

INFORMATION COLLECTION SUPPORTING STATEMENT

Rail Transportation Security

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information. (Annotate the CFR parts/sections affected).**

Section 114 of the Aviation and Transportation Security Act of 2001 (ATSA) and delegated authority from the Secretary of Homeland Security grant the Transportation Security Administration (TSA) broad authority to secure all modes of transportation, including rail. This information collection will enhance the security of the Nation's freight and passenger rail systems. The regulations accompanying this supporting statement ("statement") necessitate the information collection described below.

- 49 CFR 1580.101 requires freight railroad carriers, rail hazardous materials shippers ("shippers"), and rail hazardous materials receivers ("receivers") located in a DHS-designated high threat urban area (HTUA) to appoint a Rail Security Coordinator (RSC) and an alternate at the corporate level and submit the RSC's contact information to TSA. RSC contact information includes the individual's name, title, phone number(s), and email address(es). This provision requires regulated parties to designate at least one RSC as the primary contact for intelligence information and security-related activities and communications with TSA. Such designations assist TSA in carrying out its statutory authority to secure the rail mode of transportation.
- 49 CFR 1580.201 requires passenger railroad carriers and rail transit systems to appoint an RSC and alternate at the corporate level and to submit the same RSC contact information to TSA as required under 49 CFR 1580.101.
- 49 CFR 1580.103 requires freight railroad carriers, shippers, and receivers in an HTUA that handle certain categories and quantities of rail security-sensitive materials ("hazardous materials") set forth in 49 CFR 1580.100(b) to provide location and shipping information on rail cars under their physical custody and control to TSA upon request. Information concerning the location of these rail cars would be critical to decisions concerning possible rerouting, stopping, or otherwise protecting shipments and populations to address specific security threats or incidents.
- 49 CFR 1580.105 requires freight railroad carriers, shippers, and receivers in an HTUA that handle certain categories and quantities of materials set forth in 49 CFR 1580.100(b) to report significant security concerns, which includes security incidents, suspicious activities, and threat information, to TSA. Detecting terrorist activities entails piecing together seemingly unrelated or minor observations, encounters, and incidents and analyzing information from other sources to identify indications of planning and preparation for an attack.
- 49 CFR 1580.203 requires passenger railroad carriers and rail transit systems to report to TSA significant security concerns, which includes security incidents, suspicious activities, and threat information.

- 49 CFR 1580.107 requires the documentation of the secure exchange of custody of rail cars carrying the categories and quantities of hazardous materials outlined in 49 CFR 1580.100(b) between shippers and railroad carriers, railroad carriers and other railroad carriers within an HTUA, or of cars that may enter an HTUA, and between railroad carriers and receivers in an HTUA. TSA requires the exchanging parties to document the exchange, which constitutes a recordkeeping requirement under the Paperwork Reduction Act (PRA). This section addresses the risk that rail cars left unattended in a non-secure area may be vulnerable to tampering. These situations create opportunities for individuals to compromise the security of rail cars transporting poisonous inhalation hazard, explosive, or radioactive material through tampering with valves or the placement of a covert explosive device.
- 2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.***

All information from all covered entities will be collected and used by TSA and the Department of Homeland Security (DHS) to enhance the security of the Nation's rail systems.

RSC Information

TSA will collect RSC information via the telephone, email, and regular mail. RSC information provides TSA with a point of contact for covered entities, and TSA has used this contact information to build a contacts database that allows TSA to provide timely notification of vital security information to large groups of stakeholders.

Location and Shipping Information

TSA will collect location and shipping information pursuant to 49 CFR 1580.103(c) via electronic data transmission, by facsimile transmission, posting to a secure website, and other formats approved by TSA. Location and shipping information will primarily be used in times of heightened threat or attack to ascertain the location and number of potential targets in a specified geographic area so that the appropriate countermeasures can be implemented.

Significant Security Concerns Information

TSA will collect significant security concerns information telephonically from freight railroad carriers, shippers, and receivers in an HTUA that handle certain categories and quantities of materials set forth in 49 CFR 1580.100(b), and will analyze this information to develop threat assessments and guide the allocation of security resources with the overall goal to deter or detect a terrorist attack.

