

**Department of Transportation
Office of the Chief Information Officer
Supporting Statement
Hazardous Materials Shipping Papers and Emergency Response Information**

(Expiration Date: October 31, 2012)

Introduction

This is to request the Office of Management and Budget (OMB) approval of PHMSA's revision to the information collection entitled, "Hazardous Materials Shipping Papers and Emergency Response Information," under OMB Control No. 2137-0034, which is currently due to expire on August 31, 2012. The Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) HMR require that shipping papers and emergency response information accompany each shipment of hazardous materials in commerce. The Subcommittee on Surface Transportation recommended that additional Federal requirements mandating retention of shipping papers be imposed in order to facilitate documentation of violations by the law enforcement community. Subsequently, the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA), Public Law 103-311, amended the 49 U.S.C. to require shippers and carriers to retain copies of each shipping paper accessible through their respective principal places of business, for two years, and one year, respectively. Amendment to § 5110 (e) was self-executing as of August 26, 1994.

Part A. Justification:

1. Circumstances that make collection of information necessary.

This is a request for a renewal with change of an existing information collection for information and recordkeeping requirements pertaining to shipping papers and emergency response information under the HMR. This information collection supports the Departmental Strategic Goal for Safety. These regulations are promulgated under the Federal hazardous material transportation law, 49 U.S.C. 5101-5128.

Shipping papers and emergency response information are considered to be a basic communication tool relative to the transportation of hazardous materials. The definition of a shipping paper in 49 CFR 171.8 includes a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203, and 172.204 of the HMR. A shipping paper with emergency response information must accompany most hazardous materials shipments and be readily available at alltimes during transportation. They serve as the principal source of information regarding the presence of hazardous materials, identification, quantity, and emergency response procedures. They also serve as the source of information for compliance with other requirements, such as the placement of rail cars containing different hazardous materials in trains, prevent the loading of poisons with foodstuffs, the separation of incompatible hazardous materials, and the limitation of radioactive materials that may be transported in a vehicle or aircraft. Shipping papers and emergency response information serve as a means of notifying transport workers that hazardous

materials are present. Most importantly, shipping papers serve as a principal means of identifying hazardous materials during transportation emergencies. Firefighters, police, and other emergency response personnel are trained to obtain the DOT shipping papers and emergency response information when responding to hazardous materials transportation emergencies. The availability of accurate information concerning hazardous materials being transported significantly improves response efforts in these types of emergencies.

It is necessary that hazardous materials and emergency response information be displayed on shipping papers in a uniform manner to ensure accuracy and consistency. DOT regulations require that when hazardous materials and materials not subject to the HMR are described on the same shipping paper, the hazardous materials entries required by § 172.202 and those additional entries that may be required by § 172.203 must be entered first, or entered in a color that clearly contrasts with any description on the shipping paper of materials not subject to the requirements, or highlighted, or identified by the entry with an "x" in an HM column opposite the hazardous material entry.

Experience has shown that some shipping papers may contain many different items in a shipment. To require emergency response personnel, during an accident situation, to sort through multiple entries to determine what hazardous materials are in a vehicle would cause serious delays in making proper determinations concerning the mitigation of the accident. Therefore, shipping paper requirements include emergency response communication information, providing and maintaining emergency information on vehicles, aircraft, and vessels and at facilities handling hazardous materials, and requires additional general information on shipping papers.

Uniformity of national and international hazardous materials transportation regulations is critical to enhance safety and facilitate trade. Consistency between U.S. and international regulations helps to assure the safety of international hazardous materials transportation through better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response in the event of a hazardous materials incident. For example, many shippers find that consistency in requirements aids their understanding of what is required, thereby permitting them to more easily comply with the regulations when shipping hazardous materials in international commerce.

To facilitate the safe and efficient transportation of hazardous materials in international commerce, the HMR, with certain limitations, permit both domestic and international shipments of hazardous materials to be offered for transportation and transported under provisions of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), the International Maritime Dangerous Goods Code (IMDG Code), the Canadian Transportation of Dangerous Goods Regulations (TDG Regulations), and the International Atomic Energy Agency Safety Standards Series: Regulations for the Safe Transportation of Radioactive Material (IAEA Regulations), as appropriate.

