

**Department of Transportation
Office of the Chief Information Officer**

**Supporting Statement
Hazardous Materials Security Plans
OMB Control No. 2137-0612**

Introduction:

This is to request Office of Management and Budget (OMB) renewed three-year approved clearance for the information collection entitled, "Hazardous Materials Security Plans," OMB Control No. 2137-0612, which is currently due to expire on May 31, 2009. This information collection reflects the revisions to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as adopted under Docket No. PHMSA-2004-18730, Interim Final Rule (IFR), published in the Federal Register on April 16, 2008 (73 FR 20752). This information collection was originally submitted to OMB at the NPRM stage for this rulemaking, and in accordance with the Notice of OMB Action dated April 16, 2007, is being re-submitted at this time in conjunction with the final rule.

Part A. Justification:

1. Circumstances that make the collection of information necessary.

This is a request for approval of an information collection for hazardous materials security plans as adopted under Docket No. PHMSA-2004-18730, Interim Final Rule published April 16, 2008 (73 FR 20752). This rulemaking was originally proposed under Docket HM-232E, Notice of Proposed Rulemaking (NPRM), entitled "Hazardous Materials: Hazardous Materials: Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments," and was published in the Federal Register on December 21, 2006 (71 FR 76834). However, with the transition to a new government-wide regulations portal, the docket number nomenclature was changed from "Docket HM-232E" to "Docket No. PHMSA-RSPA-2004-18730." References to both docket numbers are used throughout this document.

Under the HM-232E NPRM, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposed to revise the requirements in the HMR applicable to the safe and secure transportation of hazardous materials transported in commerce by rail. In the IFR, we are adopting our proposal to require rail carriers to compile annual data on certain shipments of explosive, toxic by inhalation, and radioactive materials, use the data to analyze safety and security risks along rail transportation routes where those materials are transported, assess alternative routing options, and make routing decisions based on those assessments. We are clarifying rail carrier's responsibility to address in their security plans issue related to en route storage and delays in transit. In addition, we are adopting a new requirement for rail carriers to inspect placarded hazardous materials rail cars for signs of tampering or suspicious items, including explosive devices.

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

The HMR, promulgated by PHMSA under the mandate in section 5103(b) of the Hazardous Materials Transportation Law, govern safety aspects, including security, of the transportation of hazardous material the Secretary considers appropriate. Consistent with this security authority, in March 2003, PHMSA adopted new transportation security requirements for offerors and transporters of certain classes and quantities of hazardous materials and new security training requirements for hazardous materials employees under Docket HM-232, Final Rule, “Security Requirements for Offerors and Transporters of Hazardous Materials.” Under this rulemaking, PHMSA revised Part 172 of the HMR to require offerors and transporters of hazardous materials to develop and maintain security plans (Part 172, Subpart I, §§ 172.800, 172.802, 172.804). The security regulations require offerors and carriers to develop and implement security plans, and to train their employees to recognize and respond to possible security threats.

When PHMSA adopted its security regulations under HM-232, shippers and rail carriers were informed these regulations were “the first step in what may be a series of rulemakings to address the security of hazardous materials shipments.” 68 FR 14509 (March 25, 2003) In this same rulemaking, PHMSA also noted that the Transportation Security Administration (TSA) “is developing regulations that are likely to impose additional requirements beyond those established in this final rule,” and stated it would “consult and coordinate with TSA concerning security-related hazardous materials transportation regulations . . .” 68 FR 14511.

Under HM232E, we are revising the requirements in the HMR applicable to the safe and secure transportation of hazardous materials transported in commerce by rail. Specifically, we are adopting requiring rail carriers to compile annual data on specified shipments of hazardous materials, use the data to analyze safety and security risks along rail transportation routes where those materials are transported, assess alternative routing options, and make routing decisions based on those assessments. We are clarifying current security plan requirements to address en route storage, delays in transit, delivery notification, and additional security inspection requirements for hazardous materials shipments. A security plan will enable shippers and carriers to reduce the possibility that a hazardous materials shipment will be used as a weapon of opportunity by a terrorist or criminal.

3. Extent of automated information collection.

The security plan requirement does not prescribe a specific form or content for a security plan. Rather, a company should implement a plan that is appropriate to its individual circumstances, considering the types and amounts of hazardous materials shipped or transported and the modes used for transportation. To assist hazardous materials shippers and transporters in evaluating risks and implementing measures to reduce those risks, we designed a security template for the Risk Management Self-Evaluation Framework (RMSEF). RMSEF is a tool we developed through a public process to assist regulators, shippers, carriers, and emergency response

personnel to examine their operations, and consider how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The RMSEF security template is posted on our website at <http://hazmat.dot.gov/rmsef.htm>.

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, PHMSA does not require these records to be submitted to us, so it is not practicable.

4. Efforts to identify duplication.

The security plan requirement does not duplicate any other regulatory requirements applicable to hazardous materials transportation.

