

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

Hazardous Materials Shipping Papers and Emergency Response Information
OMB Control No. 2137-0034

(Expiration Date: April 30, 2018)

Introduction

This is to request approval from the Office of Management and Budget (OMB) for a renewal with revision of the information collection titled, "Hazardous Materials Shipping Papers and Emergency Response Information," under OMB Control No. 2137-0034. This information collection is currently due to expire April 30, 2018. This information collection is being revised due to changes in the final rule [82 FR 15796] titled, "Hazardous Materials: Harmonization with International Standards (RRR)," which was published in the *Federal Register* on March 30, 2017, under Docket No. PHMSA-2015-0273 (HM-215N). The Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) require that shipping papers and emergency response information accompany each shipment of hazardous materials in commerce. The Subcommittee on Surface Transportation recommended that additional Federal requirements mandating retention of shipping papers be imposed in order to facilitate documentation of violations by the law enforcement community. Subsequently, the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA), Public Law 103-311, amended the 49 U.S.C. to require shippers and carriers to retain copies of each shipping paper accessible through their principal places of business for two years and one year, respectively. Amendment to § 5110 (e) was self-executing as of August 26, 1994.

Part A. Justification:

1. Circumstances that make collection of information necessary.

This is a request for a renewal with change of an existing information collection for information and recordkeeping requirements pertaining to shipping papers and emergency response information under the HMR. This information collection supports the Departmental Strategic Goal for Safety. These regulations are promulgated under the Federal hazardous material transportation law, 49 U.S.C. 5101-5128.

Shipping papers and emergency response information are considered to be a basic communication tool relative to the transportation of hazardous materials. The definition of a shipping paper in 49 CFR 171.8 includes a shipping order, bill of lading, manifest, or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203, and 172.204 of the HMR. A shipping paper with emergency response information must accompany most hazardous materials shipments and be readily available at all times during transportation. Shipping papers serve as the principal source of information regarding the presence of hazardous materials, identification, quantity, and emergency response

procedures. They also serve as the source of information for compliance with other requirements, such as the placement of rail cars containing different hazardous materials in trains; prevent the loading of poisons with foodstuffs; maintain the separation of incompatible hazardous materials; and limit the amount of radioactive materials that may be transported in a vehicle or aircraft. Shipping papers and emergency response information notify transport workers that hazardous materials are present. Most importantly, shipping papers serve as a principal means of identifying hazardous materials during transportation emergencies. Firefighters, police, and other emergency response personnel are trained to obtain the Department of Transportation (DOT) shipping papers and emergency response information when responding to hazardous materials transportation emergencies. The availability of accurate information concerning hazardous materials being transported significantly improves response efforts in these types of emergencies.

It is necessary that hazardous materials and emergency response information be displayed on shipping papers in a uniform manner to ensure accuracy and consistency. DOT regulations require that when hazardous materials and materials not subject to the HMR are described on the same shipping paper, the hazardous materials entries required by § 172.202 and those additional entries that may be required by § 172.203 must be entered first and either in a color that clearly contrasts with any description on the shipping paper of materials not subject to the requirements, or identified with an "x" in an HM column opposite the hazardous material entry.

Experience has shown that some shipping papers may contain many different items in a shipment. In the event of an accident situation, requiring emergency response personnel to sort through multiple entries to determine the hazardous materials contents in a vehicle would cause serious delays in making proper determinations concerning the mitigation strategies. Therefore, shipping paper requirements include displaying emergency response communication information, providing and maintaining emergency information on vehicles, aircraft, and vessels and at facilities handling hazardous materials, and requiring additional general information on shipping papers.

Uniformity of national and international hazardous materials transportation regulations is critical to enhance safety and facilitate trade. Consistency between U.S. and international regulations helps to assure the safety of international hazardous materials transportation through a better understanding of the regulations, an increased level of industry compliance, the smooth flow of hazardous materials from their points of origin to their points of destination, and consistent emergency response in the event of a hazardous materials incident. For example, many shippers find that consistency in requirements aids their understanding of what is required, thereby permitting them to more easily comply with the regulations when shipping hazardous materials in international commerce.

