

Hazardous Materials Incident Reports

Justification: OMB Control No. 2137-0039

1. Circumstances that make the collection necessary.

This is a request for renewal without change of an existing approval under OMB Control No. 2137-0039. This renewal request does not impose any changes in burden. The most recent revisions to this information resulted from the Docket HM-229 Final Rule, "Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form," published on December 3, 2003 (68 FR 67745). The HM-229 Final Rule revised the hazardous materials incident reporting requirements and the Hazardous Materials Incident Report Form (DOT Form F 5800.1). This collection is applicable upon occurrence of incidents as prescribed in 49 CFR 171.15 and 171.16. A Hazardous Materials Incident Report, DOT Form F 5800.1, must be completed when there is a release of a hazardous material during transportation. This information collection supports the Departmental Strategic Goal for Safety. These regulations are set forth under the Federal hazardous materials transportation law (49 U.S.C. 5101-5127).

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

This information collection requirement enhances the Department's ability, and provides PHMSA to use the data and information reported by carriers to: (1) evaluate the effectiveness of the existing regulations and industry operating procedures; (2) determine the need for regulatory changes to cover changing transportation safety problems and (3) identify major problem areas that should receive priority attention. In addition, both the government and industry use this information to chart trends, identify problems and training inadequacies, evaluate packagings, and assess ways to reduce releases. The requirement applies to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, vessel, and highway.

The hazardous materials transportation safety program relies on form DOT Form F 5800.1 to gather basic information on incidents that occur during transportation. The prescribed form provides meaningful, accurate, and comprehensive information relative to causes and effects associated with hazardous material releases. The form provides the user with a variety of describing factors leading to the release of a hazardous material.

Before HM-229, PHMSA last revised this form in 1989. The Docket HM-229, Final Rule revised the Hazardous Materials Incident Report Form DOT Form F 5800.1. The major changes under the Docket HM-229, Final Rule included: (1) collecting more specific information on the incident reporting form; (2) expanding reporting exceptions; (3) expanding reporting requirements to persons other than carriers; (4) reporting undeclared shipments of hazardous materials; (5) notifying shippers of incidents; and (6) reporting non-release incidents involving bulk packages. These revisions were intended to increase the usefulness of data collected for risk analysis and management by government and industry and, where possible, provide relief from regulatory requirements.

Although the previous incident report form provided useful information and was generally recognized as being fundamentally sound, room for improvement existed. We believe the opportunity existed to obtain better, more detailed information on events with potentially greater consequences. A National Transportation Safety Board (NTSB) recommendation (Recommendation H-92-6) concerning data collection suggested the establishment of a program to collect information necessary to identify patterns of cargo tank equipment failures, including the reporting of all accidents (even when there is no release of a hazardous material) involving DOT specification cargo tanks. In addition, NTSB Recommendation R-89-52 recommended that there is formal feedback from carriers to shippers when an incident has occurred. Revising the DOT Form F 5800.1 offered a viable way to implement these recommendations by enabling us to obtain a more complete profile of accident scenarios, including "success stories," through which packaging integrity issues can be more thoroughly evaluated.

There is a two-year record retention requirement under § 171.16 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The report is retained at the

carrier's principal place of business or at a place authorized and approved by an agency of the Department of Transportation (DOT). Under the requirement in § 171.21, a carrier who is responsible for reporting an incident must under the provisions of the incident reporting requirements will make all records and information pertaining to the incident available to an authorized representative of DOT upon request. Because DOT views the incident report form to be of significant importance, and in the absence of a requirement that an incident report be sent to us by certified mail, the only practical way a carrier can show compliance with the requirement is for a copy of the report to be retained in the carrier's files. DOT representatives visit motor carriers' principal places of business when it has been determined that the carrier is in an "unsatisfactory" or "conditional" state of safety compliance.