5. Efforts to minimize burden on small businesses.

The security plan requirement applies only to shippers and carriers required to register with PHMSA in accordance with Subpart G of 49 CFR Part 107 and persons who offer or transport infectious substances listed as select agents by the Centers for Disease Control and Prevention (CDC) in 42 CFR Part 72. Those persons required to register under Subpart G of Part 107 include persons who offer for transportation or transport: (1) a highway route-controlled quantity of a Class 7 (radioactive) material; (2) more than 25 kg (55 lbs) of a Division 1.1, 1.2, or 1.3 (explosive) material; (3) more than 1 L (1.06 qt) per package of a material poisonous by inhalation in hazard zone A; (4) a shipment in a bulk packaging with a capacity equal to or greater than 13,248 L (3,500 gal) for liquids or gases or greater than 13.24 cubic meters (468 cubic feet) for solids; (5) a shipment that requires placarding; (6) a select agent or toxin regulated by the Centers for Disease Control and Prevention or the Department of Agriculture. To assist shippers and carriers to develop security plans, we designed a security template for the Risk Management Self-Evaluation Framework (RMSEF). RMSEF is a tool we developed through a public process to assist regulators, shippers, carriers, and emergency response personnel to examine their operations, and consider how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The RMSEF security template is posted on our website at <http://hazmat.dot.gov/rmsef.htm>.

6. Impact of less frequent collection of information.

The requirement for certain hazardous materials shippers and carriers to develop and implement a security plan reduces the possibility that a hazardous materials shipment will be used as a weapon of opportunity by a terrorist or criminal. Periodic updates of a security plan assure that it is current and addresses the level of threat at a particular time. Because the majority of the

information collection activities involve initial preparation of the response plan, reducing the frequency of the annual information collection activities would not significantly reduce the overall burden of information collection activities required.

7. Special circumstances.

This collection of information is generally conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2). No respondent is required to maintain more than one copy of its security plan at its principal place of business or dispatch offices. A respondent is required to maintain a security plan only as long as it is engaged in activities that trigger the registration requirement in 49 CFR Part 107 or it offers or transports a select agent listed in 42 CFR Part 72. There is no requirement to retain a plan beyond the date that a respondent ceases such activities.

8. Compliance with 5 CFR1320.8.

An Interim Final Rule under Docket No. PHMSA-2004-18730, entitled “Hazardous Materials: Enhancing Rail Transportation Safety and Security for Hazardous Materials Shipments” was published in the Federal Register on April 16, 2008 (73 FR 20752) adopting revisions proposed under the NPRM. This Interim Final Rule is effective on June 1, 2008. Voluntary compliance is authorized beginning May 16, 2008.

A request for comments from the public on the renewal with revision of this information collection was solicited in the Federal Register on December 21, 2006, under the publication of the HM-232E NPRM under Docket No. PHMSA-04-18730 (HM-232E) (71 FR 76833). No comments pertaining to this information collection were received.

We published a Notice and Request for Comments (60-Day Notice) under Docket No. RSPA-2005-20036 (Notice No. 05-8) on September 21, 2005 (70 FR 55450) requesting comments from the public on the renewal of this information collection. The comment period closed on November 21, 2005. No comments pertaining to this information collection were received.

We published a Notice and Request for Comments (30-Day Notice) under Docket No. RSPA-2005-20036 (Notice No. 05-10) on December 28, 2005 (70 FR 76909) requesting comments from the public on the renewal of this information collection. The comment period closed on January 27, 2006. We received several comments pertaining to this information collection from the Dangerous Goods Advisory Council (DGAC).

DGAC suggested that large entities with more than one facility must prepare more than one security plan. We agree with the comments and have revised the “Estimate of Hour Burden for Collection of Information” found under Item 12, and the “Total Annual Cost Burden to Respondents Resulting from Collection of Information” found under Item 13 of this document. See those Items for details.

DGAC suggested that PHMSA’s estimate of the burden hours associated with development and

implementation of security plans is too low, suggesting that entities with more than one facility must prepare more than one security plan and that the actual time required to prepare a security plan is 200 hours rather than 20 hours. We do not agree with DGAC's estimate of the time required to develop or update security plans. First, DGAC is incorrect that we estimated 20 hours for this process. As explained in the preamble to the final rule published March 25, 2003 (68 FR 14510), we estimate that a large company, using information available from PHMSA, industry associations, or vendors, will require about 50 hours to develop a security plan that meets the regulatory requirements. A small entity will require 25 hours.

DGAC suggested that the applicability of the security plan regulations could be restricted to a smaller number of entities without significantly diminishing the overall security of hazardous materials in transportation, and notes that a number of the materials currently subject to the requirement pose a minimal security risk. We do not agree. The security plan regulations do not prescribe a specific form or content for a security plan. Rather, a company should implement a plan that is appropriate to its individual circumstances, considering the types and amounts of hazardous materials shipped or transported and the modes used for transportation. Thus, a shipper may determine that the material to be transported does not pose a significant security risk and develop a relatively minimal plan to cover the minimal risk.

