Department of Transportation
Office of the Chief Information Officer
Supporting Statement

Approvals for Hazardous Materials
OMB Control No. 2137-0557

Introduction

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the revised information collection entitled, "Approvals for Hazardous Materials," OMB Control No. 2137-0557, which is currently due to expire on June 30, 2011. This information collection is being revised due to an increase resulting from proposals under a final rule, under Docket HM-215K (RIN 2137–AE45) published in the Federal Register on January 19, 2011 [76 FR 3308], entitled "Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air."

Part A. Justification

1. Circumstances that make collection of information necessary.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has the primary responsibility for the issuance of DOT Special Permits and Approvals to the Hazardous Materials Regulations (HMR; Parts 171-180). A Special Permit or Approval is a document which authorizes a person to perform a function that is not currently authorized under the authority of the HMR. Also, in many instances, the HMR require approvals and/or registrations prior to the transportation of hazardous materials in commerce. The main difference between a special permit and an approval is that an approval document can only be issued if there is a specific approval cite in the Regulations, i.e., "unless approved by the Associate Administrator for Hazardous Materials Safety." If there is no approval cite, one must apply for a special permit.

There are over 100 approval provisions contained in the HMR and associated procedural regulations. Responses to these collections of information are required to obtain benefits, such as become an approval or certification agency, or to obtain a variance from packaging or handling requirements based on information provided by the respondent. These benefits and variances involve areas, for example, such as United Nations (UN) third party certification; authorization to examine and test lighters; authorization to examine and test explosives; and authorization to re-qualify DOT cylinders. This information collection supports the Departmental Strategic Goal for Safety. Required collections are contained in Hazardous Materials Program Procedures, 49 CFR Part 107 and Parts 100-185. These regulations are promulgated in accordance with 49 U.S.C. 5110, the Federal hazardous materials transportation law.

Docket HM-215K: "Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air."

In a Notice of Proposed Rulemaking (NPRM) under Docket HM-215K (RIN 2137-AE45) entitled "Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air," published on August 24, 2010 [75 FR 52070], we proposed to amend the HMR to maintain alignment with international standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. We estimate that proposed amendments in this NPRM would increase this information collection burden by 2,235 burden hours. A final rule under this same Docket was subsequently published on January 19, 2011 [76 FR 3308] adopting the regulations as proposed. This supporting statement reflects the increase in information collection burden resulting from the adoption of those proposals.

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

This information is used by PHMSA to: (1) determine whether applicants who apply to become designated approval agencies are qualified to evaluate package design, test packages, classify hazardous materials, etc.; (2) verify that various containers and special loading requirements meet the requirements of the HMR; (3) assure that regulated hazardous materials pose minimal danger to life and property during transportation; and (4) allow minor variations from regulatory requirements based on information provided by respondents, without requiring the respondent to apply using less timely and more burdensome exemption procedures.

The applicable information collection and recordkeeping requirements are discussed in the following paragraphs. The actual section citations from the various parts of the HMR referenced in item 1 above are included in this information collection in order to provided a more "user- friendly" format.

Affected sections of the HMR include, but are not limited to: §§ 107.401; 107.402; 107.403; 107.404; 107.405; 107.801; 107.803; 107.807; 173.301; 173.305; 173.314; 173.316; 173.318; and 178.35. The requirements for the information to be submitted by parties desiring to become designated approval agencies, independent cylinder testing agencies, and prospective foreign manufacturers of cylinders are located in these sections. Designated approval agencies evaluate the design of packagings used for the shipments of hazardous materials. In addition, designated approval agencies actively engage in the testing of packagings to assure their conformance to applicable standards. Independent cylinder testing agencies perform tests and inspections on foreign manufactured cylinders to verify that the specifications set forth in the HMR are being met.

The information required of foreign packaging manufacturers permits Office of Hazardous Materials Safety to perform quality control on packagings manufactured outside the United States which will be marked, as approved by the Associate Administrator, OHMS, and used for the transportation of hazardous materials within the United States.

