

Hazardous Materials Shipping Papers and Emergency Response Information

Justification: OMB # 2137-0034

1. Circumstances that make the collection 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 Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The 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. 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 all times 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 several rulemakings that affect this information collection. These specific rulemakings are as follows:

HM-215F: "Hazardous Materials: Revision and Reformatting of Requirements for the Authorization To Use International Transport Standards and Regulations."

HM-224C: "Hazardous Materials: Transportation of Lithium Batteries."

HM-224E: Hazardous Materials: Prohibition on the Transportation of Primary Lithium Batteries and Cells Aboard Passenger Aircraft."

HM-224C/E: "Hazardous Materials: Transportation of Lithium Batteries."

Docket HM-215F: “Hazardous Materials: Revision and Reformatting of Requirements for the Authorization To Use International Transport Standards and Regulations.”

In an NPRM under Docket HM-215F entitled “Hazardous Materials: Revision and Reformatting of Requirements for the Authorization to Use International Transport Standards and Regulations,” published on January 27, 2006 (71 FR 4544), we proposed to require shipping papers to include an indication of the international transport standard or regulation (ICAO, IMDG, TDG or IAEA). This new requirement increased the information collection burden by 36,111 hours. A revised information collection reflecting this increase was submitted to OMB and approved. However, under the Final Rule for Docket HM-215F published on May 3, 2007 (72 FR 25161), we did not adopt this provision. Therefore, the burden of 36,111 hours is being subtracted from this information collection.

Docket HM-224C: “Hazardous Materials: Transportation of Lithium Batteries.”

In an NPRM under Docket HM-224C entitled “Hazardous Materials: Transportation of Lithium Batteries,” published on April 2, 2002 (67 FR 15510), we proposed to amend the HMR pertaining to the shipment of lithium batteries. Specifically, we proposed to require that a lithium cell or battery, including a cell or battery packed with or contained in equipment, is not subject to the HMR provided it is accompanied by a document indicating that the package contains lithium batteries and that special procedures should be followed in the event that the package is damaged. This provision resulted in a minimal increase in this information collection burden of 834 hours, and a new information collection (under OMB Control No. 2137-xxxx) was created and submitted to OMB. OMB’s terms of clearance requested a summary of all comments related to this information collection prior to publication of the Final Rule. No information collection-related comments were received in response to the NPRM. However, this rulemaking was subsequently placed on hold. It has recently been removed from hold status and is now being combined with Dockets HM-224E as a new, consolidated rulemaking (HM-224C/E). Because OMB’s terms of clearance for the HM-224C information collection required a re-submittal at the Final Rule stage and the HM-224C rulemaking is being consolidated with HM-224E, we are re-submitting this information collection under the HM-224C/E Final Rule to reflect an increase in the burden hours of 834 hours.

Docket HM-224E: “Hazardous Materials: Prohibition on the Transportation of Primary Lithium Batteries and Cells Aboard Passenger Aircraft.”

In an Interim Final Rule under Docket HM-224E entitled “Hazardous Materials: Prohibition on the Transportation of Primary Lithium Batteries and Cells Aboard Passenger Aircraft,” published on December 15, 2004 (69 FR 75207), we issued an interim Final Rule imposing a limited prohibition on offering for transportation and transportation of primary (non-rechargeable) lithium batteries and cells as cargo aboard passenger-carrying aircraft and equipment containing or packed with large primary lithium batteries. This rulemaking did not impose any additional information collection. However, we are including a reference to this rulemaking in this current information collection because HM-224E is being combined with HM-224C (see above) and

being issued as a consolidated HM-224C/E Final Rule. This combined rulemaking will impose an additional 834 information collection burden hours.

It is worth noting that an additional rulemaking (Docket HM-206F: Hazardous Materials: Revision of Requirements for Emergency Response) that affects this information collection and is currently being drafted, may result in an increase in this information collection. A revised package will be submitted to OMB at that time.

2. How, by whom, and for what purpose information is to be 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. Consideration of improved information technology.

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

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

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

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

We have issued several notices pertaining to NPRMs and Final Rules in recent years which affected this information collection. The Federal Register publication dates and citations for these rulemakings are follows:

HM-215F NPRM (01/27/06; 71 FR 4544) and Final Rule (05/03/07; 72 FR 25161).
HM-224C NPRM (04/02/02; 67 FR 15510).
HM-224E NPRM Interim Final Rule (12/15/04; 69 FR 75207).
HM-228 NPRM (11/10/04; 69 FR 65293) and Final Rule (03/22/06; 71 FR 14585).