DGAC also expressed concern that the regulations applicable to Sensitive Security Information (SSI) may apply to security plans prepared in accordance with the PHMSA requirements and that, if so, this could add additional document management requirements. We do not agree. The SSI regulations in 49 CFR 15 and 1520 do not apply to security plans prepared in accordance with the PHMSA regulations.

An NPRM entitled "Hazardous Materials: Security Requirements for Offerors and Transporters of Hazardous Materials," under HM-232 was published on May 2, 2002 (67 FR 22028) that solicited comments on the security plan proposal, including the costs of the proposal, and is used as the base line for our annual information collection burden estimates. We received approximately 270 comments on the NPRM. In the NPRM, we estimated that most companies would require about 20 hours to develop and implement a security plan conforming to the new regulatory requirements. This estimate was based on our understanding, confirmed by commenters to the NPRM, that many industry groups have developed guidance and model security plans for use by their members. Further, to assist persons to perform the risk management analysis required by this final rule, we designed a security template for the Risk Management Self-Evaluation Framework (RMSEF), developed to assist regulators, shippers, carriers, and emergency response personnel to examine their operations and consider how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. Because of the widespread availability of tools to assist persons to develop and implement security plans, we concluded that the cost to an individual company to comply with the security plan requirement would average about \$600 per affected entity.

Commenters who addressed the security plan proposal were generally supportive. However, several of these commenters disagreed with our conclusions concerning the costs that will be required to develop and maintain security plans. For example, one commenter states that, “for the 6,000 (15% of the total registrants) large HAZMAT registrants, [we] estimate that it will take a minimum of 200 hours to develop a comprehensive security plan (estimated cost for the 6,000 registrants: \$100 per hour x 200 hours = \$120 million).” (Dangerous Goods Advisory Council) Other commenters offered similar cost estimates.

As commenters themselves pointed out, a number of industry associations have developed guidelines and model security plans that can be readily adapted to meet a company’s individual circumstances, thereby reducing individual company costs. For instance, on June 5, 2002, the American Chemistry Council (ACC) made enhanced security activities mandatory for its members, to help assure the public that all member facilities are involved in making their neighbors and America more secure. The ACC Board approved a new Security Code under Responsible Care⁷, the industry’s award-winning initiative for improving performance, which consists of increased specific commitments to further safeguard chemical operations from potential terrorist attacks. The Security Code includes measures to enhance chemical transportation security. Over 200 chemical companies are ACC members; in addition, nearly 40 industry associations are Responsible Care⁷ Partner Associations.

Further, the Association of American Railroads has developed a comprehensive Terrorism Risk Analysis and Security Management Plan. The industry formed a security task force and hired outside consultants with expertise in intelligence and counter-terrorism to provide advice on best practices. The task force undertook a comprehensive risk analysis which identified critical assets, vulnerabilities, and threats, and assessed the overall risk to people, national security, and the nation’s economy. The task force then proceeded to identify over fifty countermeasures. The Terrorism Risk Analysis and Security Management Plan is now in effect. The Association of American Railroads includes 14 Class I railroads and 10 non-Class I railroads.

Many companies will not need to perform sophisticated analyses or develop complicated security plans in order to comply with the new requirement. Companies that only occasionally transport one of the hazardous materials to which the security plan requirement applies may be able to utilize one of the off-the-shelf security manuals now being marketed by several vendors. These manuals include information and guidelines to assist companies to identify and address areas of concern, including concerns related to personnel safety and security, site security, en route security, and training. One such security manual sells for \$165, with regular updates available under an annual subscription costing about \$80.

Because there is such a wealth of information and assistance available to companies subject to the security plan requirements of this final rule, we do not agree with commenters who suggest that our cost estimate for developing hazardous materials transportation security plans in the NPRM was “greatly under-estimated.” Actual per-company costs will vary, depending on the nature of the materials transported and the size and complexity of a company’s operation. We estimate that the time necessary to develop a security plan will range between our initial estimate

of 20 hours per company and the industry estimate of 200 hours per company. For purposes of this analysis, we believe that, on average, a large company, using information available from PHMSA, industry associations, or vendors, will require about 50 hours to develop a security plan that meets the requirements of this final rule. A smaller company, on average, will require about 25 hours. Using Bureau of Labor Statistics information on employee compensation, we estimate that the cost per hour of developing a security plan is approximately \$45.00 (one professional plus one administrative support staff). Thus, for the large companies subject to the security plan requirements of this NPRM, we estimate that the costs to develop a security plan will total \$14,175,000 (6,300 large entities x 50 hours/entity x \$45/hour), or \$2,250 per entity. For small companies subject to the security plan requirements of this final rule, we estimate that the costs to develop a security plan will total \$40,162,500 (35,700 small entities x 25 hours/entity x \$45/hour), or \$1,125 per entity.

