

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

Approvals for Hazardous Materials  
OMB Control No. 2137-0557

(Expiration Date: June 30, 2018)

**Introduction**

This is to request the Office of Management and Budget's (OMB) renewed 3-year approved clearance for the revised information collection titled, "Approvals for Hazardous Materials," OMB Control No. 2137-0557 that is currently due to expire June 30, 2018. This information collection is being revised due to changes amended in the final rule [81 FR 15796] titled, "Hazardous Materials: Harmonization with International Standards (RRR)," which was published in the *Federal Register* March 30, 2017, under Docket No. PHMSA-2015-0273 (HM-215N).

**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 Department of Transportation (DOT) Special Permits and Approvals to the Hazardous Materials Regulations (HMR; 49 CFR 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 can only be issued if there is a specific approval cite in the HMR (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 becoming 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 include, but are not limited to: 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-215N: “Hazardous Materials: Harmonization with International Standards”:

The HM-215N final rule titled, “Hazardous Materials: Harmonization with International Standards” (81 FR 15796; March 30, 2017) revised the HMR to maintain consistency with international regulations and 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. The rulemaking also revised the regulations from coordination with Canada under the U.S.-Canada Regulatory Cooperation Council.

As a result of this rulemaking, PHMSA is increasing the annual paperwork burden and cost to OMB Control No. 2137-0557 for recordkeeping requirements under § 107.805(f)(2). This rule expands the regulations to allow for the transportation of Transport Canada TC, CTC, CRC, and BTC specification cylinders. As such, PHMSA is expanding the applicability for cylinder requalifier identification number (RIN) approvals to allow for the certification and requalification of these cylinders as authorized in § 107.805(f)(2). PHMSA estimates this rulemaking action will increase the number of applicants applying for RIN approval. Specifically, the amendments in this final rule increase the information collection burden by approximately 1,800 burden hours. This supporting statement reflects the increase in information collection burden resulting from this final rule.

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 provide a more “user-friendly” format.

**Affected sections of the HMR include, but are not limited to:**

**Sections 107.401; 107.402; 107.403; 107.404; 107.405; 107.801; 107.803; 107.805; 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 packages 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 the Office of Hazardous Materials Safety (OHMS) to perform quality control on packagings manufactured outside the United States, which will be marked as approved by the Associate Administrator of 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.

**Sections 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 assemblers must register with the Associate Administrator of OHMS. These sections prescribe the procedures for the issuance, modification, and termination of approvals, as well as 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 of 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.

**Sections 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 explosive 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.

**Section 172.101 Special provisions 5, 26, 29, 53, 55, 105, 118, 121, 125, 129, 131, 136, 147, 164, A54, A55, B55, B61, B69, B77, B81, N72, TP9, in §§ 173.2a(c)(4); 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.

**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.** 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.

**Section 172.101 Special Provisions 129, 131 in §§ 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 of 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 of OHMS, and include approvals for selective testing, test records, equivalent packaging, and frequency of design re-qualification.

**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 of OHMS.

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 of OHMS.

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 of OHMS.

**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 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 in accordance with § 174.63 or approved for transportation by the Associate Administrator for Safety, FRA.

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.

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.

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 requesting an 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.

PHMSA published a Notice of Proposed Rulemaking (NPRM), under HM-215N (RIN 2137-AF18) on September 7, 2016 [81 FR 61741] and a final rule on March 30, 2017

[81 FR 15796]. No comments were received to the NPRM pertaining to this Information Collection Burden.

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:

28,270 hours	(Currently approved)
1,800	(HM-215N Final Rule)
<u>30,070</u>	Total Annual Burden Hours

HM-215N Final Rule:

The HM-215N (RIN 2137-AF18) final rule titled, “Hazardous Materials: Harmonization with International Standards (RRR),” estimated that an additional 3,600 respondents will be affected by the proposals in this rulemaking, with an average of 1 response each, or 3,600 additional responses. At approximately 30 minutes per response, the burden for this information collection is being increased by 1,800 hours – 3,600 responses x 0.5 hours = 1,800 hours. In addition, at an average hourly wage of approximately \$35.00, the annual burden costs are increased by \$63,000.

