

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

Hazardous Materials Incident Reports
OMB Control No. 2137-0039

(Expiration Date: June 30, 2020)

Introduction

This is to request the Office of Management and Budget (OMB) renewal of the information collection titled, "Hazardous Materials Incident Reports" [OMB Control No. 2137-0039], which is currently due to expire on June 30, 2020. This information collection was created from an October 31, 1970, final rule titled, "Reports of Hazardous Materials Incidents," [HM-36, 35 FR 16836] which established the hazardous materials incident reporting requirements. This information collection was most recently updated as the result of a December 3, 2003, rulemaking titled, "Hazardous Materials: Revisions to Incident Reporting Requirements and the Hazardous Materials Incident Report Form," [HM-229; 68 FR 67746] which established the form current process to collect hazardous materials incident data.

Part A. Justification.

1. Circumstances that make the collection necessary.

This is a request for renewal of an existing approval under OMB Control No. 2137-0039. This collection is applicable upon occurrence of incidents as prescribed in 49 CFR 171.15 and 171.16. A Hazardous Materials Incident Report, DOT Form F 5800.1, must be completed when there is a release of a hazardous material during transportation. This information collection supports the Departmental Strategic Goal for Safety. These regulations are set forth under the Federal hazardous materials transportation law (49 U.S.C. 5101–5127).

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

This information collection requirement enhances the Department's ability to use the data and information reported by carriers to: (1) evaluate the effectiveness of the existing regulations and industry operating procedures; (2) determine the need for regulatory changes to cover changing transportation safety problems; and (3) identify major problem areas that should receive priority attention. In addition, both the government and industry use this information to chart trends, identify problems and training inadequacies, evaluate packagings, and assess ways to reduce releases. The requirement applies to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, vessel, and highway.

The hazardous materials transportation safety program relies on DOT Form F 5800.1 to gather basic information on incidents that occur during transportation. The prescribed form provides meaningful, accurate, and comprehensive information relative to causes and effects associated with hazardous material releases. The form provides the user with a variety of describing factors leading to the release of a hazardous material.

In the HM-229 Final Rule, PHMSA revised the Hazardous Materials Incident Report Form, DOT Form F 5800.1. This represented the first change made to the incident form since 1989. The major changes in the HM-229 Final Rule included: (1) collecting more specific information on the incident reporting form; (2) expanding reporting exceptions; (3) expanding reporting requirements to persons other than carriers; (4) reporting undeclared shipments of hazardous materials; (5) notifying shippers of incidents; and (6) reporting non-release incidents involving bulk packages. These revisions were intended to increase the usefulness of data collected for risk analysis and management by government and industry and, where possible, provide relief from regulatory requirements.

Although the incident report form prior to the HM-229 Final Rule provided useful information and was generally recognized as being fundamentally sound, there was obvious room for improvement. The opportunity existed to obtain better, more detailed information on events with potentially greater consequences. A National Transportation Safety Board (NTSB) recommendation (Recommendation H-92-6) concerning data collection suggested establishment of a program to collect information necessary to identify patterns of cargo tank equipment failures, including the reporting of all accidents (even when there is no release of a hazardous material) involving DOT specification cargo tanks. In addition, a second NTSB recommendation (Recommendation R-89-52) ensured that there is formal feedback from carriers to shippers when an incident has occurred. Revising the DOT Form F 5800.1 offered a viable way to implement these recommendations and provided the opportunity to obtain a more complete profile of accident scenarios, including “success stories,” through which packaging integrity issues can be more thoroughly evaluated.

There is a two-year record retention requirement under § 171.16 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). The report is retained at the carrier’s principal place of business or at a place authorized and approved by an agency of the Department of Transportation (DOT). Under the requirement in § 171.21, a carrier who is responsible for reporting an incident under § 171.16 will make all records and information pertaining to the incident available to an authorized representative of DOT upon request. DOT views the incident report form to be of significant importance, and in the absence of a requirement that an incident report be sent to us by certified mail, the only practical way a carrier can show compliance with the requirement (when we have not received a report) is by retaining a copy of the report in their files. DOT representatives visit motor carriers’ principal places of business when it has been determined that the carrier is in an “unsatisfactory” or “conditional” state of safety compliance.