In addition, the March, 2003, HM-232 final rule requires companies to update security plans as necessary to account for changing circumstances. We expect that most companies will update their security plans at least once a year. We estimate the hours required to update a security plan will average 10 hours for a large company and 5 hours for a small entity. Thus, for large companies, we estimate the costs to update a security plan will total \$2,835,000/year (6,300 large entities x 10 hours/entity x \$45/hour), or \$450 per entity. For small companies, we estimate the costs to update a security plan will total \$8,032,500/year (35,700 small entities x 5 hours/entity x \$45/hour), or \$225 per entity.

9. Payments or gift 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. Therefore, no guarantees of confidentiality are provided to applicants.

11. Justification for collection of sensitive information.

Not applicable.

12. Estimate of burden hours for information requested.

Consolidated First-Year Burden Hours:	427,719 (376,250 + 51,469)
Consolidated Subsequent Year Burden Hours:	389,927 (376,250+ 13,677)

The estimated hours of burden for this information collection have been determined as follows:

<u>Revisions</u>	<u>Total</u>
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HM-232 Final Rule Burden (First-year):	1,207,500	1,207,500
HM-232 Final Rule Burden (Expiration of first-year):	-1,207,500	0
HM-232 Final Rule Burden (Subsequent year):	247,250	247,250
Revision: Subsequent Year Burden revised in response to comments received during renewal of IC:	- 247,250	0
Revision: Subsequent Year Burden (HM-232):	376,250	376,250
HM-232E IFR Burden (First Year):	51,469	
Estimate of Total First Year Burden Hours:		427,719
HM-232E IFR Burden (Subsequent year):	13,677	
HM-232E IFR Estimate of Combined Subsequent Year Burden Hours:		389,927

A detailed accounting of these calculations follows:

HM-232 Final Rule

HM-232 Final Rule First Year Burden Hours: 1,207,500 burden hours (Expired)

42,000 entities x 1 response/entity = 42,000 responses.
(6,300 responses x 50 hours/response) + (35,700 responses x 25 hours/response) =
315,000 + 892,500 = 1,207,500 total burden hours for the first year. (Expired)

We published a Notice and Request for Comments (30-Day Notice) under Docket No. RSPA-2005-20036 (Notice No. 05-10) on December 28, 2005 (70 FR 76909) requesting comments from the public on the renewal of this information collection. The comment period closed on January 27, 2006. We received comments pertaining to information collection activities from the Dangerous Goods Advisory Council (DGAC). DGAC asserts that PHMSA's estimate of the burden hours associated with development and implementation of security plans is too low, suggesting that entities with more than one facility must prepare more than one security plan.

We agree with DGAC that some entities may be required to adapt security plans to cover more than one facility at which hazardous materials are prepared for shipment or stored incidental to movement. DGAC's suggestion that PHMSA assume that 15% of large entities must prepare security plans to cover three (3) separate facilities has merit. Therefore, we are modifying our estimate of annual responses required under the security plan regulations to cover 54,860 annual responses rather than 42,000 as originally estimated under the heading, "Revised Estimate of Burden Hours for Subsequent Year."

Original Estimate of Burden Hours for Subsequent Years

HM-232 Final Rule Subsequent Years Burden Hours: 247,250 burden hours.

New plans:

200 entities x 1 response/entity = 200 responses
(30 responses x 50 hours/response) + (170 responses x 25 hours/response) =
1,500 + 4,250 = 5,750 total burden hours

Updated plans:

42,000 entities x 1 response/entity = 42,000 responses
Large entities: 15% of total responses. Small entities: 85% of total responses.
(6,300 responses x 10 hours/entity) + (35,700 responses x 5 hours/entity) =
63,000 + 178,500 = 241,500 total burden hours

Consolidated Total Burden Hours:

42,200 responses (200 new plans + 42,000 updated plans)
247,250 total burden hours (5,750 new plans + 241,500 updated plans)

About 41,000 shippers and carriers are registered with DOT under the provisions of 49 CFR Part 107. In addition, about 1,000 shippers apply to CDC each year for permission to transport select agents (OMB Control No. 0920-0199). Most companies already have implemented many of the elements of a security plan as part of their standard operating procedures or since the events of September 11, 2001. In addition, many industry associations have developed guidance and model security plans for use by their members. Further, to assist hazardous materials shippers and transporters in evaluating risks and implementing measures to reduce those risks, we designed a security template for the Risk Management Self-Evaluation Framework (RMSEF). RMSEF is a tool we developed through a public process to assist regulators, shippers, carriers, and emergency response personnel to examine their operations, and consider how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The RMSEF security template is posted on our website at <http://hazmat.dot.gov/rmsef.htm>. Moreover, many companies will not need to perform sophisticated analyses or develop complicated security plans in order to comply with the new requirement. Companies that only occasionally transport one of the hazardous materials to which the security plan requirement applies may be able to utilize one of the off-the-shelf security manuals now being marketed by several vendors. These manuals include information and guidelines to assist companies to identify and address areas of concern, including concerns related to personnel safety and security, site security, en route security, and training. One such security manual sells for \$165, with regular updates available under an annual subscription costing about \$80.