With the exception of the HM-215F NPRM, we did not receive any information collection-related comments regarding this information collection. The comments received pertaining to the HM-215F NPRM resulted in PHMSA not adopting the provisions in the HM-215F Final Rule that would have increased this information collection.

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 to respondents.

All information to be collected complies with the Freedom of Information Act, the Privacy Act of 1974, and OMB Circular A-108. The PHMSA Privacy Officer and the information collection subject matter experts completed initial privacy identification, assessing whether this information collection requires a Privacy Impact Assessment (PIA). As an existing information collection that does not contain public Personally Identifiable Information (PII), this information collection does not require a PIA.

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.

Estimate of annual burden hours:

6,536,111 hours	(Currently approved)
<u>-36,111 hours</u>	(HM-215F Final Rule which did not adopt information collection-related proposals from HM-215NPRM)
6,500,000 hours	Subtotal Annual Burden Hours
<u>+834 hours</u>	(HM-224C/E: Additional hours based on requirements in Final Rule)
<u>6,500,834 hours</u>	Total Annual Burden Hours

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 total annual burden is approximately 6,500,000 hours.

250,000 respondents x 1,040 responses per respondent = 260,000,000 total annual responses x 1 minute and 30 seconds per response = 390,000,000 minutes annual burden, or 6,500,000 hours.

Rulemakings affecting this Information Collection:

HM-215F:

It was estimated that 6,500,000 shipments (¼ of the 260 million hazardous materials shipments per year) are international shipments of hazardous materials that will be affected by this NPRM. We estimated an additional burden of 2 seconds per shipment to comply with this rulemaking.

250,000 respondents x 1,040 responses per respondent = 260,000,000 total annual responses.
260,000,000 total responses x ¼ international shipments = 65,000,000 total responses.
65,000,000 responses x additional 2 seconds per response = 130,000,000 seconds.
130,000,000 seconds divided by 60 seconds = 216,666 minutes.
216,666 minutes divided by 60 minutes = 36,111 additional burden hours.

6,500,000 + 36,111 (HM-215F) = 6,536,111 hours.

This increase in burden hours was submitted to, and approved by OMB for a total of 6,536,111 hours at the NPRM stage for this rulemaking. However, the HM-215F Final Rule did not adopt the provisions attributed to the increase in annual burden hours. Therefore the 36,111 additional burden hours are being subtracted from this information collection.

HM-224C:

In an NPRM under Docket HM-224C entitled “Hazardous Materials: Transportation of Lithium Batteries,” published on April 2, 2002 (67 FR 15510), we proposed to amend the HMR pertaining to the shipment of lithium batteries. Specifically, we proposed to require that a lithium cell or battery, including a cell or battery packed with or contained in equipment, is not subject to the HMR provided it is accompanied by a document indicating that the package contains lithium batteries and that special procedures should be followed in the event that the package is damaged. This provision resulted in a minimal increase in this information collection burden of 834 hours, and a new information collection (under OMB Control No. 2137-xxxx) was created and submitted to OMB. OMB’s terms of clearance requested a summary of all comments related to this information collection prior to publication of the Final Rule. No information collection-related comments were received in response to the NPRM. However, this rulemaking was subsequently placed on hold. It has recently been removed from hold status and is now being combined with Dockets HM-224E as a new, consolidated rulemaking (HM-224C/E). Because OMB’s terms of clearance for the HM-224C information collection required a re-submittal at the Final Rule stage and the HM-224C rulemaking is being consolidated with HM-224E, we are re-submitting this information collection under the HM-224C/E Final Rule to reflect an increase in burden hours of 834 hours.

HM-224E:

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HM-224C/E:

We estimate that approximately 100,000 of the 260,000,000 total annual responses will be affected by HM-224C/E x 30 seconds per response = 3,000,000 seconds.
3,000,000 seconds divided by 60 seconds = 50,000 minutes.
50,000 minutes divided by 60 minutes = 833.33, or approximately 834 additional burden hours.

6,500,000 + 834 (HM-224C/E) = 6,500,834 hours.

HM-228:

This rulemaking proposed only editorial revisions to section designations with no new information collection and no change in burden.

Estimate of annual cost for the burden hours: \$6,510,000.00.

The cost to respondents to meet the hazardous material shipping paper and emergency response information requirements is slightly more than \$1.00 per response. This includes training, as well as completion and retention of the shipping paper itself. Therefore, the total cost to respondents is 6,500,834 x \$1.01 or approximately \$6,510,000 annually.

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.

There is no cost to the Federal government.

15. Reasons for change in burden.

See description for individual Dockets above.

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).

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