PHMSA is cognizant of the burden often imposed by regulatory requirements. As we developed changes to the incident reporting requirements, we minimized any additional burden associated with the revised requirements. For instance, in the HM-229 Final Rule, we added exceptions to reporting requirements for small releases of materials that pose the least hazard where sufficient data already exists to manage risk. Further, we deleted certain data fields that ask for information readily obtainable from other sources (i.e., land use at the incident site).

The revised form was designed for rapid completion and is almost entirely self-explanatory. The regulations allow 30 days to report an incident. Our conclusion that rapid completion of an incident report is possible is based on reasoning that industry personnel have training in the hazardous materials regulations concerning hazard identification, placards, labels, markings, etc. The form is designed to facilitate its completion by providing a “check list” to describe the circumstances leading to the incident.

For the purposes of this OMB control number PHMSA accounts for three information collections as follows:

1) Section 171.15 - Telephone Notifications

This information collection requires that as soon as practical but no later than 12 hours after the occurrence of certain hazardous materials incident occurs, each person in physical possession of the hazardous material must provide notice by telephone to the National Response Center (NRC).

2) Section 171.16 - Incident Reports

This information collection requires that each person in physical possession of a hazardous material at the time that any incident occurs during transportation (including loading, unloading, and temporary storage) must submit a Hazardous Materials Incident Report on DOT Form F 5800.1. An individual may file the incident report either via paper or electronic submission.

3. Extent of automated information collection.

The burden of this information collection has been made as simple as possible. Many reports are developed electronically and make use of information gathered for other agency reporting requirements. Accordingly, the estimated length of time required to prepare an incident report is 1.6 hours per written report and 0.8 hours per electronically-filed report. The Government Paperwork Elimination Act directs agencies to allow the option of electronic filing and recordkeeping by October 2003, when practicable. Fully electronic filing of the DOT Form F 5800.1 is currently authorized and fully operational.

4. Efforts to identify duplication.

Similar reports are required by other administrations. However, these reports do not contain sufficient detail (e.g., the hazardous material, shipping container, and the nature of the container failure) to effectively evaluate the regulations. Additionally, the reports made to other administrations are filed only when an accident occurs. PHMSA is interested in all incidents where there is a release of a hazardous material, whether or not there is a vehicle accident involved.

5. Efforts to minimize the burden on small businesses.

PHMSA periodically reviews the collection of this information to ensure that the amount of information needed is kept to a minimum.

6. Impact of less frequent collection of information.

Without this information PHMSA would not be able to identify where unsafe practices of hazardous materials transportation exist. PHMSA uses incident reporting data to analyze where safety gaps exist in hazardous materials transportation.

7. Special circumstances affecting conduct of information collection activity.

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 60-Day Notice and Request for Comments [85 FR 2809] on the renewal of this information collection in the Federal Register January 16, 2020, under Docket No. PHMSA-2019-0221 (Notice No. 2019-12). The comment period closed March 16, 2020. No comments were received for this information collection.

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 contain personally identifiable information (PII) or business confidential information. Therefore, PHMSA provides no guarantees of confidentiality to applicants.

11. Justification for collection of sensitive information.

Not applicable. This collection of information requires no sensitive information.

12. Estimate of burden hours for information requested.

1)	<u>Total Number of Respondents</u>	<u>Total Number of Responses</u>	<u>Total Burden Hours</u>	<u>Total Salary Cost</u>	<u>Total Burden Cost</u>
	2,339	20,891	18,921	\$509,915	\$0

Section 171.15 – Telephone Notifications

Based on data submitted to PHMSA, 733 telephonic notifications are made each year. PHMSA estimates that paperwork burden for each inspection will take 4.8 minutes per response, for a total of 59 burden hours (733 responses x 4.8 minutes per response). Each person filing the incident report is expected to make \$26.95 per hour,¹ for a total salary cost of \$1,580 (\$26.95 x 59 burden hours). There are no out of pocket cost associated with this information collection.

