

**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 June 30, 2011. This information collection reflects revisions to the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) as proposed under Docket PHMSA-06-25885 (HM-232F) entitled "Hazardous Materials: Risk-Based Adjustment of Transportation Security Plan Requirements."

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 proposed under Docket PHMSA-06-25885 (HM-232F) entitled "Hazardous Materials: Risk-Based Adjustment of Transportation Security Plan Requirements," published September 9, 2008 (73 FR 52557).

The Pipeline and Hazardous Materials Safety Administration (PHMSA), in consultation with the Transportation Security Administration (TSA) of the Department of Homeland Security (DHS), is proposing to modify its current security plan requirements governing the commercial transportation of hazardous materials by air, rail, vessel, and highway. Based on an evaluation of the security threats associated with specific types and quantities of hazardous materials, the proposed rule would narrow the list of materials subject to security plan requirements and reduce associated regulatory costs and paperwork burden. The proposed rule also would clarify certain requirements related to security planning, training, and documentation and incorporate and build on recent international standards governing hazardous materials security.

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

The HMR require persons who offer for transportation or transport certain hazardous materials in commerce to develop and implement security plans. The security plan requirements in subpart I of part 172 of the HMR apply to 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 gallons) for liquids or gases or greater than 13.24 cubic meters (468 cubic feet) for solids;

(5) A shipment in other than a bulk packaging of 2,268 kg (5,000 lbs.) gross weight or more of one class of hazardous materials for which placarding is required;

(6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR part 73 or a select agent or toxin regulated by the U.S. Department of Agriculture under 9 CFR part 121; or

(7) A shipment that requires placarding under subpart F of part 172 of the HMR.

A security plan must include an assessment of possible transportation security risks and appropriate measures to address the assessed risks. Specific measures implemented as part of the plan may vary with the level of threat at a particular time. At a minimum, the security plan must address personnel security, unauthorized access, and en route security. For personnel security, the plan must include measures to confirm information provided by job applicants for positions involving access to and handling of the hazardous materials covered by the plan. For unauthorized access, the plan must include measures to address the risk of unauthorized persons gaining access to materials or transport conveyances being prepared for transportation. For en route security, the plan must include measures to address security risks during transportation, including the security of shipments stored temporarily en route to their destinations. As indicated above, the HMR set forth general requirements for a

security plan's components rather than a prescriptive list of specific items that must be included. The HMR set a performance standard providing offerors and carriers with the flexibility necessary to

develop security plans addressing their individual circumstances and operational environments. Accordingly, each security plan will differ because it will be based on an offeror's or a carrier's individualized assessment of the security risks associated with the specific hazardous materials it ships or transports and its unique circumstances and operational environment.

### 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/riskmgmt/risk.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 requirements do not duplicate any other regulatory requirements applicable to hazardous materials transportation.

5. Efforts to minimize burden on small businesses.

PHMSA has determined that, while the requirements of the proposed rule would apply to a substantial number of small entities, the economic impact on those small entities would not be substantial. Specifically, about 10,119 entities would no longer be subject to current security plan and in-depth training requirements if the proposals in this NPRM are adopted. These entities are persons who offer for transportation or transport hazardous materials in commerce. Just under 90% of shippers and carriers affected by the proposals in this NPRM are small businesses. Based on an analysis of the potential benefits of the proposals in this NPRM, PHMSA concludes that, while the proposed rule would apply to a substantial number of small entities, it will not have a significant economic impact on those small entities.

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/riskmgmt/risk.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.

A Notice of Proposed Rulemaking (NPRM) was published on September 9, 2008 [73 FR 52557] soliciting comments from the public on the revision to this information collection. The 60-day comment period closes on November 10, 2008.

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.

Current Responses:

54,999

Reduction in Responses due to HM-232F NPRM:

-10,119

Revised Total Responses:

44,880

Current Burden Hours:

427,719

Reduction in Burden Hours due to HM-232F NPRM:

-55,655

Revised Total Burden Hours:

372,064

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 the CDC each year for permission to transport select agents. 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 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. On average, a smaller company will require about 25 hours developing a security plan that meets the requirements of this final rule.

The current security plan requirements require that companies 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.

We assume 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. We also assume that 15% of large entities must prepare security plans to cover three (3) separate facilities

Total Revised Burden Hours:  $376,250 + 51,469 = 427,719 - 55,655 = 372,064$  total revised burden hours.

New and Updated Plans for Large and Small Entities: 376,250 burden hours (8,750 + 189,000 + 178,500)

New plans:

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

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

$(30 \text{ responses} \times 3 \text{ facilities} \times 50 \text{ hours/response}) + (170 \text{ responses} \times 25 \text{ hours/response}) =$

$4,500 + 4,250 = 8,750$  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).

