

As commenters themselves point out, a number of industry associations have developed guidelines and model security plans that can be readily adapted to meet a company's individual circumstances, thereby reducing individual company costs. Indeed, on June 5, 2002, the American Chemistry Council (ACC) made enhanced security activities mandatory for its members, to help assure the public that all member facilities are involved in making their neighbors and America more secure. The ACC Board approved a new Security Code under Responsible Care®, the industry's initiative for improving performance, that consists of increased specific commitments to further safeguard chemical operations from potential terrorist attacks. The Security Code includes measures to enhance chemical transportation security. Over 200 chemical companies are ACC members; in addition, nearly 40 industry associations are Responsible Care® Partner Associations.

Further, the Association of American Railroads has developed a "comprehensive Terrorism Risk Analysis and Security Management Plan. The industry formed a security task force * * * Outside consultants with expertise in intelligence and counter-terrorism were retained to provide advice on best practices. * * * The task force undertook a comprehensive risk analysis which identified critical assets, vulnerabilities, and threats, and assessed the overall risk to people, national security, and the nation's economy. The task force then proceeded to identify over fifty countermeasures. The Terrorism Risk Analysis and Security Management Plan * * * is now in effect. * * *" The Association of American Railroads includes 14 Class I railroads and 10 non-Class I railroads.

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 that 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.

Because there is such a wealth of information and assistance available to companies subject to the security plan requirements of this final rule, we do not agree with commenters who suggest that our cost estimate for developing hazardous materials transportation security plans in the May 2 NPRM was "greatly under-estimated." Actual per-company costs will vary, depending on the nature of the materials transported and the size and complexity of a company's operations. We estimate that the time necessary to develop a security plan will range between our initial estimate of 20 hours per company and the industry estimate of 200 hours per company. For purposes of this analysis, we believe that, on average, a large company, using information available from RSPA, industry associations, or vendors, will require about 50 hours to develop a security plan that meets the requirements of this final rule. A smaller company, on average, will require about 25 hours to develop a security plan that meets the requirements of this final rule. Using Bureau of Labor Statistics information on employee compensation (March 2001), we estimate that the cost per hour of developing a security plan is \$45.00 (one professional plus one administrative support staff). Thus, for the large companies subject to the security plan requirements of this final rule, we estimate that the costs to develop a security plan will total \$14,512,500 (6,450 large entities × 50 hours/entity × \$45/hour) or \$2,250 per entity. For the small companies subject to the security plan requirements of this final rule, we estimate that the costs to develop a security plan will total \$41,118,750 (36,550 small entities × 25 hours/entity × \$45/hour) or \$1,125 per entity.

This final rule requires companies to update 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. Thus, for large companies, we estimate the costs to update a security plan will total \$2,902,500/year (6,450 large entities × 10 hours/entity × \$45/hour), or \$450 per entity. For small companies, we estimate the costs to update a security plan will total \$8,223,650/year (36,550 small entities × 5 hours/entity × \$45/hour), or \$225 per entity.

Our revised estimate of the information collection and recordkeeping burden related to the security plan requirements in this final

rule is shown below. This new information collection, "Hazardous Materials Security Plans", will be assigned an OMB control number after review and approval by OMB. We estimate that the new total information collection and recordkeeping burden resulting from the development and maintenance of security plans under this rule is as follows.

Hazardous Materials Security Plans OMB No. 2137-xxxx

First Year Annual Burden:

Total Annual Number of Respondents: 42,000.

Total Annual Responses: 42,000.

Total Annual Burden Hours: 1,207,500.

Total Annual Burden Cost: \$54,337,500.

Subsequent Year Burden:

Total Annual Number of Respondents: 42,200.

Total Annual Responses: 42,200.

Total Annual Burden Hours: 247,250.

Total Annual Burden Cost: \$11,126,250.

Requests for a copy of this information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, Room 8422, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone (202) 366-8553. We will publish a notice advising interested parties of the OMB control number for this information collection when assigned by OMB.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

H. Environmental Assessment

There are no significant environmental impacts associated with this final rule. An environmental assessment is available in the docket for this rulemaking.

List of Subjects in 49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, we are amending title 49, chapter I, subchapter C, as follows: