

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

Hazardous Materials Security Plans
OMB Control No. 2137-0612

(Expiration Date: August 31, 2014)

Introduction:

This is to request Office of Management and Budget (OMB) renewed three-year approved clearance for the information collection entitled, "Hazardous Materials Security Plans," OMB Control No. 2137-0612, which is currently due to expire on August 31, 2014. This information collection was originally initiated as a result of a final rule under Docket HM-232, Final Rule, "Hazardous Materials: Security Requirements for Offerors and Transporters of Hazardous Materials" published in the Federal Register on March 25, 2003 [68 FR 14509]. This rule revised Part 172 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) to require offerors and transporters of hazardous materials to develop and maintain security plans (Part 172, Subpart I, §§ 172.800, 172.802, 172.804). This specific information collection addresses the burden associated with the provisions to develop and maintain a hazardous materials security plan.

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. 2137-0612 for information and recordkeeping requirements prescribed in the HMR, specifically Part 172, Subpart I, §§ 172.800, 172.802, 172.804. It is necessary to impose these requirements to protect the life and health of the general public and property. This information collection supports the Departmental Strategic goal for Safety. These regulations are promulgated in accordance with the Federal hazardous materials transportation law, 49 U.S.C. 5101-5127. The various information collection and recordkeeping requirements applicable to security plans are discussed in the following paragraphs.

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

The HMR requires each person who offers for transportation in commerce or transports in commerce one or more of the following hazardous materials must develop and adhere to a transportation security plan for hazardous materials that conforms to the requirements of this subpart. As used in the HMR, "large bulk quantity" refers to a quantity greater than 3,000 kg (6,614 pounds) for solids or 3,000 liters (792 gallons) for liquids and gases in a single packaging such as a cargo tank motor vehicle, portable tank, tank car, or other bulk container.

(1) Any quantity of a Division 1.1, 1.2, or 1.3 material;

- (2) A quantity of a Division 1.4, 1.5, or 1.6 material requiring placarding in accordance with subpart F of this part;
- (3) A large bulk quantity of Division 2.1 material;
- (4) A large bulk quantity of Division 2.2 material with a subsidiary hazard of 5.1;
- (5) Any quantity of a material poisonous by inhalation, as defined in §171.8 of this subchapter;
- (6) A large bulk quantity of a Class 3 material meeting the criteria for Packing Group I or II;
- (7) A quantity of desensitized explosives meeting the definition of Division 4.1 or Class 3 material requiring placarding in accordance with subpart F of this part;
- (8) A large bulk quantity of a Division 4.2 material meeting the criteria for Packing Group I or II;
- (9) A quantity of a Division 4.3 material requiring placarding in accordance with subpart F of this part;
- (10) A large bulk quantity of a Division 5.1 material in Packing Groups I and II; perchlorates; or ammonium nitrate, ammonium nitrate fertilizers, or ammonium nitrate emulsions, suspensions, or gels;
- (11) Any quantity of organic peroxide, Type B, liquid or solid, temperature controlled;
- (12) A large bulk quantity of Division 6.1 material (for a material poisonous by inhalation see paragraph (5) above);
- (13) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR part 73 or the United States Department of Agriculture under 9 CFR part 121;
- (14) A quantity of uranium hexafluoride requiring placarding under §172.505(b);
- (15) International Atomic Energy Agency (IAEA) Code of Conduct Category 1 and 2 materials including Highway Route Controlled quantities as defined in 49 CFR 173.403 or known as radionuclides in forms listed as RAM-QC by the Nuclear Regulatory Commission;
- (16) A large bulk quantity of Class 8 material meeting the criteria for Packing Group I.

The security plan must include an assessment of transportation security risks for shipments of the hazardous materials listed in §172.800, including site-specific or location-specific risks associated with facilities at which the hazardous materials listed in §172.800 are prepared for transportation, stored, or unloaded incidental to movement, and appropriate measures to address the assessed risks. Specific measures put into place by the plan may vary commensurate with the level of threat at a particular time. At a minimum, the security plan must address personnel security, unauthorized access, and en route security. For personnel security, the plan must include measures to confirm information provided by job applicants hired for positions that involve access to and handling of the hazardous materials covered by the security plan. Such confirmation system must be consistent with applicable Federal and State laws and requirements concerning employment practices and individual privacy. For unauthorized access, the plan must include measures to address the assessed risk that unauthorized persons may gain access to the hazardous materials covered by the security plan or transport conveyances being prepared for transportation of the hazardous materials covered by the security plan. For en route security, the plan must include measures to address the assessed security risks of shipments of hazardous materials covered by the security plan en route from origin to destination, including shipments stored incidental to movement. The HMR set forth general requirements for a security plan's components rather than a prescriptive list of specific items that must be included.

