

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

(Expiration date: June 30, 2014)

**Introduction**

This is to request the Office of Management and Budget's (OMB) renewed three-year approved clearance for the 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 June 30, 2014. Although this ICR is associated with a rulemaking under Docket No. PHMSA-2011-0142, (HM-219; RIN 2137-AE79), entitled "Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR)," this ICR is a request for an extension without change as the HM-219 final rule did not adopt proposed revisions that would have increased this information collection burden due to comments received from the public in response to the HM-219 Notice of Proposed Rulemaking (NPRM)).

**Part A. Justification.**

1. Circumstances that make collection of information necessary.

This is a request for renewal without 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 Pipeline and Hazardous Materials Safety Administration (PHMSA) published a Notice of Proposed Rulemaking (NPRM) under Docket No. PHMSA-2011-0142 (HM-219; RIN 2137-AE79), entitled "Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR)" on May 24, 2012 [77 FR 30976]. The NPRM and the subsequent final rule published on March 7, 2013 [78 FR 14702] were part of the Department of Transportation's Retrospective Regulatory Review (RRR) designed to identify ways to improve the HMR. In

the NPRM, PHMSA responded to eight petitions for rulemaking submitted to PHMSA by various stakeholders and proposed to amend the HMR to update, clarify, or provide relief from miscellaneous regulatory requirements at the request of the regulated community. In regard to this specific information collection, we proposed to revise §§ 178.601(l), 178.801(l) and 178.955(i) to relax the record retention requirements for packaging test reports and provide a chart to clearly identify the retention requirements. In addition, we also proposed to add a reference to §§ 178.601(c)(4) and 178.801(c)(7) to ASTM D4976–06 Standard Specification for Polyethylene Plastics Molding and Extrusion Materials to provide a range of acceptable resin tolerances in the plastic drum and IBC material.

In response to comments received to the NPRM and a notice of withdrawal filed by the original petitioners, PHMSA did not adopt the proposal to add a reference to §§ 178.601(c)(4) and 178.801(c)(7) to ASTM D4976–06 Standard Specification for Polyethylene Plastics Molding and Extrusion Materials. In its comments, the petitioners suggested that by proposing the incorporation of ASTM D4976–06 without stating that plastic drums or IBCs made from polyethylene meeting ASTM D4976–06 do not constitute a “different packaging” as defined in § 178.601(c), the effect would be a greater burden on the industry. As PHMSA’s intent was not to impose a greater burden on industry, but rather to refer to an industry standard for guidance for acceptable ranges in materials used to manufacture hazardous materials packagings, the proposal was not adopted.

In addition, we revised the language proposed in the NPRM in § 178.601(l), which specifies recordkeeping requirements for testing non-bulk packaging; § 178.801(l), which specifies recordkeeping requirements for testing IBCs; and § 178.955(i), which specifies recordkeeping requirements for testing large packagings, to indicate that records are maintained until the next required periodic retest is successfully performed and a new test report produced. In doing so, we limited the document retention period for persons conducting initial design testing to five years beyond the next successful required periodic retest. In addition, we provided a chart to clearly identify the retention requirements for test reports. These revisions may have resulted in lessening the burden for this information collection, but the decrease is negligible.

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

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. 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.

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 permitted. However, PHMSA does not require these records to be submitted to us and they are maintained at the packaging firm. We estimate half of the respondents utilize electronic recordkeeping.

4. Efforts to identify duplication.

There is no duplication as the testing and record keeping information is unique to each packaging firms' original packaging design types.

5. Efforts to minimize the burden on small businesses.

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-2011-0142 (HM-219; RIN 2137-AE79) in the Federal Register [77 FR 30976] on May 24, 2012. PHMSA published a final rule on March 7, 2013 [78 FR 14702]

In response to the NPRM, we received specific comments and a notice of withdrawal filed by the original petitioners on the proposal to add a reference to §§ 178.601(c)(4) and 178.801(c)(7) to ASTM D4976–06 Standard Specification for Polyethylene Plastics Molding and Extrusion Materials, and subsequently did not adopt it in the final rule. In addition, in the final rule, we limited the document retention period for persons conducting initial design testing to five years beyond the next successful required periodic retest. In addition, we provided a chart to clearly identify the retention requirements for test reports.

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 Respondents and Responses

It is estimated that 5,000 packaging firms will test and record 3 packaging design types each year. The design type may be for a single packaging, or a series of packagings made to the same design. Therefore, a test record is not required to be completed for each packaging, which may be numerous, but of each individual packaging design.