This renewal with change of this information collection is necessary due to two rulemakings that affect this information collection. Based on comments PHMSA received in the HM-224F

NPRM, PHMSA will submit a new information collection request, separate from this OMB control number. The new package will include a supporting statement and other materials specific to the information collection burden associated with the proposed new requirements for the shipment of lithium batteries. If and when the lithium battery rule (HM-224F) is finalized, and the information collection for HM-224F is approved, the new information collection will then be incorporated into this information collection (2137-0034) through the appropriate information collection revision process, per OMB's regulations.

The specific rulemakings addressed in this supporting statement (2137-0034) are as follows:

HM-215K (2137-AE45): Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air.

HM-218F (2137-AE46): Hazardous Materials: Miscellaneous Amendments.

Docket HM-215K (2137-AE45): "Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air."

In a Notice of Proposed Rulemaking (NPRM) under Docket HM-215K (2137-AE45) entitled "Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air," published on August 24, 2010 (75 FR 52070), we proposed to amend the HMR to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. We estimated that proposed amendments in this NPRM would decrease this information collection burden by 1,875,000 burden hours. The comment period for this rulemaking closed on October 25, 2010. No comments pertaining to this information collection were received. A final rule was subsequently published on January 19, 2011 (76 FR 3308).

Docket HM-218F (2137-AE46): "Hazardous Materials: Miscellaneous Amendments."

In an NPRM under Docket HM-218F (2137-AE46) entitled "Hazardous Materials: Miscellaneous Amendments," published on September 29, 2010 (75 FR 60017), we proposed to update and clarify certain regulatory requirements. Among other provisions, PHMSA proposed to add an exception for "consolidation bins" to facilitate use of bins as a method of consolidating packages for ease of handling when transported by motor vehicle and to clarify that the definition of "person," as that term is used in the regulations, also includes persons who

manufacture, test, repair, and recondition packaging. PHMSA also proposed to provide an exception from regulation for permeation devices containing small amounts of hazardous materials. In addition, we proposed to require non-odorized liquefied petroleum gas (LPG) shipments to indicate “non-odorized” on the shipping papers to aid emergency responders in the event of an accident involving non-odorized shipments of LPG. Since only 5% of LPG shipments are non-odorized, we anticipated only a minimal increase in burden to include this additional notation on the shipping paper. We estimated that the proposed amendments in this NPRM will increase this information collection by only 12.5 burden hours. The comment period for this rulemaking closed on November 29, 2010. No comments pertaining to this information collection were received. A final rule was subsequently published on December 28, 2011 (76 FR 81396).

2. How, by whom, and for what purpose is the information used.

The shipping paper is considered a basic hazard communication tool when transporting hazardous materials by all modes. For example, it is the mechanism by which an aircraft operator knows the nature and potential of hazardous cargo on board the aircraft. It informs railroad employees of the potential hazards of the materials and is the primary means of communicating information leading to required car handling and placement in trains. Shipping papers communicate information on cargo compatibility to motor carrier personnel and emergency responders, and advises the vessel master where hazardous material cargo should be stowed to assure compatibility and accessibility. Consequences which could result from not having the required information on shipping papers include:

- (1) Co-mingling of hazardous materials in a shipment that could react chemically causing explosion, fire, poison gas, or other types of reactions in the event of a container failure or accident.
- (2) Contamination of foodstuffs and feed by poisons being shipped on the same transport vehicle.
- (3) Shipment of radioactive materials in the same transport vehicle in quantities which could exceed criticality safety controls, resulting in excessive exposure to vehicle operators/crew or passengers, or with non-radioactive materials (such as x-ray film) that could be contaminated by the radiation emitted from packages of radioactive materials.
- (4) Shipment of hazardous materials greater than authorized to be carried in passenger carrying vehicles.
- (5) Shipment of forbidden materials aboard passenger carrying aircraft, the release of which could cause death or illness to passengers and crew due to contamination of the air system of an aircraft or structural damage to an aircraft.
- (6) Injury, death, and/or severe environmental damage due to lack of accurate emergency response communication information.
- (7) Incorrect emergency response procedures resulting from lack of sufficient information regarding the hazards of the materials being transported. For example, firefighters may attempt to extinguish fires with water leading to catastrophic consequences if they are not advised by shipping papers and emergency response information that the materials are water reactive.