The HMR set a performance standard providing offerors and carriers with the flexibility necessary to develop security plans addressing their individual circumstances and operational environments. Accordingly, each security plan will differ because it will be based on an offeror's or a carrier's individualized assessment of the security risks associated with the specific hazardous materials it ships or transports and its unique circumstances and operational environment.

3. Extent of automated information collection.

The security plan requirement does not prescribe a specific form or content for a security plan. Rather, a company should implement a plan that is appropriate to its individual circumstances, considering the types and amounts of hazardous materials shipped or transported and the modes used for transportation. To assist hazardous materials shippers and transporters in evaluating risks and implementing measures to reduce those risks, we designed a security template for the Risk Management Self-Evaluation Framework (RMSEF). RMSEF is a tool to assist regulators, shippers, carriers, and emergency response personnel to examine their operations, and consider how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The RMSEF security template is posted on our website at <http://hazmat.dot.gov/riskmgmt/risk.htm>.

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.

The security plan requirements do not duplicate any other regulatory requirements applicable to hazardous materials transportation.

5. Efforts to minimize burden on small businesses.

The collection of this information is reviewed periodically to ensure that the requirements involving security plans and the safety in the transportation are kept to the necessary standards to protect all involved.

6. Impact of less frequent collection of information.

The requirement for certain hazardous materials shippers and carriers to develop and implement a security plan reduces the possibility that a hazardous materials shipment will be used as a weapon of opportunity by a terrorist or criminal. Periodic updates of a security plan assure that it is current and addresses the level of threat at a particular time. Because the majority of the information collection activities involve initial preparation of the response plan, reducing the

frequency of the annual information collection activities would not significantly reduce the overall burden of information collection activities required.

7. Special circumstances.

This collection of information is generally conducted in a manner consistent with the guidelines in 5 CFR 1320.5 (d)(2). However, it is not possible to substantially reduce or eliminate the requirements contained in this collection and still maintain standards necessary to assure safe transportation.

8. Compliance with 5 CFR1320.8.

We published a 60-Day Notice and Request for Comments under Docket No. PHMSA–2013–0002 (Notice No. 14–1) on February 12, 2014, in the Federal Register [79 FR 8535] requesting public comment on the renewal of this information collection. No comments pertaining to this information collection were received.

We published a 30-Day Notice and Request for Comments under Docket No. PHMSA-2013-0002 (Notice No. 14-6) on May 8, 2014, in the Federal Register [79 FR 26499]. No comments pertaining to this information collection were received.

9. Payments or gift to respondents.

There is no payment or gift provided 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.

Annual Responses: 54,999

Annual Hours: 427,719

About 41,000 shippers and carriers are registered with DOT under the provisions of 49 CFR Part 107. In addition, about 1,000 shippers apply to the CDC each year for permission to transport select agents. Most companies already have implemented many of the elements of a security

plan as part of their standard operating procedures or since the events of September 11, 2001. In addition, many industry associations have developed guidance and model security plans for use by their members. Further, to assist hazardous materials shippers and transporters in evaluating risks and implementing measures to reduce those risks, we designed a security template for the RMSEF. RMSEF is a tool we developed through a public process to assist regulators, shippers, carriers, and emergency response personnel to examine their operations, and consider how they assess and manage risk. The security template illustrates how risk management methodology can be used to identify points in the transportation process where security procedures should be enhanced within the context of an overall risk management strategy. The RMSEF security template is posted on our website at <http://hazmat.dot.gov/rmsef.htm>. Moreover, many companies will not need to perform sophisticated analyses or develop complicated security plans in order to comply with the new requirement. Companies that only occasionally transport one of the hazardous materials to which the security plan requirement applies may be able to utilize one of the off-the-shelf security manuals now being marketed by several vendors. These manuals include information and guidelines to assist companies to identify and address areas of concern, including concerns related to personnel safety and security, site security, en route security, and training. One such security manual sells for \$165, with regular updates available under an annual subscription costing about \$80.

On average, a large company, using information available from PHMSA, industry associations, or vendors, will require about 50 hours to develop a security plan that meets the security plan requirements. On average, a smaller company will require about 25 hours developing a security plan that meets the requirements.

The current security plan requirements require that companies update and maintain security plans as necessary to account for changing circumstances. We expect that most companies will update their security plans at least once a year. We estimate the hours required to update a security plan will average 10 hours for a large company and 5 hours for a small entity.

We assume that some entities may be required to adapt security plans to cover more than one facility at which hazardous materials are prepared for shipment or stored incidental to movement. We also assume that 15% of large entities must prepare security plans to cover three (3) separate facilities

Total Revised Burden Hours: $376,250 + 51,469 = 427,719$ burden hours.