<u>Information Collection</u>	<u>Regulation</u>	<u>Total Respondents</u>	<u>Reponses per Respondent</u>	<u>Annual Responses</u>	<u>Minutes per Response</u>	<u>Annual Burden Hours</u>	<u>Salary Cost per Hour</u>	<u>Total Salary Cost</u>	<u>Annual Burden Cost</u>
Telephone Notifications	§ 171.15	733	1	733	4.8	59	\$26.95	\$1,580	\$0

2) Section 171.16 – Incident Reports

Based on data submitted to PHMSA, 20,158 incident reports are submitted to PHMSA (3,420 paper and 16,738 electronic) each year. PHMSA estimates that paperwork burden for paper submission is 1.6 hours per response and for electronic submission 0.8 hours per response. In total, incident reports take 18,862 hours per response (3,420 annual paper responses x 1.6 hours per response + 16,738 annual electronic responses x 0.8 hours per response). Each person filing the incident report is expected to make \$26.95 per hour,² for a total salary cost of \$508,335 (18,862 annual burden hours x \$26.95). There are no out of pocket cost associated with this information collection.

<u>Information Collection</u>	<u>Regulation</u>	<u>Total Respondents</u>	<u>Reponses per Respondent</u>	<u>Annual Responses</u>	<u>Hours per Response</u>	<u>Annual Burden Hours</u>	<u>Salary Cost per Hour</u>	<u>Total Salary Cost</u>	<u>Annual Burden Cost</u>
Paper Submission		803	4.259	3,420	1.6	5,472	\$26.95	\$147,469	\$0
Electronic Submission		803	20.844	16,738	0.8	13,390	\$26.95	\$360,866	\$0
Incident Reports	§ 171.16	1,606		20,158		18,862		\$508,335	\$0

13. Estimate of total annual costs to respondents.

PHMSA does not estimate any out-of-pocket expenses as identified above.

14. Estimate of cost to the Federal government.

¹ Occupation labor rates based on 2018 Occupational and Employment Statistics Survey (OES) for “53-0000 Transportation and Material Moving Occupations.” <https://www.bls.gov/oes/2018/may/oes530000.htm>. The hourly mean wage for this occupation (\$18.41) is adjusted to reflect the total costs of employee compensation based on the BLS Employer Costs for Employee Compensation Summary, which indicates that wages for civilian workers are 68.3 percent of total compensation (total wage = wage rate/wage % of total compensation).

² Ibid.

Section 171.15 – Telephone Notifications

About 11% of the telephone calls reporting hazardous materials transportation spills to the U.S. Coast Guard’s NRC will meet the telephonic reporting requirement (death, injury, evacuation, etc.). The remaining reports will be made to satisfy the Environmental Protection Agency’s (EPA) guidelines.

The U.S. Coast Guard has restructured its service fees for operating the NRC. Based on these telephonic reporting requirements, the share of the NRC operating cost is \$6,000.00.

Section 171.16 – Incident Reporting

The projected estimated annualized cost to the Federal government is approximately \$877,881. PHMSA estimates it will receive an average of 20,158 reports annually. The unit cost per incident report is calculated at \$43.55, which includes programmatic costs associated with government personnel and overhead.

15. Explanation of program changes or adjustments.

During PHMSA’s review of the burden, it was noted that historically the information collections were grouped into a single collection. Previously the burden for this information collection was approved as:

Information Collection	Respondents	Responses	Burden Hours
Incident Reports	800	17,810	23,746

Following this review, PHMSA has adjusted this burden to two different information collections. Because of this adjustment and a review of the most current incident data available to PHMSA, there has been a change to the number of respondents and responses and a slight change to the amount of annual burden hours due to a better accounting of current burden hours. This information collection now appears as follows:

Information Collection	Respondents	Responses	Burden Hours
Incident Reports	1,606	20,158	18,862
Telephone Notifications	733	733	59

16. Publication of results of data collection.

Incident data is published on the OHMS web site. This information is available to the public, regulated community, States, and other government agencies.

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

This information collection's OMB control number is prominently displayed in the HMR, specifically under § 171.6, and titled, "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.