This information is used to evaluate an applicant's qualifications to perform the applicable packaging function. OHMS must exercise a reasonable amount of oversight to assure that applicants are indeed qualified. Without this information, OHMS would likely find marginally qualified or unqualified persons performing examinations and testing which could lead to the use of packagings that fail to meet the required standard. For example, the incompetence of a testing facility would not surface until packagings began to fail in transportation, thereby endangering life and property.

Affected sections of the HMR include, but are not limited to: §§ 107.502, 107.701; 107.705; 107.709; 107.713; 107.715; and 107.717. Cargo tank and cargo tank motor vehicle manufactures, repairers, inspectors, and cargo tank motor vehicle assemblers must register with the Associate Administrator, OHMS. These sections prescribe the procedures for the issuance, modification and termination of approvals, and the submission of registrations and reports, as required by 49 CFR Parts 100-180.

Sections 110.40 and 110.60. These sections require approval by the Associate Administrator, OHMS for additional activities eligible for funding and additional types of in-kind contributions for cost sharing under the Hazardous Materials Public Sector Training and Planning Grants program.

Affected sections of the HMR include, but are not limited to: §§ 173.51; 173.56; 173.58; 173.59; and 173.171. The requirement that OHMS approve the testing and assignment of the hazard classification of various explosives, and explosives devices, including fireworks, is necessary due to the technical difficulties and extreme hazards associated with transporting these items. The packaging and handling of these materials during transportation by all modes is based on correct hazard classification. An incorrect classification could result in improper packaging or handling and cause either damage to property or loss of life or both during transportation.

Special provisions and sections:

Affected sections of the HMR include, but are not limited to: 5, 26, 29, 53, 55, 105, 118, 121, 125, 129, 131, 136, 147, 164, A54, A55, B55, B61, B69, B77, B81, N72, TP9, in §§ 172.102(c), and 173.2a(c)(4); and §§ 107.803; 173.4; 173.21; 173.22; 173.24; 173.28; 173.31; 173.32; 173.124; 173.128; 173.159; 173.166; 173.168; 173.171; 173.225; 173.245; 173.306; 173.307; 173.308; 173.340; 173.411; 173.433; 173.471; 173.472; 173.473; 173.476; 175.8; 175.9; 175.701; 176.704; 178.3; and 178.503. The information required by these special provisions and sections is used to make safety determinations as to the adequacy of the packagings for materials with special hazards, i.e., cigarette lighters, tear gas devices, oxygen generators, and batteries. For example, tear gas and tear gas devices pose a special hazard when transported in a closed

environment such as an airplane. Another example is an organic peroxide that is thermally unstable that requires temperatures lower than the normal ranges encountered in transportation (-20 °F. to +130 °F.). These thermally unstable materials require special refrigeration to keep them at a temperature well below that which causes self-accelerating decomposition.

Affected sections of the HMR include, but are not limited to: §§ 173.7; 173.185; 173.214; 173.222; 173.305; 173.315; 173.334; 176.340; 178.47; 178.53; 178.58; 178.509; 178.601; 178.603; 178.604; 178.605; 178.606; and 178.608. These requirements allow the regulated public to use alternative packagings or test methods. These approvals permit industry to make packagings not constructed as specifically detailed in the HMR, and selective testing, test methods, and test intervals.

Affected sections of the HMR, include, but are not limited too: §§ 172.101, Special Provisions 129, 131 in §§ 172.102; 173.120; 173.128; 173.224; 178.273; 178.801 and 178.813. Except as provided, any alteration of a shipping description or associated entry or revision of the hazard class must receive prior approval by the Associate Administrator, OHMS and are addressed in these requirements.

Specifications for Portable Tanks, IM-101 and IM-102, and Subpart O - Testing of Intermediate Bulk Containers. These test procedures are intended to ensure that portable tanks and intermediate bulk containers can withstand normal conditions of transportation. Methods other than those specified must be approved by the Associate Administrator, OHMS, and include approvals for selective testing, test records, equivalent packaging, and frequency of design re-qualification.