New and Updated Plans for Large and Small Entities: 376,250 burden hours (8,750 + 189,000 + 178,500)

New plans:

200 total entities. Large entities: 15% of total responses (30). Small entities: 85% of total responses (170).

$(30 \text{ responses} \times 3 \text{ facilities}) + (170 \text{ responses}) = 90 + 170 = 260$ responses.

$(30 \text{ responses} \times 3 \text{ facilities} \times 50 \text{ hours/response}) + (170 \text{ responses} \times 25 \text{ hours/response}) =$

$4,500 + 4,250 = 8,750$ total burden hours

Updated plans:

42,000 total entities.

Large entities: 15% of total entities (6,300). Small entities: 85% of total entities (35,700).

$(6,300 \text{ responses} \times 3 \text{ facilities}) + (35,700) = 18,900 + 35,700 = 54,600$ responses.

$(6,300 \text{ responses} \times 3 \text{ facilities} \times 10 \text{ hours/entity}) + (35,700 \text{ responses} \times 5 \text{ hours/entity}) = 189,000 + 178,500 = 367,500$ total burden hours.

Burden Hours for New and Updated Plans for Large and Small Entities:

54,860 responses (260 new plans + 54,600 updated plans)

376,250 burden hours (8,750 new plans + 367,500 updated plans)

Burden Hours for Railroad Entities: 51,469 burden hours (5,560 + 23,040 + 20,720 + 1,424 + 712 + 13)

Line Segment: 5,560 burden hours.

7 Class I railroads x 40 hours = 280 hours.

32 Class II railroads x 40 hours = 1,280 hours.

100 Class III railroads x 40 hours = 4,000 hours.

Line Segment burden hours: $280 + 1,280 + 4,000 = 5,560$.

Primary Route Analysis: 23,040 burden hours.

Class I railroads: 60 routes x 80 hours = 4,800 hours.

Class II railroads: 128 x 80 hours = 10,240 hours.

Class III railroads: 200 x 40 hours = 8,000 hours.

Primary Route Analysis burden hours: $4,800 + 10,240 + 8,000 = 23,040$.

Alternate Route Analysis: 20,720 burden hours.

Class I railroads: 60 routes x 120 hours = 7,200 hours

Class II railroads: 96 x 120 hours = 11,520 hours

Class III railroads: 50 x 40 hours = 2,000 hours

Primary Route Analysis burden hours: $7,200 + 11,520 + 2,000 = 20,720$.

Security Plan Update: 1,424 burden hours.

Class I railroads: 7 railroads x 16 hours = 112 hours

Class II railroads: 32 railroads x 16 hours = 512 hours

Class III railroads: 100 railroads x 8 hours = 800 hours

Security Plan Update burden hours: $112 + 512 + 800 = 1,424$.

Storage and Delays in Transit Notifications: 712 burden hours.

Class I railroads: 7 railroads x 8 hours = 56 hours.

Class II railroads: 32 railroads x 8 hours = 256 hours
Class III railroads: 100 railroads x 4 hours = 400 hours
Security Plan Update burden hours: 56 + 256 + 400 = 712.

Anticipated Storage and Delays in Transit Notifications: 13 burden hours.
Class I railroads: 12 notifications x ½ hour = 6 hours.
Class II railroads: 12 notifications x ½ hour = 6 hours
Class III railroads: 2 notifications x ½ hour = 1 hours
Security Plan Update burden hours: 6 + 6 + 1 = 13.

Total Burden Costs: \$16,931,250 + \$3,130,859.27 = 20,062,109.27

New and Updated Plans for Large and Small Entities: \$16,931,250 (\$393,750 + \$16,537,500)

New plans:

200 entities.
Large entities: 15% of total responses (30).
Small entities: 85% of total responses (170).
(30 responses x 3 facilities) + (170 responses) =
90 + 170 = 260 responses.

(30 responses x 3 facilities x 50 hours/response) + (170 responses x 25 hours/response) =
4,500 + 4,250 = 8,750 total burden hours
8,750 total burden hours x \$45/hour = \$393,750

Updated plans:

42,000 total entities.
Large entities: 15% of total entities (6,300). Small entities: 85% of total entities
(35,700).
(6,300 responses x 3 facilities) + (35,700) = 18,900 + 35,700 = 54,600 responses.