3. Extent of automated information collection.

The burden has been made as simple as possible. DOT's emphasis is on the information displayed on shipping papers, consistency, and quick recognition. Any document, meeting the definition of a shipping paper in § 171.8 and the requirements in Subpart C and G of Part 172, used in the normal course of business is a shipping paper. The Government Paperwork Elimination Act directs agencies to allow the option of electronic filing and recordkeeping by October 2003, when practicable. Electronic filing and recordkeeping is authorized; however, the Pipeline and Hazardous Materials Administration (PHMSA) does not require these records to be submitted to us, so it is not practicable.

4. Efforts to identify duplication.

DOT hazardous materials shipping paper and emergency response information requirements do not duplicate any other documentation system for identifying hazardous materials transported in commerce. DOT and the Environmental Protection Agency (EPA) coordinated the hazardous waste manifest requirements to avoid duplication. EPA agreed that DOT regulations prevail for carriers of hazardous wastes and revised their manifest requirements so the required entries could be made on one document to comply with both EPA hazardous waste requirements and DOT shipping paper and emergency response information requirements. Proposed rulemakings for consolidation of requirements into Part 172 for all modes of transportation, and other efforts to eliminate duplicative or obsolete requirements are under review.

To a limited degree, some of the information required on the shipping papers is already available through required markings on the outside of packages. However, it would be very difficult to accomplish effective communication for emergency response and compliance with various transportation requirements by using only the markings on packages. In most cases, the packages are not visible during transportation and would not serve the same benefit as the shipping paper and emergency response information in providing effective communication.

5. Efforts to minimize the burden on small businesses.

Unless specifically excepted in the HMR, shipping papers and emergency response information must be prepared by all persons offering hazardous materials for transportation. Some type of shipping document is issued in all normal business transactions; therefore, the DOT hazardous materials shipping paper requirements are not considered duplicative to documents already used in commerce.

6. Impact of less frequent collection of information.

This is a one-time requirement each time a hazardous material shipment is offered for transportation in commerce.

7. Special circumstances.

This collection of information is generally conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2) with the following qualifications:

- a. It is not possible to eliminate or shorten the information required by the HMR for shipping papers and still provide the information necessary for emergency response personnel, carriers, and transport workers.
- b. Shipping papers are already required to be retained by other Federal and state requirements, and therefore, are not considered duplicative. PHMSA has no discretion regarding this requirement.
- c. Hazardous materials shipping paper and emergency response information is also required when transporting hazardous materials in international commerce.

8. Compliance with 5 CFR 1320.8.

We have issued several recent rulemakings which affected this information collection. The Federal Register publication dates and citations for these rulemakings are follows:

HM-215K (2137-AE45) NPRM; 08/24/10; 75 FR 52070.
HM-218F (2137-AE46) NPRM; 09/29/10; 75 FR 60017.
HM-215K (2137-AE45) Final Rule: 01/19/11; 76 FR 3308.
HM-218F (2137-AE46) Final Rule: 12/28/11; 76 FR 81396.

With the exception of the HM-224F NPRM, we did not receive any information collection-related comments regarding this information collection. The comments received pertaining to the HM-224F NPRM will result in PHMSA re-submitting a revised information collection package to OMB in a separate, future action.

9. Payments or gifts to respondents.

There is no payment or gift provided to respondents associated with this collection of information.

10. Assurance of confidentiality.

None of the data collected contain personally identifiable information (PII) or business confidential information. No guarantees of confidentiality are provided to applicants.

11. Justification for collection of sensitive information.

Not applicable. Information is not of a sensitive nature.