Chain of Custody and Control Documentation (recordkeeping requirement)

TSA will inspect for covered parties' compliance with the documentation requirements for the secure exchange of custody of rail cars carrying specific categories and quantities of hazardous materials. This is required to ensure that certain rail cars are not left unattended in non-secure areas. Covered parties may document the exchange of custody electronically or in writing.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden. [Effective 03/22/01, your response must SPECIFICALLY reference the Government Paperwork Elimination Act (GPEA), which addresses electronic filing and recordkeeping, and what you are doing to adhere to it. You must explain how you will provide a fully electronic reporting option by October 2003, or an explanation of why this is not practicable.]**

In compliance with the GPEA, TSA encourages electronic submissions for this information collection to decrease submission and collection burdens on the covered parties and on the government. TSA permits some of the information to be provided in whatever format the regulated party chooses, including email and telephone. Automated submissions will not be allowed for certain aspects of the collection, as TSA requires the human point of contact for providing the specifics of its request for car location and shipping information, the discussion of reported significant security concerns, and to ensure that the documented chain of custody and control was attended or in a secure area when the covered rail cars were exchanged. TSA has not developed any forms for this collection of information.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in Item 2 above.**

In order to avoid duplication of other reporting requirements, in the initial submission of the information collection request (ICR) , TSA worked with the Coast Guard; the relevant modal administrations of the Department of Transportation (DOT), including the Pipeline and Hazardous Materials Safety Administration (PHMSA) and the Federal Railroad Administration (FRA); and the Nuclear Regulatory Commission. TSA believes these reporting requirements are not duplicative because each supports a particular agency mission and programmatic purpose.

- 5. If the collection of information has a significant impact on a substantial number of small businesses or other small entities (Item 5 of the Paperwork Reduction Act submission form), describe the methods used to minimize burden.**

The information collection outlined in this supporting statement will impact small businesses; however TSA has determined that the collection will not have a significant impact on a substantial number of small businesses. In order to minimize any burden this information collection creates, TSA is allowing submission of information electronically for most of the requirements.

Location and Shipping Information

For the location and shipping information collection required under 49 CFR 1580.103, TSA will allow shippers, receivers, and Class II and III railroads, which include small businesses, to respond to TSA's request within 30 minutes of a TSA notification. TSA may approve a longer period of time if the threat allows and if warranted by the covered party's circumstances. TSA will also allow covered parties the choice to respond to its request in five specific formats. TSA can approve another format, most likely telephonic reporting, if the threat allows and if warranted by the circumstances of the covered party.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

If the information collection were not conducted, TSA's ability to enhance the security of the Nation's rail systems would be hindered. TSA has carefully tailored its information collection activities to only those collections that are necessary to support its security programs. Because the collection as described in this statement are regulatory requirements under 49 CFR part 1580, the following obstacles exist to reduce the reporting burden or information collection:

RSC Information

RSCs are required to perform two main functions: to serve as a point of contact with TSA on security matters and communications and to coordinate security practices and procedures with appropriate law enforcement and emergency response agencies. Without the collection of RSC information (and an alternate), TSA would have to rely on the various trade associations to voluntarily disseminate vital security information to their members. This would frustrate TSA's goal of two-way information sharing with the owner/operator in three ways. First, not all covered parties are members of a trade association. Therefore, timely threat information, security guidance, information circulars and other TSA/DHS security products would not reach the entire necessary audience. Second, TSA is unable to create a one-on-one relationship with covered parties that would facilitate information flow from the covered party to TSA. Third, a main function of the RSC, to serve as TSA's primary contact for security information and communications and to coordinate security practices with other entities, is impossible if TSA and other entities were not aware of the RSC's identity. Because covered parties are required to report RSC information only once initially, with follow-up reporting required within seven days only if the RSC information changes, it is not practical for TSA to reduce the reporting burden.