(6,300 responses x 3 facilities x 10 hours/entity) + (35,700 responses x 5 hours/entity) =
189,000 + 178,500 = 367,500 total burden hours.
367,500 total burden hours x \$45/hour = \$16,537,500

Burden Cost for New and Updated Plans for Large and Small Entities:

54,860 responses (260 new plans + 54,600 updated plans)
376,250 total burden hours (8,750 new plans + 367,500 updated plans)
\$16,931,250 total burden cost (\$393,750 new plans + \$16,537,500 updated plans)

We expect that most companies will update their security plans at least once a year. We estimate the hours required to update a security plan will average 10 hours for a large company and 5

hours for a small entity. Thus, for large companies, we estimate the costs to update a security plan will total \$8,505,000/year (6,300 large entities x 3 facilities x 10 hours/entity x \$45/hour), or \$450 per facility. For small companies, we estimate the costs to update a security plan will total \$8,032,500/year (35,700 small entities x 5 hours/entity x \$45/hour), or \$225 per entity.

Burden Cost for Railroad Entities: \$3,130,859.27 (\$338,214.80 + \$1,401,523.20 + \$1,260,397.60 + \$86,621.92 + \$43,310.96 + \$790.79)

Line Segment: \$338,214.80 burden costs.

7 Class I railroads x 40 hours = 280 hours x \$60.83 = \$17,032.40.

32 Class II railroads x 40 hours = 1,280 hours x \$60.83 = \$77,862.40.

100 Class III railroads x 40 hours = 4,000 hours x \$60.83 = \$243,320.00.

Line Segment burden hours: \$17,032.40 + \$77,862.40 + \$243,320.00 = \$338,214.80.

Primary Route Analysis: \$1,401,523.20 burden costs.

Class I railroads: 60 routes x 80 hours = 4,800 hours x \$60.83 = \$291,984.00.

Class II railroads: 128 x 80 hours = 10,240 hours x \$60.83 = \$622,899.20.

Class III railroads: 200 x 40 hours = 8,000 hours x \$60.83 = \$486,640.00.

Primary Route Analysis burden costs: \$291,984.00 + \$622,899.20 + \$486,640.00 = \$1,401,523.20.

Alternate Route Analysis: \$1,260,397.60 burden costs.

Class I railroads: 60 routes x 120 hours = 7,200 hours x \$60.83 = \$437,976.00.

Class II railroads: 96 x 120 hours = 11,520 hours x \$60.83 = \$700,761.60.

Class III railroads: 50 x 40 hours = 2,000 hours x \$60.83 = \$121,660.00

Primary Route Analysis burden costs: \$437,976.00 + \$700,761.60 + \$121,660.00 = \$1,260,397.60.

Security Plan Update: \$86,621.92 burden costs.

Class I railroads: 7 railroads x 16 hours = 112 hours x \$60.83 = \$6,812.96.

Class II railroads: 32 railroads x 16 hours = 512 hours x \$60.83 = \$31,144.96.

Class III railroads: 100 railroads x 8 hours = 800 hours x \$60.83 = \$48,664.00.

Security Plan Update burden costs: \$6,812.96 + \$31,144.96 + \$48,664.00 = \$86,621.92.

Storage and Delays in Transit Notifications: \$43,310.96 burden costs.

Class I railroads: 7 railroads x 8 hours = 56 hours x \$60.83 = \$3,406.48.

Class II railroads: 32 railroads x 8 hours = 256 hours x \$60.83 = \$15,572.48.

Class III railroads: 100 railroads x 4 hours = 400 hours x \$60.83 = \$24,332.00.

Security Plan Update burden costs: \$3,406.48 + \$15,572.48 + \$24,332.00 = \$43,310.96.

Anticipated Storage and Delays in Transit Notifications: \$790.79 year burden costs.

Class I railroads: 12 notifications x ½ hour = 6 hours x \$60.83 = \$364.98.

Class II railroads: 12 notifications x ½ hour = 6 hours x \$60.83 = \$364.98

Class III railroads: 2 notifications x ½ hour = 1 hours x \$60.83 = \$60.83

Security Plan Update burden hours: $\$364.98 + \$364.98 + \$60.83 = \790.79 .

Estimate of Total Annual Burden:

Current total annual number of respondents:	42,200
Current total annual responses:	54,999
Current total annual burden hours:	427,718
Current total annual burden costs:	\$20,062,109

13. Estimate of total annual costs to respondents.

The total annual cost to respondents is \$20,062,109.

14. Estimate of cost to the Federal government.

There is no cost to the Federal government.

15. Explanation of program changes or adjustments.

There is no change in burden associated with this request for renewal of this information collection.

16. Publication of results of data collection.

There is no publication for statistical use.

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

This information collection OMB Control number is prominently displayed in the HMR, specifically under § 171.6, entitled, "Control Numbers under the Paperwork Reduction Act."

18. Exceptions to certification statement.

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