On average, a large company, using information available from PHMSA, industry associations, or vendors, will require about 50 hours to develop a security plan that meets the requirements of this final rule. A smaller company, on average, will require about 25 hours developing a security plan that meets the requirements of this final rule.

This final rule required companies to update and maintain security plans as necessary to account

for changing circumstances. We expect that most companies will update their security plans at least once a year. We estimate the hours required to update a security plan will average 10 hours for a large company and 5 hours for a small entity.

Revised Estimate of Burden Hours for Subsequent Years

HM-232 Final Rule Subsequent Year Burden Hours: 376,250 burden hours.

New plans:

200 total entities. Large entities: 15% of total responses (30). Small entities: 85% of total responses (170).

$(30 \text{ responses} \times 3 \text{ facilities}) + (170 \text{ responses}) = 90 + 170 = 260 \text{ responses.}$

$(30 \text{ responses} \times 3 \text{ facilities} \times 50 \text{ hours/response}) + (170 \text{ responses} \times 25 \text{ hours/response}) = 4,500 + 4,250 = 8,750 \text{ total burden hours}$

Updated plans:

42,000 total entities.

Large entities: 15% of total entities (6,300). Small entities: 85% of total entities (35,700).

$(6,300 \text{ responses} \times 3 \text{ facilities}) + (35,700) = 18,900 + 35,700 = 54,600 \text{ responses.}$

$(6,300 \text{ responses} \times 3 \text{ facilities} \times 10 \text{ hours/entity}) + (35,700 \text{ responses} \times 5 \text{ hours/entity}) = 189,000 + 178,500 = 367,500 \text{ total burden hours.}$

Consolidated Total Burden Hours:

54,860 responses (260 new plans + 54,600 updated plans)

376,250 total burden hours (8,750 new plans + 367,500 updated plans)

HM-232E IFR

HM-232E Interim Final Rule First Year Burden Hours: 51,469 burden hours

$(5,560 + 23,040 + 20,720 + 1,424 + 712 + 13 = 51,469)$

Line Segment: 5,560 first year burden hours.

7 Class I railroads x 40 hours = 280 hours.

32 Class II railroads x 40 hours = 1,280 hours.

100 Class III railroads x 40 hours = 4,000 hours.

First Year Line Segment burden hours: $280 + 1,280 + 4,000 = 5,560.$

Primary Route Analysis: 23,040 first year burden hours.

Class I railroads: 60 routes x 80 hours = 4,800 hours.

Class II railroads: 128 x 80 hours = 10,240 hours.

Class III railroads: 200 x 40 hours = 8,000 hours.

First Year Primary Route Analysis burden hours: $4,800 + 10,240 + 8,000 = 23,040$.

Alternate Route Analysis: 20,720 first year burden hours.

Class I railroads: $60 \text{ routes} \times 120 \text{ hours} = 7,200 \text{ hours}$

Class II railroads: $96 \times 120 \text{ hours} = 11,520 \text{ hours}$

Class III railroads: $50 \times 40 \text{ hours} = 2,000 \text{ hours}$

First Year Primary Route Analysis burden hours: $7,200 + 11,520 + 2,000 = 20,720$.

Security Plan Update: 1,424 first year burden hours.

Class I railroads: $7 \text{ railroads} \times 16 \text{ hours} = 112 \text{ hours}$

Class II railroads: $32 \text{ railroads} \times 16 \text{ hours} = 512 \text{ hours}$

Class III railroads: $100 \text{ railroads} \times 8 \text{ hours} = 800 \text{ hours}$

First Year Security Plan Update burden hours: $112 + 512 + 800 = 1,424$.

Storage and Delays in Transit Notifications: 712 first year burden hours.

Class I railroads: $7 \text{ railroads} \times 8 \text{ hours} = 56 \text{ hours}$.

Class II railroads: $32 \text{ railroads} \times 8 \text{ hours} = 256 \text{ hours}$

Class III railroads: $100 \text{ railroads} \times 4 \text{ hours} = 400 \text{ hours}$

First Year Security Plan Update burden hours: $56 + 256 + 400 = 712$.

Anticipated Storage and Delays in Transit Notifications: 13 first year burden hours.

Class I railroads: $12 \text{ notifications} \times \frac{1}{2} \text{ hour} = 6 \text{ hours}$.

Class II railroads: $12 \text{ notifications} \times \frac{1}{2} \text{ hour} = 6 \text{ hours}$

Class III railroads: $2 \text{ notifications} \times \frac{1}{2} \text{ hour} = 1 \text{ hours}$

First Year Security Plan Update burden hours: $6 + 6 + 1 = 13$.