Location and Shipping Information

During heightened threat or an incident, the location and shipping information collection requirement will allow TSA to locate cars that could be used as weapons of mass effect and assess the threat to a target city or icon. Without this information collection, TSA cannot know the location of cars carrying materials poisonous by inhalation, explosives, or radioactives in relation to high population areas or potential targets. TSA intends to limit its collection of location and shipping information to only those times of heightened security threat, natural disasters, and a sufficient number of inspections to ensure the covered parties' ability and willingness to comply with 49 CFR 1580.103.

Significant Security Concerns Information

ATSA tasks TSA with “[assessing] threats to transportation.” 49 U.S.C. 114 (f)(2). TSA currently depends on voluntary reporting and intelligence to assess threats to rail transportation. This does not provide a sufficient overall picture of the threat and vulnerability of rail sector. Therefore, TSA will require covered entities to report significant security concerns, which will encompass incidents, suspicious activities, and threat information. This collection will aid TSA in detecting terrorist activities. DHS will piece together these seemingly unrelated or minor observations, encounters, and incidents and analyze information from various sources to identify indications of planning and preparations of attack. Without this collection, TSA/DHS will lack sufficient information for analysis to assist in detecting threats to rail transportation.

Chain of Custody and Control Documentation

TSA will require carriers to document the exchange of custody and control of rail cars carrying specific categories and quantities of hazardous materials to ensure that covered entities comply with all other requirements of that section. Without this collection, TSA will be unable to ensure that rail cars containing covered materials are attended during the exchange of custody and therefore, not left unattended in a non-secure area and vulnerable to sabotage while awaiting transfer. This collection cannot be accomplished less frequently because it is immediate verification of compliance with a regulatory requirement.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5(d)(2).

5 CFR 1320.5(d)(2)(i) (requiring respondents to report information to the agency more often than quarterly): In the interest of transportation security and to aid in detecting terrorist activities, TSA will require covered parties to report significant security concerns as they occur, which will encompass incidents, suspicious activities, and threat information. For the same reasons, TSA will require covered parties to provide location and shipping information on rail cars in their physical custody and control to TSA upon request.

8. Describe efforts to consult persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d) soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

TSA solicited comments on this collection. A 60-day notice was published on January 13, 2012 (77 FR 2077), and a 30-day notice on April 02, 2012 (77 FR 19680). There were no comments received for either notice.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

TSA will not provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

In many cases of this information collection TSA has provided covered parties with the assurance that information submitted to TSA or collected by TSA representatives will be treated as sensitive security information (SSI) under 49 CFR part 1520.

The personal information of RSCs provided to TSA under this collection will not normally be shared with organizations external to DHS. However, if needed for official business purposes, the information may be shared with other Federal, State, local, or tribal government agencies, including DOT. Federal agencies are subject to the safeguarding requirements of the Federal Information Security Management Act, Title III of the E-Government Act, Pub. L. 107-347 (FISMA) and the Privacy Act of 1974. To the extent that information is shared with non-Federal entities, such as State, local, or tribal government agencies, TSA expects that information will be safeguarded in accordance with procedures designed to protect such information.

Location and Shipping Information

Location and shipping information required by this rule, maintained and submitted by the regulated party, would not be considered SSI. Once DHS or DOT has received the location and shipping information provided by the regulated party, it will be included as part of a broader analysis of the location of rail cars subject to the location reporting requirement. This compilation, not the raw data, will constitute SSI under revised 49 CFR 1520.5(b)(12). Such compilations require greater protection than the information maintained by the regulated party for its business purposes because the release of a compilation of location and shipping information to the public would increase the risk that the compiled information could be used to identify vulnerabilities or to plan an attack on critical assets.

Significant Security Concerns Information

Reports of significant security concerns would be considered SSI once TSA receives them, under § 1520.5(b)(7).

11. Provide additional justification for any questions of sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

TSA will not ask any questions of a sensitive or private nature.

12. Provide estimates of hour burden of the collection of information.

Annual RSC Information Reporting Burden

The annual burden for reporting changes of RSC information to TSA is approximately 655 hours. This figure was derived by multiplying the number of respondents (1,984) x responses per request (1) x number of requests, once every three years (0.33) x one hour (1) = 654.72 (rounded to 655).