12. Estimates of burden hours for information requested.

Estimate of annual burden hours:

6,500,834 hours	(Currently approved)
-1,875,000	(HM-215K) (2137-AE45)
12.5	(HM-218F) (2137-AE46)
<u>4,625,846.50</u>	Total Annual Burden Hours

Baseline Estimate:

It is estimated that there are as many as 260 million shipments per year (1 million/day x 5 days/week x 52 weeks) of hazardous materials in the United States. We have taken into consideration the additive requirements to the existing railroad waybill system, the dangerous cargo manifest required on vessels, the uniform manifest, and the emergency response communications requirements.

It is estimated that approximately 250,000 shippers/carriers of hazardous materials (including hazardous waste and hazardous substances) will prepare an average of 1,040 shipping papers and emergency response information annually. Each shipping paper, with emergency response information, will take approximately 1 minute and 30 seconds. Therefore, the annual burden is approximately 6,500,000 hours. PHMSA is revising the burden numbers for this information collection due to the publication of the HM-215K (2137-AE45) and HM-218F (2137-AE46) Final Rules. Removal of these burden hours will reduce the overall burden by 1,874,987.5 hours. Therefore, the revised total of annual burden hours for this information collection is 4,625,846.50 hours.

Rulemakings affecting this Information Collection:

HM-215K (2137-AE45):

Under Docket HM-215K (2137-AE45), entitled “Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air,” it was estimated that 75,000,000 responses (approximately 25% of the 260,000,000 total annual responses) would be eliminated due to shipping paper exceptions pertaining to limited quantities, resulting in a decrease of 1,875,000 burden hours.

75,000,000 responses x 1 minute and 30 seconds = 112,500,000 minutes = 1,875,000 hours. In addition, at an estimated cost of \$1.00 per shipping paper, the decrease in burden costs would result in \$1,875,000.00.

HM-218F (2137-AE46) :

Under Docket HM-218F (2137-AE46) entitled “Hazardous Materials: Miscellaneous Amendments,” it was estimated that a proposal to require non-odorized liquefied petroleum gas (LPG) shipments to indicate “non-odorized” on the shipping papers would result in a minimal increase. Since only 5% (1,492.5) of LPG shipments (29,850) are non-odorized, we anticipate only a minimal increase in burden to include this additional notation on the shipping paper. We estimated that the proposed amendments would increase this information collection by only 12.5 burden hours.

1492.5 responses x 30 seconds = 44,775 seconds = 746.25 minutes = 12.4375 burden hours. At an average hourly wage of \$25.00 for a person to complete a shipping paper, we estimate the additional burden cost to be \$312.50.

13. Estimate of total annual costs to respondents.

There is no cost burden to respondents except those identified in item 12 above.

14. Estimate of annualized cost to the Federal government.

There is no cost to the Federal government.

15. Reasons for change in burden.

PHMSA is revising the burden numbers for this information collection due to the publication of the HM-215K (2137-AE45) and HM-218F (2137-AE46) Final Rules. In addition PHMSA is removing the burden hours for the HM-224F NPRM. PHMSA will submit a new information collection request, separate from this OMB control number to handle any later burden hour changes associated with this rulemaking.

16. Plans for tabulation, statistical analysis and publication.

There is no publication for statistical use and no statistical techniques are involved.

17. Display of expiration date of OMB Approval.

Approved OMB number is prominently displayed in the text of 49 CFR 171.6.

18. Exceptions to certification statement (OMB Form 83-I, Item 19).

Attachments:

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

1. Describe potential respondent universe and any sampling selection method to be used.

There is no potential respondent universe or any sampling selection method being used.

2. Describe procedures for collecting information, including statistical methodology for stratification and sample selection, estimation procedures, degree of accuracy needed, and less than annual periodic data cycles.

There are no procedures for collecting information, including statistical methodology for stratification and sample selection, estimation procedures, degree of accuracy needed, and less than annual periodic data cycles.

3. Describe methods to maximize response rate.

There are no methods to maximize the response rate.

4. Describe tests of procedures or methods.

There are no tests of procedures or methods.

5. Provide name and telephone number of individuals who were consulted on statistical aspects of the information collection and who will actually collect and/or analyze the information.

There were no individuals consulted on statistical aspects of this information collection.