HM-232E Interim Final Rule Subsequent Year Burden Hours: 13,677 burden hours

$(5,560 + 4,608 + 2,072 + 1,424 + 13 = 13,677)$

Line Segment: 5,560 subsequent year burden hours.

$7 \text{ Class I railroads} \times 40 \text{ hours} = 280 \text{ hours}$.

$32 \text{ Class II railroads} \times 40 \text{ hours} = 1,280 \text{ hours}$.

$100 \text{ Class III railroads} \times 40 \text{ hours} = 4,000 \text{ hours}$.

Subsequent Year Line Segment burden hours: $280 + 1,280 + 4,000 = 5,560$.

Primary Route Analysis: 4,608 subsequent year burden hours.

Class I railroads: $60 \text{ routes} \times 16 \text{ hours} = 960 \text{ hours}$.

Class II railroads: $128 \times 16 \text{ hours} = 2,048 \text{ hours}$.

Class III railroads: $200 \times 8 \text{ hours} = 1,600 \text{ hours}$.

Subsequent Year Primary Route Analysis burden hours: $960 + 2,048 + 1,600 = 4,608$.

Alternate Route Analysis: 2,072 subsequent year burden hours.

Class I railroads: $60 \text{ routes} \times 12 \text{ hours} = 720 \text{ hours}$

Class II railroads: 96 x 12 hours = 1,152 hours
 Class III railroads: 50 x 4 hours = 200 hours
 Subsequent Year Alternate Route Analysis burden hours: 720 + 1,152 + 200 = 2,072.

Security Plan Update: 1,424 subsequent year burden hours.
 Class I railroads: 7 railroads x 16 hours = 112 hours
 Class II railroads: 32 railroads x 16 hours = 512 hours
 Class III railroads: 100 railroads x 8 hours = 800 hours
 Subsequent Year Security Plan Update burden hours: 112 + 512 + 800 = 1,424.

Anticipated Storage and Delays in Transit Notifications: 13 subsequent year burden hours.
 Class I railroads: 12 notifications x ½ hour = 6 hours.
 Class II railroads: 12 notifications x ½ hour = 6 hours
 Class III railroads: 2 notifications x ½ hour = 1 hours
 Subsequent Year Security Plan Update burden hours: 6 + 6 + 1 = 13.

13. Estimate of total annual costs to respondents.

Consolidated First-Year Burden Costs: \$20,062,109.27 (\$16,931,250.00 + \$3,130,859.27)
 Consolidated Subsequent Year Burden Costs: \$17,763,221.91 (\$16,931,250.00 + \$831,971.91)

The estimated costs of burden for this information collection have been calculated as follows:

	<u>Revisions</u>	<u>Total</u>
HM-232 Final Rule Burden (First-year): 54,337,500.00	\$ 54,337,500.00	\$
HM-232 Final Rule Burden (Expiration of first-year):	- 54,337,500.00	.00
HM-232 Final Rule Burden (Subsequent years):	11,126,250.00	11,126,250.00
Subsequent year Burden revised in response to comments received during renewal of IC:	-11,126,250.00	.00
Revision of HM-232 Final Rule Subsequent year Burden: 16,931,250.00	16,931,250.00	
HM-232E IFR Burden (First-Year):	3,130,859.27	
HM-232E Estimate of Total First Year Burden Costs: 20,062,109.27		\$
HM-232E IFR Burden (Subsequent years):	831,971.91	
HM-232E IFR Estimate of Subsequent Year Burden Costs:		\$17,763,221.91

HM-232 Final Rule

HM-232 Final Rule First Year Burden Costs: \$54,337,500 (Expired)

42,000 entities x 1 response/entity = 42,000 responses
(6,300 responses x 50 hours/response) + (35,700 responses x 25 hours/response) = 1,207,500 hours
1,207,500 total burden hours x \$45/hour = \$54,337,500 total cost (Expired)

We published a Notice and Request for Comments (30-Day Notice) under Docket No. RSPA-2005-20036 (Notice No. 05-10) on December 28, 2005 (70 FR 76909) requesting comments from the public on the renewal of this information collection. The comment period closed on January 27, 2006. We received comments pertaining to Information Collection Activities from the Dangerous Goods Advisory Council (DGAC). DGAC asserts that PHMSA's estimate of the burden hours associated with development and implementation of security plans is too low, suggesting that entities with more than one facility must prepared more than one security plan.