To facilitate the safe and efficient transportation of hazardous materials in international commerce, the HMR, with certain limitations, permit both domestic and international shipments of hazardous materials to be offered for transportation and transported under provisions of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), the International Maritime Dangerous

Goods Code (IMDG Code), the Canadian Transportation of Dangerous Goods Regulations (TDG Regulations), and the International Atomic Energy Agency Safety Standards Series: Regulations for the Safe Transportation of Radioactive Material (IAEA Regulations), as appropriate.

Docket HM-215N: “Hazardous Materials: Harmonization with International Standards (RRR)”

The HM-215N final rule titled, “Hazardous Materials: Harmonization with International Standards (RRR)” (82 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 revisions are necessary to harmonize the HMR with recent changes made to international standards.

As a result of this rulemaking, PHMSA is decreasing the annual paperwork burden and cost to OMB Control No. 2137-0034. This final rule removes requirements for an alternative document for lithium cells or batteries in accordance with § 173.185(c). The final rule does increase information collection burden and costs to OMB Control No. 2137-0034 as a new indication for shipments of prototype or low production run lithium batteries or cells is required in accordance with § 173.185(e)(7) and because of the addition of new marine pollutant entries in Appendix B of § 172.101. Overall, there is still an estimated decrease in the number of shipping paper respondents and specifically a decrease in approximately 27,161 annual burden hours. This supporting statement reflects the decrease in information collection burden resulting from this final rule.

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

The shipping paper is considered a basic hazard communication tool when transporting hazardous materials by all modes. For example, it is the mechanism by which an aircraft operator knows the nature and potential of hazardous cargo on board the aircraft. It informs railroad employees of the potential hazards of the materials and is the primary means of communicating information leading to required car handling and placement in trains. Shipping papers communicate information on cargo compatibility to motor carrier personnel and emergency responders, and advise the vessel master where hazardous material cargo should be stowed to assure compatibility and accessibility. Consequences that could result from not having the required information on shipping papers include, but are not limited to:

- a. Co-mingling of hazardous materials in a shipment that could react chemically and cause explosion, fire, poison gas, or other types of reactions in the event of a container failure or accident.
- b. Contamination of foodstuffs and feed by poisons being shipped on the same transport vehicle.
- c. Shipment of radioactive materials in the same transport vehicle in quantities which could exceed criticality safety controls, resulting in excessive exposure to vehicle operators/crew or passengers, or with non-radioactive materials (such as x-ray film) that could be contaminated by the radiation emitted from packages of radioactive materials.

- d. Shipment of hazardous materials greater than authorized to be carried in passenger-carrying vehicles.
- e. Shipment of forbidden materials aboard passenger-carrying aircraft, the release of which could cause death or illness to passengers and crew due to contamination of the air system of an aircraft or structural damage to an aircraft.
- f. Injury, death, and/or severe environmental damage due to lack of accurate emergency response communication information.
- g. Incorrect emergency response procedures resulting from a lack of sufficient information regarding the hazards of the materials being transported. For example, firefighters may attempt to extinguish fires with water leading to catastrophic consequences if they are not advised by shipping papers and emergency response information that the materials are water-reactive.

3. Extent of automated information collection.

The burden has been made as simple as possible. DOT's emphasis is on the information displayed on shipping papers, consistency, and quick recognition. Any document, meeting the definition of a shipping paper in § 171.8 and the requirements in Subpart C and G of Part 172 of the HMR, used in the normal course of business is considered a shipping paper. 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.

DOT hazardous materials shipping paper and emergency response information requirements do not duplicate any other documentation system for identifying hazardous materials transported in commerce. For instance, DOT and the Environmental Protection Agency (EPA) coordinated the hazardous waste manifest requirements to avoid duplication. EPA agreed that DOT regulations prevail for carriers of hazardous wastes and revised its manifest requirements so the required entries could be made on one document to comply with both EPA hazardous waste requirements and DOT shipping paper and emergency response information requirements.