PHMSA is cognizant of the burden often imposed by regulatory requirements. As we developed changes to the incident reporting requirements, we minimized any additional burden associated with the revised requirements. For instance, in the HM-229 Final Rule, we added exceptions to reporting requirements for small releases of materials that pose the least hazard where sufficient data already exists to manage risk. Further, we deleted certain data fields that ask for information readily obtainable from other sources. Land use at the incident site is an example of the latter case.

The revised form was designed for rapid completion and is almost entirely self-explanatory. The regulations allow 30 days to report an incident. Our conclusion that rapid completion of an incident report is possible is based on reasoning that industry personnel have training in the hazardous materials regulations concerning hazard identification, placards, labels, markings, etc. The form is designed to facilitate its completion by providing a "check list" to describe the circumstances leading to the incident.

3. Consideration of improved information technology.

The burden has been made as simple as possible. Many reports are now developed by the use of computers and make use of information gathered for other agency reporting requirements. Accordingly, the estimate of length of time required to prepare an incident report is estimated to be 1.6 hours per written report and 0.8 hours per electronically filed report. The Government Paperwork Elimination Act directs agencies to allow the option of electronic filing and recordkeeping by October 2003, when practicable. Fully electronic filing of the DOT Form F 5800.1 is currently authorized and is fully operational.

4. Efforts to identify duplication.

Similar reports are required by other administrations. However, these reports do not contain sufficient detail (e.g., the hazardous material, shipping container, and the nature of the container failure) to effectively evaluate the HMR. Also, the reports made to other administrations are filed only when an accident occurs. PHMSA is interested in all

incidents where there is a release of a hazardous material, whether or not there is a transport vehicle involved.

5. Methods used to minimize burden on small businesses or other small entities.

The burden has been made as simple as possible. It is not possible to distinguish or differentiate between large and small entities as the same safety requirements are necessary if a reasonable level of public safety is to be maintained.

6. Consequence to Federal program or policy activities if collection were conducted less frequently.

This is a one-time requirement.

7. Special circumstances affecting conduct of information collection activity.

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

8. Efforts to consult with persons outside the agency to obtain their views.

As part of early efforts to consider possible revisions under HM-229 and following a meeting between DOT and members of several trade associations concerning hazardous materials incident reporting, the Association of American Railroads sponsored a workgroup with segments of the transportation community to discuss the DOT Form F 5800.1 and incident reporting requirements. The workgroup meetings were held during the winter of 1997-98. Participants included representatives of all four transportation modes and PHMSA, shippers, container manufacturers, and labor. The workgroup drafted suggestions and submitted them to PHMSA. We developed questions based on input from these meetings and the DOT modal agencies, other concerned individuals, and our own initiative.

On March 23, 1999, PHMSA published an advance notice of proposed rulemaking (ANPRM: 64 FR 13943) that asked a series of questions regarding the need to change the current reporting requirements and the current incident report form. We received approximately 40 comments from industry associations, state and local governments, non-profit associations, and carriers.

A Notice of proposed rulemaking was published in the Federal Register on July 3, 2001 (66 FR 35155) inviting public comment on the proposed revisions to the hazardous materials incident reporting requirements and to the DOT Form F 5800.1 incident reporting form that affect this information collection. The final rule was published on December 3, 2003 (68 FR 67746) with no changes from the NPRM stage information collection approval.

A notice and request for comments was published in the Federal Register on February 26, 2007 under Docket No. PHMSA-2007-27181 (Notice No. 07-1) (72 FR 8421) requesting comments on the renewal without change of this information collection. The comment period closed on April 27, 2007. No comments concerning this information collection were received.

A notice and request for comments was published in the Federal Register on May 23, 2007 under Docket No. PHMSA-2007-27181 (Notice No. 07-2) (72 FR 29033) requesting comments on the renewal of this information collection. The comment period closed on June 22, 2007. No comments concerning this information collection were received.