5,000 annual respondents.

5,000 packaging firms x 3 packaging design types = 15,000 annual responses.

It is estimated that 10 packaging firms will test and record 3 packaging design types to meet requirements in the HMR that compressed oxygen and packages of chemical oxygen generators be placed in an outer packaging that meets certain flame penetration and thermal resistance requirements when transported aboard an aircraft. The design type may be for a

single packaging, or a series of packagings made to the same design. Therefore, a test record is not required to be completed for each packaging, but of each individual packaging design types.

10 annual respondents.

10 packaging firms x 3 packaging design types =  $10 \times 3 = 30$  annual responses.

It is estimated that approximately 470 of the 5,000 packaging firms mentioned above will be affected by the requirements pertaining to closure instructions for large packagings. These requirements allow flexibility when preparing and transmitting closure instructions, including conditions under which closure instructions may be transmitted electronically; specify the retention of packaging closure instructions; allow a practicable means of stenciling the “UN” symbol on packagings; and provide clarification regarding the documentation of the methodology used when determining whether a change in packaging configuration requires retesting as a new design or may be considered a variation of a previously tested design. This does not increase the annual number of respondents, but it will increase the annual number responses, burden hours, and burden costs.

470 annual respondents.

470 packaging firms x 1 response each = 470 annual responses.

Current Annual Respondents:  $5,000 + 10 = 5,010$

Current Annual Responses:  $15,000 + 30 + 470 = 15,500$

#### Estimate of Annual Burden Hours

It is estimated that 5,000 packaging firms will take approximately 2 hours to test and record each of 3 packaging design types per year. The design type may be for a single packaging, or a series of packagings made to the same design type. Therefore, a test record is not required to be completed for each packaging, but of each individual packaging design types.

5,000 packaging firms x 3 packaging design types x 2 hours to test and record = 30,000 annual burden hours.

The HMR requires that compressed oxygen and packages of chemical oxygen generators be placed in an outer packaging that meets certain flame penetration and thermal resistance requirements when transported aboard an aircraft. It is estimated that approximately 10 packaging firms will take approximately 5 hours to test and record each of 3 individual packaging design types per year. The design type may be for a single packaging, or a series of packagings made to the same design. Therefore, a test record is not required to be completed for each packaging, but of each design.

10 packaging firms x 5 hrs to test and record x 3 packaging design types = 150 annual burden hours.

It is estimated that approximately 470 respondents will take approximately 5 hours to prepare, transmit, and retain closure instructions pertaining to large packagings.

470 responses x 5 hrs to prepare, transmit, and retain closure instructions = 2,350 annual burden hours.

Current Annual Burden Hours:  $30,000 + 150 + 2,350 = 32,500$

Estimate of cost of annual burden hours

An estimated 5,000 packaging firms will spend approximately \$25 per hour x 6 hours for testing and recordkeeping requirements for 3 packaging design types per year.

5,000 packaging firms x \$25 per hour x 2 hours x 3 design types = \$750,000.00 annual burden costs.

It is estimated that 10 packaging firms will spend \$25 per hour x 15 hours for testing and recordkeeping requirements for 3 packaging design types per year.

10 packaging firms x \$25 per hour x 5 hours x 3 design types = \$3,750.00 annual burden costs.

It is estimated that 470 packaging firms will spend approximately \$25 x 5 hours to prepare, transmit, and retain closure instructions.

470 responses x 5 hrs x \$25 per hour = \$58,750 annual burden cost.

Current Annual Burden Costs:  $\$750,000 + \$3,750.00 + \$58,750 = \$812,500.00$

**Estimate of Total Annual Burden:**

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

13. Estimate of total annual costs to respondents.

The total annual costs to respondents is \$812,500.00

14. Estimate of annualized cost to the Federal government.

The estimate of annualized cost to the Federal government is \$50,000 per year for annual packaging facility inspections.

15. Reasons for change in burden.

There is no change in the burden for this information collection. Although associated with a rulemaking, this request is a renewal without change as a final rule under Docket No. PHMSA–2011–0142 (HM–219; RIN 2137-AE79), entitled “Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR)” did not adopt proposed revisions that would have increased the burden of this information collection.

16. Plans for tabulation, statistical analysis and publication.

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

17. Display of expiration date of OMB Approval.

Approved OMB number is prominently displayed in the text of 49 CFR 171.6.

18. Exceptions to certification statement (OMB Form 83-I, Item 19).

There is no exception to PHMSA’s certification of this request for information collection approval.