Annual Location and Shipping Information Reporting Burden

The annual burden for reporting the location and shipping information of railcars transporting rail security-sensitive materials is 325 hours. This figure was derived by multiplying the number of responses per request 1 x number of requests 650 x .5 hour = 325 hours.

This information collection burden is a function of the number of TSA requests. Between

August 2010 and August 2011, TSA conducted 648 inspections where railroads or other regulated parties were requested to provide car location information. TSA therefore estimates an annual burden of 650 requests per year. The regulation requires that regulated parties provide the requested information within 30 minutes; TSA estimates the burden per response at 0.5 hours (30 minutes).

Annual Significant Security Concerns Reporting Burden

The annual burden for reporting Significant Security Concerns is 1,643 hours. This figure was derived by multiplying the estimated number of annual responses $1,643 \times 1 \text{ hour (1)} = 1,643$ hours. The Transportation Security Operations Center (TSOC) receives approximately 4.5 reports daily from mass transit operators, passenger railroads, freight railroads and rail hazardous materials facilities across the United States. TSA has been collecting these reports since the regulation became effective in January 2009. TSA has used the experience from 2009-2011 as the basis for estimating the number of reports that are likely to occur over the next three to four years. TSA estimates that on average a railroad or hazardous materials facility would spend one hour to collect the necessary information and make a verbal report to TSA.

Table 1

Information Collection	Average Annual Responses	Hour Burden per response	Total Annual Hour Burden
RSC	1984	.33	655
Location and Shipping Reporting	650	.5	325
Significant Security Concerns	1643	1	1,643
Total			2,623

Annual Chain of Custody Documentation Burden

The annual burden for recording and reporting chain of custody documentation is approximately 51,400 annual hours. This figure was derived by multiplying total number of responses by 0.5 hours ($102,800 \text{ hours} \times .5 = 51,400 \text{ hours}$). Table 2 shows the estimated values for the four types of chain of custody events considered between August 2010 and August 2011.

Table 2

EVENT TYPE	APPROXIMATE NUMBER OF EVENTS PER YEAR ¹	NUMBER OF RESPONSES PER EVENT	TOTAL RESPONSES PER EVENT TYPE
Shipment originations	25,000	2	50,000
Placement at Hazmat receiver	7,600	2	15,200
Carrier Interchange inside HTUA	13,000	2	26,000
Carrier Interchange outside HTUA w/path through HTUA ²	5,800	2	11,600
Estimated total of transfer of custody records (responses)		0	

Total Annual Reporting Burden is 54,023 hours. This figure was derived by adding the annual burdens for RSC reporting (655) + location and shipping reporting (325) + primary significant security concerns reporting (1,643) + chain of custody reporting (51,400) = 54,023.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

There are no cost burdens associated with this collection of information beyond the hourly wages of respondents addressed below.

Annual Reporting Costs

Annual RSC Information Cost Burden

RSC reporting total annual cost is \$56,096.40. This figure was derived by multiplying the number of respondents (1,984) x responses per request (1) x number of requests, once every three years or (0.33) x one hour (1) x wage rate (\$85.68³) = \$56,096.

Annual Location and Shipping Information Cost Burden

¹ TIH Risk Reduction Verification System September 2010 - August 2011.

² Interchanges between carriers outside of a designated HTUA where it is known that the car will traverse a designated HTUA are required to be documented. TSA estimates that approximately 50% of the known interchanges of RSSM cars outside of a HTUA were for cars that subsequently traversed a HTUA.

³ General and Operations Manager Average Hourly Wage Rate, Bureau of Labor Statistics (BLS) May 2010

Location and shipping information reporting total annual cost is \$ 27,760.32. This figure was derived by multiplying the number of responses per request (1) x number of requests (648) x one hour (1) x the hourly wage rate (\$85.68) = \$ 27,760.

Annual Significant Security Concerns Cost Burden

Significant security concern reporting total annual cost is \$ 140,772.24. This figure was derived by multiplying the estimated number of annual responses (1,643) x one hour (1) x wage rate (\$85.68) = \$140,772.

