning Corporation (59 FR 52582, October 18, 1994) and to First Brands Corporation (59 FR 62776, December 6, 1994). In the case of Dow, the FMVSS No. 116 noncompliance arose from a "slush-like crystallization" that dispersed "under slight agitation or warming." NHTSA accepted Dow's argument that its "slush-like crystallization" does not