To a limited degree, some of the information required on the shipping paper is also available through required markings on the outside of packages. However, it would be very difficult to accomplish effective communication for emergency response and compliance with other transportation requirements by using only the markings on packages. In most cases, the packages are not visible during transportation and would not serve the same benefit as the shipping paper and emergency response information in providing effective communication.

5. Efforts to minimize the burden on small businesses.

Unless specifically excepted in the HMR, shipping papers and emergency response information must be prepared by all persons offering hazardous materials for transportation. Some type of

shipping document is issued in all normal business transactions; therefore, the DOT hazardous materials shipping paper requirements are not considered duplicative to documents already used in commerce.

6. Impact of less frequent collection of information.

This is a one-time requirement each time a hazardous material shipment is offered for transportation in commerce. The impact of not collecting this information would be the loss of essential emergency response information to emergency responders.

7. Special circumstances.

This collection of information is generally conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2) with the following qualifications:

- a. It is not possible to eliminate or shorten the information required by the HMR for shipping papers and still provide the information necessary for emergency response personnel, carriers, and transport workers.
- b. Shipping papers are already required to be retained by other Federal and state requirements and, therefore, are not considered duplicative. PHMSA has no discretion regarding this requirement.
- c. Hazardous materials shipping paper and emergency response information is also required when transporting hazardous materials in international commerce.

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 [82 FR 15796]. No comments pertaining to this information collection were received.

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.

None of the data collected contains personally identifiable information (PII) or business confidential information. 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. Estimates of burden hours for information requested.

Estimate of Annual Burden Hours:

Currently Approved:	4,625,846
HM-215N Final Rule	-27,161
Total Annual Burden Hours:	<u>4,598,685</u>

Baseline Estimate:

4,625,846 – 27,161 = 4,598,685 Burden Hours.

It is estimated that there are as many as 260 million shipments per year (1 million/day x 5 days/week x 52 weeks) of hazardous materials in the United States. We have taken into consideration the additive requirements to the existing railroad waybill system, the dangerous cargo manifest required on vessels, the uniform manifest, and the emergency response communications requirements.

It is estimated that approximately 260,000 shippers/carriers of hazardous materials (including hazardous waste and hazardous substances) will prepare an average of 711 shipping papers and emergency response information annually. Each shipping paper, with emergency response information, will take approximately 1 minute and 30 seconds or a baseline of approximately 4,625,846 annual burden hours.

The regulatory changes in the HM-215N (RIN 2137-AF18) final rule titled, “Hazardous Materials: Harmonization with International Standards (RRR),” ultimately decreased the information collection burden. There was an increase in the information collection burden with the addition of the requirement to indicate shipments of prototype or low production run lithium batteries on the shipping paper and the addition of marine pollutant entries. For ease of understanding, the change in information collection burden is demonstrated in the below table. Overall, there was a total decrease of 972,551 respondents. On average, PHMSA estimates that each respondent will have an increased annual burden of 4 responses for indicating a prototype or low production run on shipping paper, 5 additional responses from the increase in marine pollutant entries, and 10 less responses because of the elimination of the lithium battery handling document. For all three burdens, each response is estimated to take 10 seconds for a total decrease of 27,161 annual burden hours – 9,765,507 responses x 10 seconds = 27,161 hours. With an average hourly wage of \$35.00 per hour for each burden, the annual burden hours for this information collection is reduced by \$950,635.

	Number of	Annual Number	Annual	Annual
--	-----------	---------------	--------	--------

	Respondents	of Responses	Burden Hours	Burden Hours
Prototype or Low Production Run Lithium Battery Indication	2,500	10,000	28	\$980
Addition of Marine Pollutants	5,000	25,000	35	\$1,225
Removal of Lithium Battery Handling Documentation	- 980,051	- 9,800,507	- 27,224	- \$952,840
Total Change	- 972,551	- 9,765,507	- 27,161	- \$950,635

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 annualized cost to the Federal government.

There is no additional cost to the Federal government beyond its normal daily operations.

15. Reasons for change in burden.

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

16. Plans for tabulation, statistical analysis, and publication.

There is no publication of this information collection including 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.