Section 174.50. Leaking packages, other than tank cars, may not be forwarded until repaired, reconditioned, or overpacked in accordance with § 173.3. A tank car that no longer conforms may not be forwarded unless repaired or approved for movement by the Associate Administrator for Safety, Federal Railroad Administration (FRA).

Section 174.63. Portable tanks, IM portable tanks, IBCs, cargo tanks, and multi-unit tank car tanks.

(a) A carrier may not transport a bulk packaging (e.g., portable tank, etc.) containing a hazardous material in container-on-flatcar (COFC) or trailer-on-flatcar (TOFC) service except as authorized in § 174.63 or approved for transportation by the Associate Administrator for Safety, FRA.

(d) An approval in effect on February 28, 1991 for the transportation of portable tanks or IM portable tanks in TOFC or COFC service expires on the date identified in the approval letter or June 15, 1995, whichever is later.

(e) A carrier may not transport a cargo tank or multi-unit tank car tank containing a hazardous material in TOFC or COFC service unless approved for such service by the Associate Administrator for Safety, FRA. However, in the event of an accident or

incident, no such approval is necessary for the transportation of a cargo tank containing a hazardous material in TOFC or COFC service under the conditions listed in this section.

Section 173.196

A live animal that contains, or is contaminated with, a genetically modified micro-organism, including a genetically modified micro-organism that also meets the definition of a Division 6.2 material, must be transported under terms and conditions approved by the Associate Administrator for Hazardous Materials Safety.

A genetically-modified micro-organism known or suspected to be dangerous to the environment may not be transported by air unless approved by the Associate Administrator for Hazardous Materials Safety.

Live animals may not be used to transport infectious substances unless such substances cannot be sent by any other means. An animal that contains or is contaminated with an infectious substance must be transported under terms and conditions approved by the Associate Administrator for Hazardous Materials Safety.

3. Extent of automated information collection.

The burden has been made as simple as possible. Some of the information submitted to PHMSA is computer-generated. PHMSA encourages the use of automation to reduce burden. 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 have been authorized and are operational.

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. However, 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 involved.

6. Impact of less frequent collection of information.

The frequency, for the most part, is determined by the applicants for approval. It is not possible to conduct the collection less frequently and still ensure the necessary level of safety to life and property inherent in transporting hazardous materials.

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.

We issued an NPRM, under HM-215K (RIN 2137-AE45) on August, 24, 2010 [75 FR 52070] soliciting comments on this information collection. We did not receive any information collection-related comments regarding this information collection. In addition, we published a final rule under HM-215, on January 19, 2011 [76 FR 3308], which reflected the increase in information collection burden due to the adoption of the proposals specified in the August 24, 2010 NPRM.

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.

11. Justification for collection of sensitive information.

No sensitive information is required.

12. Estimate of burden hours for information requested.

Estimate of annual burden hours:

25,605 hours	(Currently approved)
2,235	(HM-215K NPRM)
27,840	Total Annual Burden Hours

Rulemaking affecting this Information Collection:

HM-215K:

In a rulemaking under Docket HM-215K (RIN 2137-AE45), entitled "Hazardous Materials: Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air," it was estimated that approximately 4% of the total 10,723 respondents of this information collection, or 465 additional respondents would be affected by this rulemaking, with 465 subsequent additional responses. At approximately 5 hours per response, the burden for

this information collection is being increased by 2,325 hours: 465 responses x 5 hours = 2,325 hours. In addition, at an average hourly wage of approximately $25, the annual burden costs are increased by $58,125.

Baseline Estimate:

Estimate of the annual burden hours: 25,605 hours (18,405 + 7,200).

Estimate of total number of respondents: 10,723 (3,523 + 7,200).

Estimate of total number of responses: 11,074 responses (3,874 + 7,200).