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

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

Burden Hours for New and Updated Plans for Large and Small Entities:

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

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

Burden Hours for Railroad Entities: 51,469 burden hours (5,560 + 23,040 + 20,720 + 1,424 + 712 + 13)

Line Segment: 5,560 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.

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

Primary Route Analysis: 23,040 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.

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

Alternate Route Analysis: 20,720 burden hours.

Class I railroads: 60 routes x 120 hours = 7,200 hours

Class II railroads: 96 x 120 hours = 11,520 hours

Class III railroads: 50 x 40 hours = 2,000 hours

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

Security Plan Update: 1,424 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

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

Storage and Delays in Transit Notifications: 712 burden hours.

Class I railroads: 7 railroads x 8 hours = 56 hours.

Class II railroads: 32 railroads x 8 hours = 256 hours  
 Class III railroads: 100 railroads x 4 hours = 400 hours  
 Security Plan Update burden hours: 56 + 256 + 400 = 712.

Anticipated Storage and Delays in Transit Notifications: 13 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  
 Security Plan Update burden hours: 6 + 6 + 1 = 13.

Reductions to Burden Hours due to HM-232F NPRM:

In the analysis for the HM-232F NPRM, we determined that the number of firms that would be affected by this rulemaking could be estimated from the security-question data from the registration application for the 2006-07 registration year. This data indicates that 10,119 registrants reported that they offered or transported placardable quantities (Question F) but did not meet any of the other security criteria (Questions A through E), and will no longer be required to update their plans. The subsequent reduction in burden hours is calculated as follows:

<u>Entities</u>	<u>Hours/Entity</u>	<u>Hour Reduction</u>
Large: 1,012	10	10,120
Small: <u>9,107</u>	5	<u>45,535</u>
Total: 10,119		55,655

Current Burden Costs:	\$20,062,109.27
Reduction in Burden Costs due to HM-232F NPRM:	<u>-\$2,782,750.00</u>
Revised Total Burden Costs:	\$17,279,359.27

Total Revised Burden Costs: \$16,931,250 + \$3,130,859.27 = 20,062,109.27 – \$2,782,750.00 = \$17,279,359.27 total revised burden costs.

New and Updated Plans for Large and Small Entities: \$16,931,250 (\$393,750 + \$16,537,500)

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.

$(30 \text{ responses} \times 3 \text{ facilities} \times 50 \text{ hours/response}) + (170 \text{ responses} \times 25 \text{ hours/response}) = 4,500 + 4,250 = 8,750 \text{ total burden hours}$   
 $8,750 \text{ total burden hours} \times \$45/\text{hour} = \$393,750$

Updated plans:

42,000 total entities.

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

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

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

$367,500 \text{ total burden hours} \times \$45/\text{hour} = \$16,537,500$

Burden Cost for New and Updated Plans for Large and Small Entities:

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)

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.

Burden Cost for Railroad Entities: \$3,130,859.27 (\$338,214.80 + \$1,401,523.20 + \$1,260,397.60 + \$86,621.92 + \$43,310.96 + \$790.79)

Line Segment: \$338,214.80 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.

Line Segment burden hours: \$17,032.40 + \$77,862.40 + \$243,320.00 = \$338,214.80.

Primary Route Analysis: \$1,401,523.20 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.

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 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

Primary Route Analysis burden costs: \$437,976.00 + \$700,761.60 + \$121,660.00 = \$1,260,397.60.

Security Plan Update: \$86,621.92 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.

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 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.

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 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

Security Plan Update burden hours: \$364.98 + \$364.98 + \$60.83 = \$790.79.

Reductions to Burden Costs due to HM-232F NPRM:

In the analysis for the HM-232F NPRM, we determined that the number of firms that would be affected by this rulemaking could be estimated from the security-question data from the registration application for the 2006-07 registration year. These data indicate that 10,119 registrants reported that they offered or transported placardable quantities (Question F) but did not meet any of the other security criteria (Questions A through E), and will no longer be required to update their plans. We estimate that this regulatory relief will save these companies between \$45 and \$60 per hour, or approximately \$50 per hour. The subsequent reduction in burden costs is calculated as follows:

<u>Entities</u>	<u>Hours/Entity</u>	<u>Hour Reduction</u>	<u>Hourly Wages</u>
Large: 1,012	10	10,120	\$506,000.00
Small: <u>9,107</u>	5	<u>45,535</u>	<u>\$2,276,750.00</u>
Total: 10,119		55,655	\$2,782,750.00

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 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 the HM-232F NPRM which proposes to narrow the list of materials subject to security plan requirements and reduce associated regulatory costs and paperwork burden.

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.

Attachments:

There are no 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 the information collection.\_