We agree with DGAC that some entities may be required to adapt security plans to cover more than one facility at which hazardous materials are prepared for shipment or stored incidental to movement. DGAC's suggestion that PHMSA assume that 15% of large entities must prepare security plans to cover three (3) separate facilities has merit. Therefore, we are modifying our estimate of annual burden costs required under the security plan regulations to cover 54,860 annual responses rather than 42,000 as originally estimated as follows:

Original Estimate of Burden Costs for Subsequent Years:

HM-232 Final Rule Subsequent Year Burden Costs: \$11,126,250

New plans:

200 entities x 1 response/entity = 200 responses
(30 responses x 50 hours/response) + (170 responses x 25 hours/response) =
1,500 + 4,250 = 5,750 total burden hours
5,750 total burden hours x \$45/hour = \$258,750

Updated plans:

42,000 entities x 1 response/entity = 42,000 responses
(6,300 responses x 10 hours/entity) + (35,700 responses x 5 hours/entity) =
63,000 + 178,500 = 241,500 total burden hours
241,500 total burden hours x \$45/hour = \$10,867,500

Consolidated Total Cost Burden:

42,200 responses
247,250 total burden hours
\$11,126,250 total burden cost

Revised Estimate of Burden Costs for Subsequent Years:

HM-232 Final Rule Subsequent Year Cost Burden: \$16,931,250

New plans:

200 entities.

Large entities: 15% of total responses (30).

Small entities: 85% of total responses (170).

(30 responses x 3 facilities) + (170 responses) =

90 + 170 = 260 responses.

(30 responses x 3 facilities x 50 hours/response) + (170 responses x 25 hours/response) =
4,500 + 4,250 = 8,750 total burden hours

8,750 total burden hours x \$45/hour = \$393,750

Updated plans:

42,000 total entities.

Large entities: 15% of total entities (6,300). Small entities: 85% of total entities
(35,700).

(6,300 responses x 3 facilities) + (35,700) = 18,900 + 35,700 = 54,600 responses.

(6,300 responses x 3 facilities x 10 hours/entity) + (35,700 responses x 5 hours/entity) =
189,000 + 178,500 = 367,500 total burden hours.

367,500 total burden hours x \$45/hour = \$16,537,500

Consolidated Total Cost Burden:

54,860 responses (260 new plans + 54,600 updated plans)

376,250 total burden hours (8,750 new plans + 367,500 updated plans)

\$16,931,250 total burden cost (\$393,750 new plans + \$16,537,500 updated plans)

HM-232 Final Rule Subsequent Year Cost Burden: \$16,931,250

This final rule associated with this information collection requires companies to update and maintain security plans as necessary to account for changing circumstances. We expect that most companies will update their security plans at least once a year. We estimate the hours required to update a security plan will average 10 hours for a large company and 5 hours for a small entity. Thus, for large companies, we estimate the costs to update a security plan will total \$8,505,000/year (6,300 large entities x 3 facilities x 10 hours/entity x \$45/hour), or \$450 per facility. For small companies, we estimate the costs to update a security plan will total \$8,032,500/year (35,700 small entities x 5 hours/entity x \$45/hour), or \$225 per entity.

HM-232E IFR

HM-232E Interim Final Rule First Year Burden Costs: \$3,130,859.27.

$(\$338,214.80 + \$1,401,523.20 + \$1,260,397.60 + \$86,621.92 + \$43,310.96 + \$790.79 = \$3,130,859.27)$

Line Segment: \$338,214.80 first year burden costs.

7 Class I railroads x 40 hours = 280 hours x \$60.83 = \$17,032.40.

32 Class II railroads x 40 hours = 1,280 hours x \$60.83 = \$77,862.40.

100 Class III railroads x 40 hours = 4,000 hours x \$60.83 = \$243,320.00.

First Year Line Segment burden hours:

$\$17,032.40 + \$77,862.40 + \$243,320.00 = \$338,214.80.$

Primary Route Analysis: \$1,401,523.20 first year burden costs.

Class I railroads: 60 routes x 80 hours = 4,800 hours x \$60.83 = \$291,984.00.

Class II railroads: 128 x 80 hours = 10,240 hours x \$60.83 = \$622,899.20.

Class III railroads: 200 x 40 hours = 8,000 hours x \$60.83 = \$486,640.00.

First Year Primary Route Analysis burden costs:

$\$291,984.00 + \$622,899.20 + \$486,640.00 = \$1,401,523.20.$

Alternate Route Analysis: \$1,260,397.60 first year burden costs.

Class I railroads: 60 routes x 120 hours = 7,200 hours x \$60.83 = \$437,976.00.

Class II railroads: 96 x 120 hours = 11,520 hours x \$60.83 = \$700,761.60.

Class III railroads: 50 x 40 hours = 2,000 hours x \$60.83 = \$121,660.00

First Year Primary Route Analysis burden costs:

$\$437,976.00 + \$700,761.60 + \$121,660.00 = \$1,260,397.60.$

Security Plan Update: \$86,621.92 first year burden costs.

Class I railroads: 7 railroads x 16 hours = 112 hours x \$60.83 = \$6,812.96.

Class II railroads: 32 railroads x 16 hours = 512 hours x \$60.83 = \$31,144.96.

Class III railroads: 100 railroads x 8 hours = 800 hours x \$60.83 = \$48,664.00.

First Year Security Plan Update burden costs:

$\$6,812.96 + \$31,144.96 + \$48,664.00 = \$86,621.92.$

Storage and Delays in Transit Notifications: \$43,310.96 first year burden costs.

