

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

Subsidiary Hazard Class and Number/Type of Packagings

INTRODUCTION

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the information collection entitled, "Subsidiary Hazard Class and Number/Type of Packagings" (OMB Control No. 2137-0613), which is currently due to expire on July 31, 2009.

Part A. Justification.

1. Circumstances that make collection of information necessary.

This is a request for a renewal without change (adjustment) on an information collection and recordkeeping approval pertaining to descriptions on hazardous materials shipping papers under the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). 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. 5101-5127.

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 for one year. Section 5110 (e) of the HMTAA required shippers and carriers to retain copies (or electronic image thereof) of each shipping paper for one year to be accessible through their respective principal places of business. Amendment to § 5110 (e) was self-executing as of August 26, 1994. The Environmental Protection Agency (EPA), and the Internal Revenue Service (IRS) require retention of shipping papers for three years or more for certain hazardous materials shippers and carriers. Since most companies (common carriers) already retain these records to meet these other Federal or State requirements, this amendment did not significantly impact their paperwork burden.

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; provide for the separation of incompatible hazardous materials; and provide for 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. Emergency response information is also required to be carried on vehicles, aircraft, and vessels, and to be maintained at facilities handling hazardous materials.

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

The shipping paper is considered a basic hazard communication tool when transporting hazardous materials. 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 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:

- A) 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.
- B) Contamination of foodstuffs and feed by poisons being shipped on the same transport vehicle.
- C) 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.

- D) Shipment of hazardous materials greater than authorized to be carried in passenger carrying vehicles.
- E) 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.
- F) Injury, death, and/or severe environmental damage due to lack of accurate emergency response communication information.
- G) 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.

The only option is a detailed listing of the hazardous materials on shipping papers meeting the requirements in Subparts C and G in Part 172.

3. Extent of automated information collection.

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, 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 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.

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

5. Efforts to minimize the burden on small businesses.

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

6. Impact of less frequent collection of information.

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

7. Special circumstances.

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

- A) It is not possible to eliminate or shorten the information required by the HMR for shipping papers and still provide the information necessary for emergency response personnel, carriers, and transport workers.
- B) Shipping paper retention for one year was mandated by Congress and was self-executing as of August 26, 1994 under the HMTAA of 1994. Shipping papers are already required to be retained by other Federal and state requirements, and therefore, are not considered duplicative. PHMSA has no discretion regarding this requirement.
- C) Hazardous materials shipping paper and emergency response information is also required when transporting hazardous materials in international commerce.

8. Compliance with 5 CFR 1320.8.

We published a 60-Day Notice and Request for Comments under Docket No. PHMSA–2009–0019 (Notice No. 09–1) on February 5, 2009, in the Federal Register (74 FR 6215) requesting public comment on the renewal of this information collection. The comment period closed on April 6, 2009. One comment was received pertaining to OMB Control No. 2137-0051, “Rulemaking, Special Permits, and Preemption Requirements.” No other comment pertaining to this information collection was received.

We published a 30-Day Notice and Request for Comments under Docket No. PHMSA–2009–0019 (Notice No. 09–2) on May 8, 2009, in the Federal Register (74 FR 21732) requesting public comment on the renewal of this information collection. The comment period closes on June 8, 2009. No other comment pertaining to this information collection was received.

9. Payments or gifts to respondents.

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

10. Assurance of confidentiality.

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. Justification for collection of sensitive information.

Not applicable. Information is not of a sensitive nature.

12. Estimate of burden hours for information requested.

Estimate of annual burden hours: 17,604 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 annually, or 260,000,000 shipping papers. We estimate that approximately 20% of these 260,000,000 or 6,337,500 shipping papers will be required to indicate a subsidiary hazard class or division and number and type of packagings used for each hazardous material. Each shipping paper will take approximately 10 seconds to add this information. Therefore, the total annual burden is approximately 17,604 hours.

250,000 respondents x 1,040 responses per respondent = 260,000,000 total annual responses.

260,000,000 divided by 20% = 6,337,500 responses.

6,337,500 x 10 seconds/60 seconds divided by 60 minutes = 17,604 burden hours.

Estimate of annual cost for the burden hours: \$216,705.00

The cost to respondents to indicate a subsidiary hazard class or division and number and type of packagings used for each hazardous material is as follows:

17,604 hours x \$12.31 clerical worker compensation = \$216,705.00 burden cost.

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.

There were no program changes or adjustments as a result of the renewal of this information collection.

16. Publication of results of data collection.

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

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

Approved OMB number is 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:

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

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

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

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

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

3. Describe methods to maximize response rate.

There are no methods to maximize the response rate.

4. Describe tests of procedures or methods.

There are no tests of procedures or methods.

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

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