

With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 14, 2005.

Natalie Ogletree,

FAA General Engineer, RTCA Advisory Committee.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. RSPA-2005-20036 (Notice No. 05-8)]

Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on certain information collections pertaining to hazardous materials transportation for which PHMSA intends to request renewal from the Office of Management and Budget (OMB).

DATES: Interested persons are invited to submit comments on or before November 21, 2005.

ADDRESSES: Submit written comments to the Dockets Management System, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590-0001. Comments should identify the Docket Number RSPA-2005-20036 (Notice No. 05-8) and be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" to obtain instructions for filing the document electronically. In every case, the comment should refer to the Docket Number RSPA-2005-20036 (Notice No. 05-8).

The Dockets Management System is located on the Plaza Level of the Nassif Building at the above address. Public dockets may be reviewed at the address

above between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding Federal holidays. In addition, the Notice and all comments can be reviewed on the Internet by accessing the Hazmat Safety Homepage at <http://hazmat.dot.gov>.

Requests for a copy of an information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH-11), Pipeline and Hazardous Materials Safety Administration, Room 8430, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

FOR FURTHER INFORMATION CONTACT:

Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (PHH-11), Pipeline and Hazardous Materials Safety Administration, Room 8430, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

SUPPLEMENTARY INFORMATION: Section 1320.8(d), Title 5, Code of Federal Regulations requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies information collection requests that PHMSA will be submitting to OMB for renewal and extension. These information collections are contained in 49 CFR Parts 110 and 130 and the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). PHMSA has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes in proposed or final rules published since the information collections were last approved. The following information is provided for each information collection: (1) Title of the information collection, including former title if a change is being made; (2) OMB control number; (3) summary of the information collection activity; (4) description of affected public; (5) estimate of total annual reporting and recordkeeping burden; and (6) frequency of collection. PHMSA will request a three-year term of approval for each information collection activity and, when approved by OMB, publish notice of the approval in the **Federal Register**.

PHMSA requests comments on the following information collections:

Title: Rulemaking, Exemption, and Preemption Requirements.

OMB Control Number: 2137-0051.

Summary: This collection of information applies to rulemaking procedures regarding the HMR. Specific areas covered in this information collection include part 105, subpart A and subpart B, "Hazardous Materials

Program Definitions and General Procedures;" part 106, subpart B, "Participating in the Rulemaking Process;" part 107, subpart B, "Exemptions;" and part 107, subpart C, "Preemption." The Federal hazardous materials transportation law directs the Secretary of Transportation to prescribe regulations for the safe transportation of hazardous materials in commerce. We are authorized to accept petitions for rulemaking and appeals, as well as applications for exemptions, preemption determinations and waivers of preemption. The types of information collected include:

(1) *Petitions for Rulemaking:* Any person may petition the Office of Hazardous Materials Standards to add, amend, or delete a regulation in parts 110, 130, 171 through 180, or may petition the Office of the Chief Counsel to add, amend, or delete a regulation in parts 105, 106 or 107.

(2) *Appeals:* Except as provided in "106.40(e), any person may submit an appeal to our actions in accordance with the Appeals procedures found in §§ 106.110 through 106.130.

(3) *Application for Exemption:* Any person applying for an exemption must include the citation of the specific regulation from which the applicant seeks relief; specification of the proposed mode or modes of transportation; detailed description of the proposed exemption (e.g., alternative packaging, test procedure or activity), including as appropriate, written descriptions, drawings, flow charts, plans and other supporting documents, etc.

(4) *Application for Preemption Determination:* Any person directly affected by any requirement of a State, political subdivision, or Indian tribe may apply to the Associate Administrator for a determination whether that requirement is preempted under 49 U.S.C. 5125, or regulations issued thereunder. The application must include the text of the State or political subdivision or Indian tribe requirement for which the determination is sought; specify each requirement of the Federal hazardous material transportation law or the regulations issued thereunder with which the applicant seeks the State, political subdivision or Indian tribe requirement to be compared; explanation of why the applicant believes the State or political subdivision or Indian tribe requirement should or should not be preempted under the standards of section 5125 (see also 49 CFR 107.202); and how the applicant is affected by the State or political subdivision or Indian tribe requirements.