Baseline Estimate:

Estimate of the annual burden hours: 30,070 hours (21,070 + 7,200 + 1,800).

Estimate of total number of respondents: 14,323 respondents (3,523 + 7,200 + 3,600).

Estimate of total number of responses: 14,674 responses (3,874 + 7,200 + 3,600).

The estimated annual burden hours to respondents for the majority of the approvals required by the HMR are 30,070 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.

$$3,523 \text{ respondents} \times 1.0999 \text{ average annual responses} = 3,874.9 \text{ annual responses} \\ \times 5.43 \text{ hours} = \text{approximately } 21,070 \text{ annual burden hours.}$$

There are approximately 7,200 respondents each submitting approximately 1 response per year to mark an inspection or retest date on a cylinder. Each response takes approximately 1.0 hours to complete the approval application, for a total of 7,200 annual burden hours.

$$7,200 \text{ respondents} \times 1 \text{ average annual responses} = 7,200 \text{ annual responses} \times 1 \\ \text{hour} = 7,200 \text{ annual burden hours.}$$

HM-215N amendments to allow for RIN holders to certify and inspect TC, CTC, CRC, and BTC cylinders will increase the number of respondents by 3,600, submitting approximately 1 response per year. Each response is estimated to take an average of 30 minutes, or 0.5 hours, for a total of 1,800 annual burden hours.

$$3,600 \text{ respondents} \times 1 \text{ average annual responses} = 3,600 \text{ annual responses} \times 0.5 \\ \text{hour} = 1,800 \text{ annual burden hours.}$$

**Estimates of annual cost for burden hours: \$636,587.40 (\$2,190.00 + \$384,982.40 + \$21,411.00 + \$5,154.00 + \$1,500.00 + \$147,600 + \$63,000 + \$10,750).**

- (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 approvals are submitted annually. Each approval costs an average of \$146 to produce.

$$15 \times \$146.00 = \$2,190.00.$$

- (2) **Sections 173.51; 173.56; 173.58; 173.59; and 173.171.** An average of 704 approvals are submitted annually. Each approval will cost approximately \$546.85 to produce and maintain recordkeeping.

$$704 \times \$546.85 = \$384,982.40.$$

- (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 approvals are submitted annually. Each approval application will cost respondents approximately \$175.50 annually for professional, clerical, and testing expenses.

$$122 \times \$175.50 = \$21,411.00.$$

- (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 approvals are submitted annually. Each approval costs an average of \$214.75.

$$24 \times \$214.75 = \$5,154.00.$$

- (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.

$$5 \times \$300 = \$1,500.00.$$

- (6) **Section 107.805.** An average of 7,200 approvals are submitted annually. Each approval costs \$20.50 annually for professional, clerical, and testing expenses.

$$7,200 \times \$20.50 = \$147,600.00.$$

An additional 3,600 approvals are submitted annually. Each of these approvals will cost \$17.50 annually for professional, clerical, and testing expenses.

$$3,600 \times \$17.50 = \$63,000.00.$$

- (7) **Sections 173.63 and 173.65.** An average of 5,175 approvals are submitted annually. Each application will cost approximately \$2.077 to produce and maintain recordkeeping.

$$5,175 \times \$2.077 = \$10,750.00.$$

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 14,674 approval applications submitted annually, each requiring approximately 30 minutes, 0.5 hour, to process at an estimated \$20.00 per hour.



$$14,674 \times 0.5 \times \$20.00 = \$146,740.00.$$

15. Explanation of program changes or adjustments.

There is an increase in burden due to a revision to § 107.805 which includes provisions for persons seeking approval to engage in the requalification, rebuilding, or repair of a cylinder manufactured in accordance with a Transport Canada (TC), Canadian Transportation Commission (CTC), Board of Transport Commissioners for Canada (BTC), or Canadian Railway Commission (CRC) specification under the Transport Canada TDG Regulations. Persons engaged in the requalification, rebuilding, or repair of TC, CTC, BTC, or CRC specification cylinders in the U.S. are required to register with DOT in accordance with this subpart thus the need for this increase in burden.

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 Control No. 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.