

**Department of Transportation  
Office of the Chief Information Officer  
Supporting Statement  
Testing Requirements for Non-Bulk Packaging**

(Expiration date: July 31, 2013)

**Introduction**

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the revised information collection entitled, "Testing Requirements for Non-Bulk Packaging (Formerly Testing Requirements for Packaging)" under OMB Control No. 2137-0572, which is currently due to expire on July 31, 2013.

**Part A. Justification.**

1. Circumstances that make collection of information necessary.

This is a request for renewal with change of an existing approval under OMB No. 2137-0572, applicable to the Hazardous Materials Regulations (HMR; 49 CFR Parts 100-180). This information collection supports the Departmental Strategic Goal for Safety. The HMR are promulgated in accordance with U.S.C. 5110, the Federal hazardous materials transportation law.

The strength and integrity of non-bulk packaging is established by a series of performance tests which the packaging must either pass or be capable of passing before it is authorized for the carriage of hazardous materials; hence, the term "performance-oriented packaging standards." The goal is to promote safety in transport through the use of better materials classification and packaging through performance-oriented packaging.

The Director, Office of Hazardous Materials Safety requires proof, through testing, that packagings meet specified requirements as permitted in § 178.601(l). Manufacturers are required to keep records of design qualification tests and periodic retests, and to make records available for inspection upon request. The format of these records is left to the discretion of the individual manufacturers. In addition, the test records must be maintained at each facility where packagings are produced following testing. Section 178.2, among other requirements, specifies that manufacturers notify, in writing, persons to whom packagings are transferred of any specification requirements that have not been met at the time of transfer and of any actions which need to be taken to comply with specification requirements. Subsequent distributors, as well as manufacturers, must provide the written notification. Copies of the notifications must be retained by the manufacturer and each transferee of the packaging for at least one year.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) published a Notice of Proposed Rulemaking (NPRM) under Docket No. PHMSA-2009-0095 (HM-224F), entitled "Transportation of Lithium Batteries," on January 11, 2010 (75 FR 1302). In that

NPRM, we proposed to amend requirements in the HMR applicable to the transportation of lithium cells and batteries, including lithium cells and batteries packed with or contained in equipment. The proposed changes were intended to enhance safety by ensuring that all lithium batteries are designed to withstand normal transportation conditions. These included provisions to ensure all lithium batteries are packaged to reduce the possibility of damage that could lead to a catastrophic incident, and minimize the consequences of an incident. In addition, lithium batteries would be accompanied by hazard communication that ensures appropriate and careful handling by air carrier personnel, including the flight crew, and informs both transport workers and emergency response personnel of actions to be taken in an emergency. These proposals are largely consistent with changes made to the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and the International Civil Aviation Organization Technical Instructions on the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and respond to recommendations issued by the National Transportation Safety Board (NTSB).

However, in response to comments received to the NPRM, we have drafted a final rule, currently under OMB review, to address commenters' concerns regarding several amendments proposed in the NPRM, specifically: the proposed elimination of exceptions for small lithium batteries currently found in § 172.102, Special provision 188; the proposed modifications to the criteria to which a lithium battery is determined to be of a new design type; the proposed aircraft stowage requirements; and, the proposed 75-day compliance period.

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

Performance-oriented packaging standards allow packaging manufacturers and shippers more flexibility in selecting more economical packagings for their products, customizing the design of packagings to better suit the transportation environment that they will encounter, encourage technological innovations, decrease packaging costs, and significantly reduce the need for exemptions.

3. Extent of automated information collection.

The burden has been made as simple as possible. The information requested is necessary to ensure safe operation. Information is considered critical in making evaluations and assuring safe transportation of hazardous materials. 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 Safety Administration (PHMSA) does not require these records to be submitted to us, so is not practicable.

4. Efforts to identify duplication.

There is no duplication, as the information is unique to specific situations.

5. Efforts to minimize the burden on small businesses.

Because this information is unique, similar information is unavailable. This information collection provides affected entities, including small businesses, the opportunity to allow packaging manufacturers and shippers more flexibility in selecting more economical packagings for their products, customizing the design of packagings to better suit the transportation environment that they will encounter, encourage technological innovations, decrease packaging costs, and significantly reduce the need for special permits or exemptions. The collection of this information is reviewed periodically to ensure that the requirements involving safety in the transportation of hazardous materials are kept to the necessary standards to protect all parties involved.

6. Impact of less frequent collection of information.

These requirements are necessary to ensure that packaging containing hazardous materials are meeting prescribed safety standards 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).

8. Compliance with 5 CFR 1320.8.

PHMSA published an NPRM under Docket No. PHMSA-2009-0095 (HM-224F) in the Federal Register [75 FR 1302] on January 11, 2010. In response to the NPRM, we received specific comments on the proposed requirement for a quality mark signifying compliance with the UN design type tests to appear on the outside of the battery case, and the proposal to require lithium cell and battery manufacturers to retain evidence of satisfactory completion of each of the lithium cell and battery design type tests outlined in the UN Manual of Tests and Criteria. We did not believe such a mark or retention of documentation would increase the burden under this information collection because the requirements for all lithium batteries to be of a type proven to meet each test in the UN Manual of Tests and Criteria and subsequent documentation already exist. However, we are adjusting this information collection to account for any additional time required to indicate compliance with the UN design type tests and retention of related documentation .

9. Payments or gifts to respondents.

There is no payment or gift 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. Information is not of a sensitive nature.

12. Estimate of burden hours for information requested.

**Estimate of Annual Burden:**

Current total annual number of respondents:	5,010
Current total annual responses:	15,500
Current total annual burden hours:	<u>32,500</u>
Current total annual burden costs:	\$812,500

Current annual respondents:	5,010
Additional respondents resulting from HM-224F:	<u>110</u>
Total revised annual respondents:	5,120

Current annual responses:	15,500
Additional responses resulting from HM-224F:	<u>1,110</u>
Total revised annual responses:	16,610

Current annual burden hours:	32,500
Additional hours resulting from HM-224F:	<u>550</u>
Total revised annual burden hours:	33,050

Current annual burden costs:	\$812,500
Additional costs resulting from HM-224F:	<u>\$13,750</u>
Total revised annual burden costs:	\$826,250

Revised total annual number of respondents:	5,120
Revised total annual responses:	16,610
Revised total annual burden hours:	33,050
Revised total annual burden costs:	\$826,250

**Estimate of Increased Annual Responses:**

Due to amendments proposed in the HM-224F NPRM for manufacturers indicate and retain an indication that UN testing has been met for certain types of lithium batteries, it is estimated that 110 lithium battery manufacturers will take approximately 30 minutes to generate and retain design records for approximately 10 designs each. The burden costs related to these amendments is calculated at an average hourly wage of \$25.00 per hour.

110 lithium battery manufacturers x 10 designs x 30 minutes = 550 additional burden hours.

550 hours x \$25.00 per hour = 5,000 packaging firms x 3 packaging design types =  
5,000 x 3 = \$13,750.

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 (increase) is the result of comments received in response to the HM-224F NPRM.

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.