Annual Chain of Custody Cost Burden

Chain of custody record reporting total annual cost is \$1,811,850.00 This figure was derived by multiplying total annual hourly burden 102,800 x .5 hour x wage rate (\$35.25⁴)= \$1,811,850.

Overall total annual cost is \$2,036,478. This figure was derived by adding the annual costs for RSC reporting (\$56,096) + location and shipping reporting (\$27,760) + primary significant security concerns reporting (\$140,772) + chain of custody reporting (\$1,811,850) = \$2,036,478.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, and other expenses that would not have been incurred without this collection of information.

TSA receives notifications of changes in RSC contact information via email. TSA inputs the updated information into a contacts database as soon as possible, normally on a daily basis. TSA estimates that approximately 25 FTE hours are spent each week inputting the updated information.

Annual cost for the collection and recording of RSC updates is \$40,262
[\$32.21⁵ base hourly wage x 25 hours x 50 weeks = \$40,262]

TSA verifies compliance with 49 CFR 1580.103 by making car location information requests to regulated parties. In the period of August 1, 2010 to August 1, 2011, TSA inspectors made 648 such requests. The average time for each of these compliance verifications to be completed is one hour. TSA verifies compliance with the 49 CFR 1580.107 requirement to document the transfer of custody by requesting copies of the completed documentation from rail carriers, shippers, and receivers. The average time to complete this inspection is three hours. From August 1, 2010 to August 1, 2011, TSA completed 5,595 of these inspections. To calculate the expense of these inspections, TSA is using the fully loaded wage rate for a J Band employee (\$82.86⁶ per hour) and multiplying the hourly wage by the total number of hours devoted to these inspections. The cost of travel is not included in these calculations as the request for information and subsequent response are normally provided electronically and do not require the inspector to travel.

Annual cost for the inspection of railcar location information reports and transfer of custody documentation is \$ 1,444,498.30.

⁴ Railroad Conductors and Yardmasters Average Hourly Wage Rate, Bureau of Labor Statistics (BLS) May 2010

⁵ Median Hourly Wage Rate G Band (Source TSA Office of Finance and Administration)

⁶ Median Hourly Wage Rate J Band (Source TSA Office of Finance and Administration)

[Total Inspection Hours (17,433) X Hourly Wage Rate (\$82.56) = \$1,444,498.30]

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

The types of collections of information have not changed but the estimations of burden have changed. More regulated parties have complied with the regulation and provided information.

In previous submissions the annual cost burden was captured incorrectly. Annual wage rates should not have been included. Consequently, the cost burden has decreased in this submission.

The following is a summary of the changes that resulted in revised estimations of burden:

- **RSC Information:** The number of respondents has increased from estimated 945 to 1,984 since the regulation became effective in 2009. As the rule was implemented, railroads and covered entities became familiar with the requirements and responded by sending RSC information to TSA. Also TSA surface inspectors contacted railroads and industry to encourage timely compliance with the regulation.
- **Location and Shipping Information:** In 2007 TSA estimated the agency would make 10 annual requests for car locations. This estimate was based on an assumption that the agency would conduct one location request per quarter to ensure that affected entities could meet the requirement. In 2011, TSA used data from August 2010 to August 2011 and inspectors made 648⁷ requests for location and shipping information from regulated parties.
- **Significant Security Concerns Information:** The original estimate of 69,000 reports per year was overly cautious because TSA lacked firm data on which to estimate the number of significant security incidents that might occur on railroads and mass transit systems. Since the rule became effective, TSA has received an average of 4.5 reports per day from regulated entities. This results in approximately 1,643 reports per year, which is significantly lower than the original estimate.
- **Chain of Custody and Control Documentation:** In 2007 TSA estimated that approximately 219,000 chain of custody events would take place annually. The data derived from counts of actual events, shows 102,800 chain of custody events took place between August 2010 and August 2011.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

None of this information will be published.

⁷ Data from the TSA Office of Security Operations Performance and Results Information System (PARIS)

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

TSA is not seeking approval to not display the expiration date for OMB approval of the information collection.

18. Explain each exception to the certification statement identified in Item 19, “Certification for Paperwork Reduction Act Submissions,” of OMB Form 83-I.

There are no exceptions.