The estimated annual burden hours to respondents for the majority of the approvals required by the HMR is 25,605 hours.

There are approximately 3,523 respondents each submitting an average of slightly more than 1 response per year. Each response takes an average of approximately 4.75 hours to complete. The annual burden for the bulk of approval applications is approximately 18,405 burden hours.

3,523 respondents x 1.0999 average annual number of responses = 3,874.9 annual responses x 4.75 hours per response = 18,405 annual burden hours.

Section 107.805. An approval is required for each person who performs a re-qualification function requiring the marking of an inspection or retest date on a cylinder. Affected entities are persons who perform periodic visual inspections of cylinders in accordance with the HMR requirements.

There are approximately 7,200 persons affected by this requirement. Each response takes an average of approximately 1.0 hour to complete an approval application.

7,200 responses x 1 hour (½ hour professional and ½ hour clerical) = 7,200 annual burden hours.

Estimates of annual cost for burden hours: $562,837.40 ($2,190.00 + $384,982.40 + $21,411.00 + $5,154.00 + $1,500.00 + $147,600).

(1) **Sections 107.401; 107.402; 107.403; 107.404; 107.405; 107.502; 107.701; 107.705; 107.709; 107.713; 107.715; 107.717; 107.801; 107.803; 107.807; 173.301; 173.305; 173.314; 173.316; 173.318; and 178.35**. An average of 15 requests per year are submitted. Each submission costs an average of $146 to produce.
15 x $146.00 = $2,190.00.

(2) **Sections 173.51; 173.56; 173.58; 173.59; and 173.171.** An average of 704 requests are submitted annually. Each submission will cost approximately $546.85 to produce and maintain recordkeeping.
704 x $546.85 = $384,982.40.

(3) **Special provisions and sections:**

5, 26, 29, 53, 55, 105, 118, 121, 125, 129, 131, 136, 147, 164, A54, A55, B55, B61, B69, B77, B81, N72, TP9, in §§ 172.102(c), and 173.2a(c)(4); and §§ 107.803; 173.4; 173.21; 173.22; 173.24; 173.28; 173.31; 173.32; 173.124; 173.128; 173.159; 173.166; 173.168; 173.171; 173.225; 173.245; 173.306; 173.307; 173.308; 173.340; 173.411; 173.433; 173.471; 173.472; 173.473; 173.476; 175.8; 175.9; 175.701; 176.704; 178.3; and 178.503. An average of 122 requests are submitted annually. Each submission will cost respondents approximately $175.50 annually for professional, clerical, and testing expenses.
122 x $175.50 = $21,411.00.

(4) **Sections 173.7; 173.185; 173.214; 173.222; 173.305; 173.315; 173.334; 176.340; 178.47; 178.53; 178.58; 178.509; 178.601; 178.603; 178.604; 178.605; 178.606; and 178.608.** An average of 24 submissions annually at an estimated average cost of $214.75.
24 x $214.75 = $5,154.00.

(5) **Sections 173.140 and 173.196**. Approximately 5 respondents each submitting 1 approval request per year at an average cost of $300 to produce.
5 x $300 = $1,500.00.

(6) **Section 107.805.** An approval is required for each person who performs a re-qualification function requiring marking an inspection or retest date on a cylinder. Affected entities are persons who perform periodic visual inspections of cylinders in accordance with HMR requirements.

There are approximately 7,200 persons affected by the requirement for this approval in this section of the HMR. Based on previously approved information collection estimates, an application for approval takes approximately one hour to complete (½ hour professional and ½ hour clerical) and costs approximately $20.50 to complete (½ hour @ $25.00/hour + ½ hour @ $16.00/hour).
7,200 x $20.50 = $147,600.00.

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 are approximately 11,074 approval applications submitted annually each requiring approximately ½ hour to process at an estimated $20.00 per hour.
11,074 x ½ x $20.00 = $110,740.00.

15. Explanation of program changes or adjustments.

There is no change in burden under this request for 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.