(5) *Waivers of Preemption*: With the exception of requirements preempted under 49 U.S.C. 5125(c), any person may apply to the Associate Administrator for a waiver of preemption with respect to any requirement that: (1) The State or political subdivision thereof or an Indian tribe acknowledges is preempted under the Federal hazardous material transportation law or the regulations issued thereunder, or (2) that has been determined by a court of competent jurisdiction to be so preempted. The Associate Administrator may waive preemption with respect to such requirement upon a determination that such requirement affords an equal or greater level of protection to the public than is afforded by the requirement of the Federal hazardous material transportation law or the regulations issued there under and does not unreasonably burden commerce.

The information collected under these application procedures is used in the review process by PHMSA in determining the merits of the petitions for rulemakings and for reconsideration of rulemakings, as well as applications for exemptions, preemption determinations and waivers of preemption to the HMR. The procedures governing these petitions for rulemaking and for reconsideration of rulemakings are covered in subpart B of part 106. Applications for exemptions, preemption determinations and waivers of preemption are covered under subparts B and C of part 107. Rulemaking procedures enable PHMSA to determine if a rule change is necessary, is consistent with public interest, and maintains a level of safety equal to or superior to that of current regulations. Exemption procedures provide the information required for analytical purposes to determine if the requested relief provides for a comparable level of safety as provided by the HMR. Preemption procedures provide information for PHMSA to determine whether a requirement of a State, political subdivision, or Indian tribe is preempted under 49 U.S.C. 5125, or regulations issued thereunder, or whether a waiver of preemption should be issued.

Affected Public: Shippers, carriers, packaging manufacturers, and other affected entities.

Recordkeeping:

Number of Respondents: 3,304.

Total Annual Responses: 4,294.

Total Annual Burden Hours: 4,219.

Frequency of collection: On occasion.

Title: Radioactive (RAM)

Transportation Requirements.

OMB Control Number: 2137-0510.

Summary: This information collection consolidates and describes the information collection provisions in the HMR involving the transportation of radioactive materials in commerce. Information collection requirements for RAM include: Shipper notification to consignees of the dates of shipment of RAM; expected arrival; special loading/unloading instructions; verification that shippers using foreign-made packages hold a foreign competent authority certificate and verification that the terms of the certificate are being followed for RAM shipments being made into this country; and specific handling instructions from shippers to carriers for fissile RAM, bulk shipments of low specific activity RAM and packages of RAM which emit high levels of external radiation. These information collection requirements help to establish that proper packages are used for the type of radioactive material being transported; external radiation levels do not exceed prescribed limits; and packages are handled appropriately and delivered in a timely manner, so as to ensure the safety of the general public, transport workers, and emergency responders.

Affected Public: Shippers and carriers of radioactive materials in commerce.

Recordkeeping:

Number of Respondents: 3817.

Total Annual Responses: 21,519.

Total Annual Burden Hours: 15,270.

Frequency of collection: On occasion.

Title: Hazardous Materials Security Plans.

OMB Control Number: 2137-0612.

Summary: To assure public safety, shippers and carriers must take reasonable measures to plan and implement procedures to prevent unauthorized persons from taking control of, or attacking, hazardous materials shipments. Part 172 of the HMR requires persons who offer or transport certain hazardous materials to develop and implement written plans to enhance the security of hazardous materials shipments. The security plan requirement applies to shipments of: (1) A highway route-controlled quantity of a Class 7 (radioactive) material; (2) more than 25 kg (55 lbs) of a Division 1.1, 1.2, or 1.3 (explosive) material; (3) more than 1 L (1.06 qt) per package of a material poisonous by inhalation in hazard zone A; (4) a shipment of hazardous materials in a bulk packaging with a capacity equal to or greater than 13,248 L (3,500 gal) for liquids or gases, or greater than 13.24 cubic meters (468 cubic feet) for solids; (5) a shipment that requires placarding; and (6) select agents. Select agents are infectious substances identified by CDC as

materials with the potential to have serious consequences for human health and safety if used illegitimately. A security plan will enable shippers and carriers to reduce the possibility that a hazardous materials shipment will be used as a weapon of opportunity by a terrorist or criminal.

Affected Public: Shippers and carriers of hazardous materials in commerce.

Recordkeeping:

Number of Respondents: 42,000.

Total Annual Responses: 42,200.

Total Annual Burden Hours: 247,250.

Frequency of collection: On occasion.

Title: Subsidiary Hazard Class and Number/Type of Packagings.

OMB Control Number: 2137-0613.

Summary: The HMR 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 HMR to require shippers and carriers to retain copies of each shipping paper for one year. Section 5110(e) of the HMTAA requires shippers and carriers to retain copies (or an electronic image) of each shipping paper for one year to be accessible through their respective principal places of business.