Class I railroads: 7 railroads x 8 hours = 56 hours x \$60.83 = \$3,406.48.

Class II railroads: 32 railroads x 8 hours = 256 hours x \$60.83 = \$15,572.48.

Class III railroads: 100 railroads x 4 hours = 400 hours x \$60.83 = \$24,332.00.

First Year Security Plan Update burden costs:

$\$3,406.48 + \$15,572.48 + \$24,332.00 = \$43,310.96.$

Anticipated Storage and Delays in Transit Notifications: \$790.79 first year burden costs.

Class I railroads: 12 notifications x ½ hour = 6 hours x \$60.83 = \$364.98.

Class II railroads: 12 notifications x ½ hour = 6 hours x \$60.83 = \$364.98

Class III railroads: 2 notifications x ½ hour = 1 hours x \$60.83 = \$60.83
First Year Security Plan Update burden hours:
\$364.98 + \$364.98 + \$60.83 = \$790.79.

HM-232E Interim Final Rule Subsequent Year Burden Costs: \$831,971.91 burden costs.

($\$338,214.80 + \$280,304.64 + \$126,039.76 + \$86,621.92 + \$790.79 = \$831,971.91$)

Line Segment: \$338,214.80 subsequent year burden costs.

7 Class I railroads x 40 hours = 280 hours x \$60.83 = \$17,032.40.

32 Class II railroads x 40 hours = 1,280 hours x \$60.83 = \$77,862.40.

100 Class III railroads x 40 hours = 4,000 hours x \$60.83 = \$243,320.00.

Subsequent Year Line Segment burden costs:

$\$17,032.40 + \$77,862.40 + \$243,320.00 = \$338,214.80$.

Primary Route Analysis: \$280,304.64 subsequent year burden costs.

Class I railroads: 60 routes x 16 hours = 960 hours x \$60.83 = \$58,396.80.

Class II railroads: 128 x 16 hours = 2,048 hours x \$60.83 = \$124,579.84.

Class III railroads: 200 x 8 hours = 1,600 hours x \$60.83 = \$97,328.00.

Subsequent Year Primary Route Analysis burden costs:

$\$58,396.80 + \$124,579.84 + \$97,328.00 = \$280,304.64$.

Alternate Route Analysis: \$126,039.76 subsequent year burden costs.

Class I railroads: 60 routes x 12 hours = 720 hours x \$60.83 = \$43,797.60.

Class II railroads: 96 x 12 hours = 1,152 hours x \$60.83 = \$70,076.16.

Class III railroads: 50 x 4 hours = 200 hours x \$60.83 = \$12,166.00.

Subsequent Year Alternate Route Analysis burden costs:

$\$43,797.60 + \$70,076.16 + \$12,166.00 = \$126,039.76$.

Security Plan Update: \$86,621.92 subsequent year burden costs.

Class I railroads: 7 railroads x 16 hours = 112 hours x \$60.83 = \$6,812.96.

Class II railroads: 32 railroads x 16 hours = 512 hours x \$60.83 = \$31,144.96.

Class III railroads: 100 railroads x 8 hours = 800 hours x \$60.83 = \$48,664.00.

Subsequent Year Security Plan Update burden costs:

$\$6,812.96 + \$31,144.96 + \$48,664.00 = \$86,621.92$.

Anticipated Storage and Delays in Transit Notifications: \$790.79 subsequent year burden costs.

Class I railroads: 12 notifications x ½ hour = 6 hours x \$60.83 = \$364.98.

Class II railroads: 12 notifications x ½ hour = 6 hours x \$60.83 = \$364.98

Class III railroads: 2 notifications x ½ hour = 1 hours x \$60.83 = \$60.83

Subsequent Year Security Plan Update burden hours:

$\$364.98 + \$364.98 + \$60.83 = \790.79 .

14. Estimate of cost to the Federal government.

There is no cost to the Federal government.

15. Explanation of program changes or adjustments.

The change in burden is the result of the publication of an Interim Final Rule which adopts revisions proposed in HM-232E, NPRM.

The change in burden is the result of the completion of first year start-up burden/costs under this information collection approval for hazardous materials security plans; revisions to the annual cost and burden hours based on the Notice and Request for Comments (30-Day Notice) under Docket No. RSPA-2005-20036 (Notice No. 05-10) published on December 28, 2005 (70 FR 76909) to renew this information collection approval for another three years; and the current publication of the NPRM under Docket No. RSPA-04-18730 (HM-232E) in the Federal Register on December 21, 2006 (71 FR 76834).

16. Publication of results of data collection.

There is no publication for statistical use.

17. Approval for not displaying the expiration date of OMB approval.

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

18. Exceptions to certification statement.

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

Part B. Collections of Information Employing Statistical Methods.

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

Not applicable.

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.

Not applicable.

3. Describe methods of maximize response rate.

Not applicable.

4. Describe tests of procedures of methods.

Not applicable.

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.

Not applicable.