9. Explanation of decision to provide any payment or gift to respondents.

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

10. Assurance of confidentiality provided respondents.

All information to be collected complies with the Freedom of Information Act, the Privacy Act of 1974, and OMB Circular A-108. None of the data collected contain personally identifiable information (PII) or business confidential information. Therefore, no guarantees of confidentiality are provided to applicants.

11. Additional information for questions of a sensitive nature.

Not applicable. Information is not of a sensitive nature.

12. Estimates of hour burden for collection of information

The average number of incident reports received by PHMSA per year is approximately 17,300, and over the six year period (1995-2000) leading up to HM-229, was approximately 16,000. The regulatory evaluation for the HM-229 Final Rule used an estimate of 17,000 annual incident reports.

These following estimates reflect an increase of about 810 responses and approximately 81 additional respondents each year that would be submitted when the revisions to the reporting requirements under HM-229 were adopted. In addition, it was estimated that approximately one third (5,937 reports) of the 17,810 reports would be filed electronically and the remaining two thirds (11,873 reports) would be filed in written format.

Estimate of annual burden: 23,746 hours

A total of approximately 800 carriers file an estimated 17,810 incident reports and 733 telephonic notifications a year. The estimated burden hours for submitting these reports are 23,746 for incident reports.

17,810 reports filed:

5,937 reports @ 0.8 hours for electronic filing = 4,749.6 hours

11,873 reports @ 1.6 hours for paper filing = 18,996.8 hours

Total Burden Hours = 23,746 hours

Incident Reporting

Under HM-229, an incident report takes approximately 1.6 hours to research, prepare, submit and file. From 1999/2000 through the three-year period for this revised information collection, approximately 17,810 written incident reports will be filed each year. The approximate annual burden to industry is 23,746 hours.

Based on the number of respondents and the 1999/2000 through 2003 projected total responses, an average of 22.17 responses will be submitted by each respondent. The 22.17 average per respondent is calculated by dividing the total number of reports to be received (17,810 by the number of reporting carriers (803)). In actuality, 42 carriers will account for about 85% of the incidents reported to DOT in 1999/2000 projected through 2003. The remaining 761 carriers reported an average of 3.5 incidents.

An estimated 61,600 carriers may transport hazardous materials at any time. Based on the total estimate of hazardous materials, the average response by all potential respondents is 0.29 reports. The average burden hours per potential respondent for written reports are 0.31 hours, and 0.08 for electronically filed reports, for a total average burden of 0.39 hours per year.

Estimate of annual cost to respondents: The total estimated cost to respondents is approximately \$570,000.00.

The estimated annualized cost to each industry respondent from all modes submitting incident reports is approximately \$24.00 per hour with a written incident report taking approximately 1.6 hours to research, prepare, submit and file and 0.8 hours for electronically filed reports. A representative figure which takes into consideration an average hourly cost associated with all personnel who ordinarily handle such documents. From 1999/2000 through 2003, approximately 11,873 written and 5,937 electronic incident reports will be filed

The annual burden to industry is 23,746 hours x \$24.00 per hour = \$569,904.00 or approximately \$570,000.00

Estimates from the Bureau of Labor Statistics were used to calculate a unit labor cost for industry's managerial, driver and clerical personnel involved in gathering, reviewing, filing and typing the information required by DOT Form F 5800.1. These costs take into consideration the additional costs of corporate overhead expenses, general and administrative expenses, and fringe benefits.

13. Total annual cost burden to respondents resulting from collection of information.

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

14. Estimate of annualized cost to the Federal government.

The projected estimated annualized cost to the Federal government is approximately \$775,625.50. PHMSA estimates it will receive an average of 17,810 reports annually. The unit cost per incident report is calculated at \$43.55 which includes programmatic costs associated with government personnel and overhead.

15. Reasons for change in burden.

There is no change in burden due to this request for renewal.

16. Plans for tabulation, statistical analysis and publication.

Incident data is published on the Office of Hazardous Materials Safety web site. This information is available to the public, regulated community, states, and other government agencies.

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).

There is no exception to PHMSA's certification of this request for information collection approval.