Amendment to section 5110(e) was self-executing as of August 26, 1994. The Environmental Protection Agency (EPA), and the Internal Revenue Service (IRS) require retention of shipping papers for 3 years or more for certain hazardous materials shippers and carriers. Since most companies (common carriers) already retain these records to meet these other Federal or State requirements, Docket HM-207B, which incorporated this into the HMR, did not significantly impact their paperwork burden. However, private carriers and intrastate shippers and carriers are now required to retain copies of each hazardous material shipping paper for 1 year under section 5110(e). Permanent shipping papers are authorized to reduce the burden on those entities that ship the same materials on a continuous basis.

Shipping papers and emergency response information are basic hazard communication tools relative to the transportation of hazardous materials. The definition of a shipping paper in section 171.8 of the HMR includes a shipping order, bill of lading, manifest,

or other shipping document serving a similar purpose and containing the information required by section 172.202, 172.203, and 172.204. A shipping paper with emergency response information must accompany most hazardous materials shipments and be readily available at all times during transportation. It serves as the principal source of information regarding the presence of hazardous materials, identification, quantity, and emergency response procedures. Shipping papers 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, the separation of incompatible hazardous materials, and the limitation of radioactive materials that may be transported in a vehicle or aircraft. Shipping papers and emergency response information serve as a means of notifying 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 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 section 172.202 and those additional entries that may be required by section 172.203 must be entered first, or entered in a color that clearly contrasts with any description on the shipping paper of materials not subject to the requirements, or highlighted, or identified by the entry with an "x" in an HM column opposite the hazardous material entry. The subsidiary hazard class or subsidiary division number(s) must also be entered in parentheses following the primary hazard class or division number on shipping papers under § 172.202. In addition, the number and type of packagings must also be indicated on shipping papers such as drums, boxes, jerricans, etc. as part of the basic shipping description.

Affected Public: Shippers and carriers of hazardous materials in commerce.

Recordkeeping:

Number of Respondents: 250,000.

Total Annual Responses: 6,337,500.

Total Annual Burden Hours: 63,309.

Frequency of collection: On occasion.

Issued in Washington, DC, on September 15, 2005.

Susan Gorsky,

Acting Director, Office of Hazardous Materials Standards.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Indexing the Annual Operating Revenues of Railroads

This Notice sets forth the annual inflation adjusting index numbers which are used to adjust gross annual operating revenues of railroads for classification purposes. This indexing methodology will insure that regulated carriers are classified based on real business expansion and not from the effects of inflation. Classification is important because it determines the extent of reporting for each carrier.

The railroad's inflation factors are based on the annual average Railroad's Freight Price Index. This index is developed by the Bureau of Labor Statistics (BLS). This index will be used to deflate revenues for comparison with established revenue thresholds.

The base year for railroads is 1991. The inflation index factors are presented as follows:

RAILROAD FREIGHT INDEX

| Year | Index | Deflator |
|------------|--------|---------------------|
| 1991 | 409.50 | ¹ 100.00 |
| 1992 | 411.80 | 99.45 |
| 1993 | 415.50 | 98.55 |
| 1994 | 418.80 | 97.70 |
| 1995 | 418.17 | 97.85 |
| 1996 | 417.46 | 98.02 |
| 1997 | 419.67 | 97.50 |
| 1998 | 424.54 | 96.38 |
| 1999 | 423.01 | 96.72 |
| 2000 | 428.64 | 95.45 |
| 2001 | 436.48 | 93.73 |
| 2002 | 445.03 | 91.92 |
| 2003 | 454.33 | 90.03 |
| 2004 | 473.41 | 86.40 |

Effective Date: January 1, 2004.

FOR FURTHER INFORMATION CONTACT:

Scott Decker, (202) 565-1531. [Federal

Information Relay Service (FIRS) for the hearing impaired: 1-800-877-8339].

By the Board, Leland L. Gardner, Director, Office of Economics, Environmental Analysis, and Administration.

Vernon A. Williams,

Secretary.

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¹ Ex Parte No. 492, *Montana Rail Link, Inc., and Wisconsin Central Ltd., Joint Petition For Rulemaking With Respect To 49 CFR 1201*, 8 I.C.C. 2d 625 (1992), raised the revenue classification level for Class I railroads from \$50 million to \$250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also revised to reflect a rebasing from

\$10 million (1978 dollars) to \$20 million (1991 dollars).