

DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration****49 CFR Parts 171, 172, 173, 175, 176, 178 and 180****[Docket No. RSPA–2002–13658 (HM–215E)]****RIN 2137–AD41****Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions****AGENCY:** Research and Special Programs Administration (RSPA), DOT.**ACTION:** Final rule.

SUMMARY: RPSA is amending the Hazardous Materials Regulations (HMR) to maintain alignment with international 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. Because of recent changes to the International Maritime Dangerous Goods Code (IMDG Code), the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), and the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations), these revisions are necessary to facilitate the transport of hazardous materials in international commerce.

DATES: *Effective Date:* The effective date of these amendments is October 1, 2003.

Voluntary Compliance Date: RSPA is authorizing immediate voluntary compliance. However, RSPA may further revise this rule as a result of appeals it may receive for this rule.

Delayed Compliance Date: Unless otherwise specified, compliance with the amendments adopted in this final rule is mandatory October 1, 2004.

Incorporation by Reference Date: The incorporation by reference of the publication adopted in § 171.7 of this final rule has been approved by the Director of the Federal Register as of October 1, 2003.

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SUPPLEMENTARY INFORMATION:**I. Background**

On December 3, 2002, the Research and Special Programs Administration (RSPA, we) published a notice of proposed rulemaking (NPRM) (67 FR 72034) under Docket HM–215E. The NPRM proposed changing the Hazardous Materials Regulations (HMR), 49 CFR parts 171–180, to align it with updates and revisions to the UN Recommendations, the IMDG Code and the ICAO Technical Instructions with respect to hazard communication, classification, and packaging requirements. Our intent was to facilitate the international transportation of hazardous materials by ensuring a basic consistency between the HMR and international standards, while at the same time ensuring the safe transportation of hazardous materials.

On January 8, 2003, we published a final rule under Docket HM–215E (68 FR 1013) authorizing the use of the 2003–2004 edition of the ICAO Technical Instructions, Amendment 31 to the IMDG Code, and the twelfth revised edition of the UN Recommendations beginning January 1, 2003, the effective date of the international standards.

The UN Recommendations are not regulations, but rather are recommendations issued by the UN Committee of Experts on the Transport of Dangerous Goods. These recommendations are amended and updated biennially by the UN Committee of Experts. They serve as the basis for National, regional, and international modal regulations; specifically, the IMDG Code developed by the International Maritime Organization (IMO) Dangerous Goods, Solid Cargoes and Containers Subcommittee, and the ICAO Technical Instructions developed by the ICAO Dangerous Goods Panel. Subject to certain conditions and limitations, § 171.12 of the HMR authorizes domestic transportation of hazardous materials shipments prepared in accordance with the IMDG Code if all or part of the transportation is by vessel. Subject to certain conditions and limitations, § 171.11 of the HMR authorizes the offering, acceptance and transport of hazardous materials by aircraft, and by motor vehicle either before or after being transported by aircraft, provided the shipment is in accordance with the ICAO Technical Instructions.

On December 21, 1990, RSPA published a final rule (Docket HM–181;

55 FR 52402) based on the UN Recommendations, which comprehensively revised the HMR for harmonization with international standards. Since publication of the 1990 final rule, we have issued four additional international harmonization final rules (Dockets HM–215A, 59 FR 67390; HM–215B, 62 FR 24690; HM–215C, 64 FR 10742; and HM–215D, 66 FR 33316). The rules provided additional harmonization with international transportation requirements by more fully aligning the HMR with the corresponding biennial updates of the UN Recommendations, the IMDG Code and the ICAO Technical Instructions.

The large volume of hazardous materials transported in international commerce warrants the harmonization of domestic and international requirements to the greatest extent possible. Harmonization serves to facilitate international transportation, reduces cost to industry, and ensures the safety of people, property and the environment. While the intent of the harmonization rulemakings is to align the HMR with international standards, we review and consider each amendment on its own merit. Each amendment is considered on the basis of the overall impact on transportation safety and the economic implications associated with its adoption into the HMR. Our goal is to harmonize without sacrificing the current HMR level of safety and without imposing undue burdens on the regulated public. In our efforts to continue to align the HMR with international requirements, this final rule makes changes to the HMR based on the twelfth revised edition of the UN Recommendations, Amendment 31 to the IMDG Code, and the 2003–2004 ICAO Technical Instructions, which became effective January 1, 2003. Petitions for rulemaking concerning harmonization with international standards and the facilitation of international transportation are also addressed in this final rule and serve as the basis of certain amendments. Other amendments are based on feedback from the regulated industry, other DOT modal administrations and our initiative. Also included are various editorial clarifications. Unless otherwise stated, the revisions are for harmonization with international standards.

Various commenters raised issues that are beyond the scope of this rulemaking. Such issues will not be addressed in this final rule and must first be addressed in an NPRM to afford industry and the public opportunity to comment.